



Questions and Contemporary Issues

Sheikh: Mohammad Ishaq Al-Fayadh



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Sheikh: Mohammad Ishaq Al-Fayadh

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Prof.Dr.Haider Al-Moosawi**

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

﴿وَجَادِلْهُمْ بَالَّتِي هِيَ أَحْسَنُ﴾

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A decorative border with a repeating floral and vine pattern surrounds the central text area. The pattern consists of stylized flowers and leaves connected by winding vines.

—❦— INTRODUCTION —❦—

All praise be to Allah the Lord of worlds. Peace be upon His best creation and the most honorable, Mohammad and his posterity.

Many questions are stirred about our opinions regarding the legitimacy and authenticity of the perfect jurist and we answer them briefly according to the issue. The necessity for explaining this leads us to write about and shows some limits hoping to satisfy the interest of other and to know what we think of.

(1)

Difference between Legal and Non-legal Islamic States

Difference between Legal and Non-legal Islamic States.

The legal Islamic government is the government based on the principle that the authority belongs to none but to Allah who has no partner. The ruling authority is represented by the wally of Muslims, fair prefect, chosen by the Almighty, Allah, at the time of disappearance, occultism, and existence as well.

At the time of the existence the wally is chosen by name, personality and traits. Yet at the time of resurrection, he is chosen according to certain criteria; eloquence that is pertinent to the feqeeh, the Islamic jurist, who dominates all the conditions; knowledgeability.

As for the Prophet and the Imams, whose wallaya and religious leadership need no proof according to the Quranic verse “ And those of you (Muslims) who are in authority “, Women, verse: 59 manifesting that the immaculate imams (peace be upon them) are much concerned, besides there are many a narrative.

In fact, proving the right of the wallaya and the religious leadership of the jurist, competent to all the conditions, needs no evidence: such wallaya could not be proved by a text, as all the narratives used to validate him are unreliable on the scale of documentations, so no way to depend upon them. Thus, it is commonly agreed in the orbit of the jurists that such a jurist goes unproved.

It is quite right to have the wallaya in time there is no need to an evidence. Since the scope and the immortality stipulate the scope of the wallaya and the religious leadership in the time of existence

as represented in the message of the benevolent messenger (peace be upon him) and then the immaculate imams respectively. Yet at the time of disappearance, occultism the fair jurist, with all the required conditions, is chosen for his knowledgeability. It is truly impossible to propose the scope of the law and its immortality without considering the scope of the wallaya and the religious leadership.

In all ages, the law demands application, implementation, delimitation, protecting the rights and caring about justice and the equilibrium between the different classes in a society. Therefore what is right for the Prophet and the infallibles (peace be upon them) is also right for the fair jurist at the time of disappearance, occultism.

The jurist could take the initiative in forming the Islamic state according to the principle of the religion, dominant, with ruling authority, if there are no trammels and obstacles. However establishing the Islamic state with all its components can't be achieved without the approval of his jurisprudence and sovereignty in legislating laws as required by circumstances; time adjustment and public interests in the orbit of the vacant regions. Because abandoning such regions without essential legislation means that Allah gives the authority of the legislation to the jurist according to the interests of the state, as we shall debate on this later.

So far, we could conclude that the authenticity and the religious leadership of the fair jurist, with the required conditions, need no external evidence as it keeps pace with the principle that the continuity of the law and its immortality stipulate the continuity of the wallaya and the religious leadership.

More evidently, we do perceive that the difference between the



ruling authority in the legal governments chosen by Allah the Almighty at both of the time of existence and the disappearance, occultism and the ruling authority in non legal governments elected either by free election or by force or by coup d'état.

The ruling authority in the legal governments has sovereignty in implementing the divine constitution on the one hand and legislating laws and regulations in all fields educational, economical, social, legal and administrative, and security service, intelligence, police, army and other demands according to the circumstances, basic requirements of time and the country interests in the orbit of the vacant region on the other hand. The main aim behind doing all these is to bring social justice, the equilibrium between the nation classes, stability and security into effect.

On the other hand, the difference between the legal governments and the non-legal governments is based on the doctrine of imamate Shiitism: the government can only be considered legal if it is based on the principle of the dominant religion in which the authority is chosen the Almighty Allah whether it is at the time of presence or at the time of disappearance, occultism.

The result here is that both the wallaya and caliphate in concordance with the doctrine of the immamite Shiitism are chosen by Allah whether it is at the time of presence or at the time of disappearance, occultism. As for doctrine of Sunnites, only the wallaya of the prophet " peace be upon him " is chosen by Allah only, yet the caliphate of the caliphs and their wallaya are thoroughly settled for them by consensus and the public opinion, not by a divine text.

That means any ruler in Islamic states can be a fair jurist by a free and honest election, the public opinion, the ruler will be a wally of Muslims and whose authority is valid and government is considered as legal



and Islamic, which is for Sunnites. Here lies the difference between the denominations of Twelfth Infallibles Shiitism and Sunnitism.

Though lasting so short in time, the Islamic based - religion government took shape and soul at the era of the prophet “peace be upon him” and showed great success in practice.

text from the Glorious Quran of the traditions because it is dominated by the ruling authority in the legal Islamic government, responsible for applying such a system in the economic, educational and the like fields to gain momentum and succeed.

Draws an educational or economical plan; this plan must have been pondered over and over, so there is no doubt about its success. While at the time of the time of disappearance, occultism, any economic, educational and the like project should be first discussed and carefully studied by scientists, thinkers, reformers and experts on the scale of advantage disadvantage, concomitant events. Having achieved such a procedure to ensure its success and fruition, it could inaugurate into establishment, as it shall be discussed later.

(2)

What Islam is Three Elements

It is obvious that Islam consists of two static elements and a dynamic one:

First:

The infinite faith in Allah and the mission of the prophet (peace be upon him) come as first and this is the real scale for Islam. Anyone believes in such an element goes safe with his blood, honour and property regardless of his denomination, Sunnite or Shiite. This kind

of faith has a significant role in cultivating and teaching people and achieving justice and equilibrium between classes, later it shall be discussed more fully.

Second:

The Islamic legislations consist of worshipping rituals and dealings [Muamalat and Ibadat]. The worshipping rituals represent the relationship between a person and his Creator, generally are not changeable, and never develop with the process of time. The prayer at the era of the prophet (peace be upon him) is much the same people do nowadays. The same prayer is imposed on the people who plough by a primitive way, a hand plough, also is imposed on the people at the time of technology. There is no a slight difference. As similarly done with fasting and pilgrimage at that time.

As for the divine prohibitions, they are the same in the era of the prophet and nowadays. On the contrary, the relationship between man and nature is subject to changeability and affected by the development of life.

Worshipping in all its forms has so vital, educational, social and individual a role in cultivating the behaviour of people abroad and preventing the misbehaviors from corrupting the human and religious values and principles. Moreover, it helps achieve justice and the equilibrium between the strata of the society. In addition, worshipping is a symbol of unity between Muslims and has a social range as well as a religious one: Fasting in Ramadan, making a pilgrimage in its time, facing the same destination in prayers are all forms of unity.

Besides worshipping has a spiritual and educational role and a great influence on solidifying the relationship of man with his infinite Creator and on inculcating such a relationship in the soul: the external worshipping rituals germinate the faith in the soul and



affect its development and perception, yet the internal believing in Allah influences the external worshipping rituals and the religious and social scope, as they, worshipping and faith, are two concomitant and interactive factors dovetailed altogether throughout ages.

As for dealings, they are represented by the economical Islamic activities, which are different from worshipping in one point: worshipping is set by Allah and they are static, while the dealings are set by people and static between the prudent before being accepted in the law and rules. The aim behind such a point is that the street scrutinizes these dealings as a whole, whatsoever comes in line with the principles of law goes accepted in the street and whatsoever runs counter or dangerous to the law goes unaccepted and rescinded such as; usury, selling Alcohol, pigs and dogs, monopolization, fraudulence and so forth as the street obliterates these prohibited dealings from the Islamic economy.

The main reason is that Islam rises into being to reform the society as a whole and sets a stable and moderate system to implement justice, to have equilibrium between the strata in the society and to protect rights without excess or negligence. The Islamic economical system is based on the ground interests. Thus it may come equal to reasonability or not. That is why the street might be considered as a condition in the worthwhile dealings, in time it might be not considered for the prudent, [scholars].

From another angle, the universal and deep study of economical activities in Islam at the scientific religious seminaries (Hawza), which are developed and extended age by age, emphasizes the authenticity of Muslims in legislation and independence of the economical system.

That is why in our book "Banks", Al-Bunook, we said that it is possible to correct economical activities and the commercial exchange with all



its kinds in the international stock exchange in concordance with the Islamic viewpoint except the prohibited dealings in the Holy laws.

Ultimately, we conclude that the Islamic economy could be applied at any time and it could take hold of success in solving the problems of people in all the lifestyles.

The relationship between the man and the Creator could do merits and treat the demerits; atheism is the greatest problem of man. Such a relation removes dislocation, nonidentity and atheism and sets man responsible, in sight of the Creative Creator, for his destinations, gestures as it controls him and restricts his attitudes on the personal, familial, social, economical, educational administrative scales to make all his stances beseech the approval of the Almighty Allah. Thus, the role of worshipping rituals is to relate people to the Creator, the Absolute and to enhance such a rapport. As a matter of fact, such a relationship with the Absolute removes the state of loss, dislocation and atheism on the one hand and solves the problem of exaggeration and the relationship with the finite, powerless, on the other hand. As the polytheist in worshipping rituals turns what belongs to him from an idol, manmade, to an absolute god, though it is helpless, powerless and void of passions, it is manmade.

Logically accounting, such stems from ignorance, vainglory, pertinacity, lack of contemplation and thinking, vagrancy and loss on the one hand and the need to be acquainted with the absolute on the scale of behaviour, gestures and stances on the other hand. The polytheist twists truth and renders what is not true into being absolutely true through illusions and mistaken and blurred thoughts that set him thoroughly blind and imagines an idol as a god to worship, is it reasonable for a man to reach such a level of degradation in losing his mind and senses, to run after illusion and fantasy and to worship



what he makes by his own hands?

The faith in the Absolute Allah, a blessing from heaven to man, could solve these two issues; atheism and dislocation, so faith in Allah is a double-edged weapon first obliterating atheism, dislocation and loss and second devastating idolism, polytheism, and exaggeration. Faith sets man in the pinnacle of responsibility, in sight of the Almighty Allah, of his path, attitudes and behaviour in all the walks of his life social, individual, familial and economic. In so doing he could guide himself into the worthwhile and moderate road determined in the Glorious Quran and traditions and prevent him from doing any mistaken and irresponsible misbehaviors and misconducts.

Consequently, faith in Allah the Almighty has the role of relating to the Absolute, the role of stability and satisfaction in the souls, the role of rejecting atheism, dislocation, loss, polytheism, idolism and exaggeration, the role of guidance and piety and the role of dependence of the Muslim believers on Allah in all his strenuous and long life stages.

In the aggregate, we could conclude that faith in the Absolute, Allah the Almighty, has an individual dimension as it forms the relationship between the person and his creator Allah. It also there is a social dimension because it cultivates the soul and grants it virtuous endowments and sublime ethics and extirpates the conduct of man on the external scale to set him moderate and righteous. Here comes the great niche man acquires from having faith in Allah to bring the principle of the social justice and the equilibrium between the strata in the nation into effect.

(3)

Third Factor

Vacant Region Boundaries and the Rights of the Fair Jurist

Subsidiary Angle

Vacant Region Boundaries and the Rights of the Fair Jurist

One of the most prominent qualities of Islam as a law for man in all ages and places and as an immortal path keeping pace with science and developing to the best is that there is a vacant region in such a law. Here the region come as a patch void of legislative texts in the Glorious Quran and the traditions, as the original patch of permissibility, as a third factor in Islam and as dynamic in the sacred law for some factors:

First factor: the Islamic law is an immortal and perfect law solving human problems in all ages and centuries and forever.

Second factor: The Islamic government formed and established at the hand of the prophet (Peace be upon him) was very simple and cannot run equal to the satisfaction of the current development as the present governments have extended and developed in all their aspects, systems policies economical, educational, social, administrative, and security, police and army forces, and so forth.

Third factor: It is impossible to set a static system of worshipping for all time, ages and forever [permanent]. It is essential to realize that the government regime changes with time and develops with the process of life and impossible to apply the same government system at the time of the prophet (Peace be upon him) in the government angles of the present time.

Fourth factor: Allah the Almighty leave the leadership to the immaculate



imams (Peace be upon them) after the prophet (Peace be upon him).

As for the time of occultation, it is for the fair jurist, with all acquired conditions, knowledgeability as first, to form the government under the condition that Islam is the religion of the government if the circumstances are suitable and there are no obstacles.

Fifth factor: The fair jurist has no authority to make any change in the Holy law like prohibiting obligatory duties or obliging to do something haram, [sinful].

These factors require leaving the vacant regions in the sacred law and giving the fair jurist the rights to legislate under subsidiary angles in concordance with circumstances and time necessity in all ages to bridge the vacant regions, [gaps].

Now it is quite obvious that the vacant region is not a missing piece or a matter of negligence in the Islamic legislation. However, it represents the recognition of the holy legislation to cover all ages.

To conclude, it is impossible to legislate a static system for the government in such a vacant region, therefore the street grants the fair jurist the responsibility to do the task in line with suitability of circumstances, time and place. As for accountancy system, it is the duty of the ruling authority in the Islamic government.

It is necessary to know that in the time of the prophet and the immaculate imams (Peace be upon them all), there was no possibility of any economical, educational, security or administrative plan set without a study for all the positive and negative concomitant aspects and conditions, otherwise the prophet (Peace be upon him) transgressed the holy mission and this is inconvenient for the state of the seal of the prophets, in time he is infallible.

At the time of occultation, it is the duty of the fair jurist with all the required conditions; knowledgeability, justice, trust, loyalty and

seriousness in applying the divine judgments and implementing justice and balance between the different strata of the society without any compliment or [prejudice] at all costs. The jurist should also take his responsibility to legislate in the vacant region under the subsidiary angles in concordance with time and the circumstances of the country.

Accordingly, providing that the jurist is able to form the Islamic government when the conditions are suitable and there are no internal or external obstacles, he should firstly establish the consultative council which consists of the distinguished scientists and thinkers, experts, the faithful and the loyal from the entire country, then discuss with them objectively the formation of the government from the persons highly experienced, competent, courteous, faithful and loyal. As these features are the standards in the Legal Islamic government.

Other standards in light of Islam, sectarianism chauvinism and other privacies are nothing [not considered] in the non-legal governments Sincerity, that is why the legal Islamic government is different from the non-legal one.

As a result, When the ruling authority decides to set a plan economical, educational, administrative and secure or a project it is essential to study this plan or project carefully by thinkers, scientists, the educated, the faithful, the loyal, the experienced experts then after finishing from the studying phase, the application of the project takes its way into the ground.

It is not permissible for the fair jurist to use a random plan or project as it may cause consuming the public funds from the Muslim money house, and this is an unforgivable crime. The fair jurist is never to do such a thing as his justice, trust and trustworthiness prevent him from such violations. So setting random plans runs counter to the fact that the fair jurist should be just, sincere and trustworthy on the one hand and he is decreed legally to study and ponder over and over the project in question on the other hand.



Evidently reckoning, the accountancy system flows in the vein of the government entities and strata as its components should be organized after scrutinizing all the circumstances. Yet the accountancy system in Islam should not be static but in fact, it is dynamic as much as the governments change and develop on the scale of capacity and precision age by age. That is why it is dominated by the ruling authority in all ages.

Establishing the government entities, administrative, educational, security systems and so forth lies in the vacant region as the rights of the ruling authority of legislation and setting the constitution are delimited in this region. Such a region is vast enough to legislate in light of time to bridge the vacant region in question.

In other words the ruling authority in the Islamic government during the time of occultation should have the features below:

First: The ruling authority should be knowledgeable about the Islamic jurisprudence and should be more knowledgeable than others in such a field should.

Second: It should be fair and honest.

Third: It should be austere and powerful in implementing the divine laws to achieve justice, social equilibrium in the society strata and reserve the rights of people without any external entity [influence], whatever it is.

A fair jurist who acquires such features is to have the wallaya [authority] from Allah the Almighty and tends to be decreed by Allah the Almighty to form the Islamic government in concordance with the principle of the dominance of the religion in ruling if there are no obstacles and hindrances to form it on the one hand.

On the other hand the ruling authority has the right to interfere in all the affairs of the state for the purpose of equilibrium and the



principle of justice between the nation strata Islam takes much care about. Moreover it has the right of interference even in the private sectors when these sectors intend to dominate the wealth of the country to the extent threatening justice and equilibrium of the nation strata so the ruling authority is to prevent them without detriment to justice and equilibrium of the nation strata.

If we suppose that a person is capable of controlling a vast land using modern machineries to cultivate. This acting might cause harm to the social justice so the ruling authority could prevent him from doing so on the scale of the subsidiary angles except that it runs in line of the noble missions of Islam.

Forming the government should be done by the Consultative council which consists of scientists, thinkers, experts, the faithful and the entrusted. Those are responsible of choosing the competent members and thinkers celebrated with courtesy, experience, faith and loyalty after having a careful objective study on their history, circumstances, piety, strong volition and immunity for the external influences; sectarianism and partisanism.

Such a government could be an epitome of development, prosperity, security and stability; otherwise the dishonest government with all its entities leads the country into the cliff of ignorance and instability.

In conclusion, if all the Islamic governments bring all the conditions into effect and ground, it is to grow honest with all its entities and whose members will run independent and far from the external interference. Yet there is no trust in the non-legal governments to prevent the external interference and their influence.

That it is quite convenient that the Islamic governments are accused of dictatorship stems from ignorance, extremism, pertinacity and unfamiliarity with the Islamic system. It is misconceived that the ruling



authority has the right to do something or to leave something else, yet it is ordained by the Almighty Allah, as previously mentioned.

(4)

Role of Scientific Seminaries [hawzas] in Crystallizing the Genuinity of Muslims in Thinking and Legislating Moderately against the Perverted and Extremist Thoughts

At the very inception, the Islamic legislations are essential cornerstones in the conception of Islam and consists of worshipping acts and dealings. The scientific hawzas in the holy Najaf and Qom take a careful study for all the legislations based on the Glorious Quran and the traditions, it is impossible to abandon such sources otherwise such a study will suffer rejection. So the, here, study cuddles no extremist or prevented thoughts, since the Glorious Quran and the traditions are against extremism and terrorism under any banner or colour.

For truth no more, such a diligent intellectual movement, Islamic throughout ages, extends the horizons of human minds and takes hold the torchlight of the Glorious Quran and the traditions in all ages. Without its shade of development age by age to keep pace with all the walks of life, individual, materialistic and spiritual, there will be no crystallization to the genuinity of Muslims in thinking and legislating prominently dependent on the Glorious Quran and the tradition along with the time of occultation. Without its continuity



(5)

Visions of the Islamic Economy and its Precedence over the Socialist and Capitalist Economy

Visions of the Islamic Economy and its Precedence over the Socialist and Capitalist Economy.

Having surveyed the Islamic Economic, one will find it all its characteristics, stability and moderation as compared to the capital and social economy and it surpasses them in content and form.

The capitalist system is based on the principle of privatization, the possession of persons without limitation and pays no heed to the principle of the public possession, the possession of the state, only under certain exceptions.

The socialist economy is based on the public possessions, the possession of the state, and pays no heed to the private possession, personal possessions.

Yet the Islamic economy is based on the dual possession and approves the principle of the public possession and the personal possession as well. Besides, the principle of privatization, personal possession, in Islam is based on the economical freedom according to the legal limits, that is to say, people are free to practice their economical activities except the forbidden ones; usury, selling Alcohol, meat of dead animals, pigs, monopolization, fraudulence and so forth.

As a matter of fact, Islam permits people to practice their freedom in economic activities, transactions and natural resources exploitation, land cultivation, possession of the real estate, transferring from its natural place and making it under his control directly and indirectly under the legal limits.



So the land cultivation and ownership are regarded as acts of investment and interest for an economic value and not for monopolization: a person dominates a vast span of natural resources by force, majority and coercion without exerting any effort for the sake of such a span.

For truth, Islam does not consider such dominance as right and such an ownership and considers them as there are acts of work and effort. Each a labour could hold ownership according to his work and the Islam never approves the ownership or the right without working. The relationship between the person and these riches results from his work and effort to gain them either by cultivation or ownership, though the dominated land surpasses the need of the owner. The law certifies that a person deserves whatever he really does, according to Islam there is no such a relation if the dominance happens by force, majority and without any exertion and effort.

More evidently, Islam grants persons freedom to practice all the economic activities under the legal limits, not open-ended, and these activities should be forbidden and nor should the dominance over the natural riches be force or majority.

Now it is quite convenient that the limitation the holy street imposes could not be haphazardly set, but there is a target beyond such limitation to implement the principle of justice, equilibrium between the strata of the society: such could never be without the limitation in question.

Consequently, the difference between the economy of the Islamic system and the capitalist one lies in two points:

1- Privatization in Islamic economic system grants people, private companies and owners of capitals freedom to practice their economical activities except the forbidden ones in the sacred Islamic law under



the condition that such freedom does not exploit the market, not do harm to the poverty-stricken and bereft strata of the society, here the Islamic state finds no way but to interfere to stymie such transgressions devastating the social justice the Islam gives much shrifts to.

However, the privatization in capital economic system grants great freedom, open-ended, though leading to the exploitation of the market and the country economy discrepancies in the strata of the nation society and harm to the principle of justice and social equilibrium. As it is supposed that these persons run after their interests and do not take the ground interests of the community into their consideration.

2- The economic system in Islam is based on the principle of dual possession whose mission is to implement the principle of justice and equilibrium in the society the Islam gives many shrifts to. More into the point, it is to bridge the discrepancies in the strata of the nation as regarded that both the private and public possessions safeguard each other so that neither of them will exceed the limits and nor exploit the market. On the contrary, the capitalist system is based on the private possession and gives opportunity to the owners of companies and businessmen to exploit the market and dominate the country economy as neither is there a monitor over them nor an obstacle.

On the other hand, the state, if Islamic, has the right to monitor all the state institutions, private and public, to protect the public interests of the society and limit the freedoms of people in practicing the social and economic activities in away not to do harm to the social justice and equilibrium.

So far the religion of Islam is based on three essential elements; two of them are static:

1- Internal element: faith in the Almighty Allah who has no partner and in the message of the prophet.



2-External element is represented by worshipping and dealings.

3-Dynamic element:

It changes according to the demands of the society, in its content the role of the fair jurist, with all the required conditions, lies to set the subsidiary legislations according to the demand of the time to organize the public life economical, social, security and individual and the relation between the nation, the authority, the president of the state and the other institutions.

(6)

Government Formation Criteria

Forming the Islamic government, dependent on the principle of the authority for Allah the Almighty without a partner, is dominated by the ruling authority at the time of occultation, not by election and voting boxes under the condition that the Islamic state is decreed by the Almighty Allah and ordered to form the state if the circumstances are quite encouraging and there are no obstacles. As discussed earlier, there should be a discussion and consultation with the scientists, thinkers, experts, the entrusted and the faithful to choose the members of the state after studying thoroughly the history of each member; his efficiency, experience, competence, austerity and faith without any sense of sectarianism, partisanship, racism and favoritism. For these conditions there is a prominent role in choosing the state members through the voting boxes as they dominate such an election more than suitability, experience, sincerity and loyalty.

For the voters to participate in the election have no knowledge of the qualified members as the advertisement campaigns are almost nonsense: the brilliant and sparkling banners of partisanship and



sectarianism are of so great a role in gaining the consent of people. Perhaps the opinion of the voters is bought or misguided by religion, using religion as a way to reach the authority. That is why these governments are almost not successful and lead not the country to development, prosperity and stability.

After all, the way of the state members election in the legal government surpasses the way of the non-legal government's.

In gist, forming the legal government with all its entities, units and members depends upon certain standards; integrity, competence and loyalty in light of the observance system objectively and precisely. In so doing, such a government will have so great a role in developing and stabilizing the country on the one hand and it could implement the principle of justice and equilibrium between the strata of the nation on the other hand. Whereas the favoritism and private relationships take dominance over the non-legal governments.

(7)

Root of the Fear of the West and Their Agents from the Islamic Government

Root of the Fear of the West and Their Agents from the Islamic Government

It is of great pity for a number of Muslims, inside or outside of the country, calling themselves educated and thinkers, fearing to bring the Islamic system in the Islamic states into effect; for two reasons:

- 1- Ignorance of Islam and its humanitarian system.
- 2- Blurred media and false propaganda from the West and the East intending to fight Islam and portraying it as extremist, dogmatic and as opponent to freedoms and human rights provisions. Practically, such



takes so significant a role in affecting people void of the principles and the human and religious values.

As for the West, their fear of Islam comes with a justification: they fear the Islamic system, its values humanitarian, ethical, social, individual and familial, its power of influentiality and promulgation worldwide and the crystallization of its humanitarian system everyday, in particular, on the scale of the youths in the Islamic and non-Islamic states. That is why, every now and then we hear that many young people convert into Islam as the religion of culture, justice and equality, though having some knowledge of its values; family system, between the Muslims, is deteriorated in the West. Yet it is quite convenient to see all the family members; fathers, mothers, sons, daughters, granddaughters and grandsons having one food meal every day several times, such a phenomenon, other worshipping, social, ethical positive phenomena, does not find existence in the daily life of the West.

is why they resort into the blurred and fabricated media and weave false propagandas against Islam under different pretexts. First it is claimed that Islam inseminates extremism and terrorism, second it is against freedom and democracy, third it is against the. Yet, all these pretexts are nothing but evil rumours.

First Pretext:

Islam is a religion of peace, justice, humanity, pity, mercy, anti-extremism and antiterrorism in all its forms and types. For more delving into the heart of such a religion, it, much and much, condemns killing of the innocent and considers such kind of killing as the most horrible crime on earth as mentioned in the Glorious Quran:

That whoever slays a soul, unless it be for manslaughter or for mischief in the land, it is as though he slew all men, and whoever keeps it alive, it is as though he kept alive all men “Food – verse 32.



Islam regards killing an innocent man as though it is an act of killing all people, it is the most serious crime in the world. While giving life to a human could be an act of giving life to all people, it is the greatest service in the world. Islam forbids all acts of dismembering a corpse thought pertinent to an enemy in the battlefield, [yes dear readers], this is the Islam!

Second Pretext:

Islam gives freedom to the individuals in all walks of life in a moderate and equal way for not destabilizing the social justice and equilibrium between the strata of the nation. As people are free in practicing their economic activities, in all their forms, except the forbidden and shameful activities the Islam decrees, free in practicing the cultural and entertaining activities on the scale of legality and free in expressing their opinions under the condition that these opinions are true and have no harm to others or confiscation of their rights.

In other words, man cannot be left to do what he likes and leaves what he dislikes otherwise turmoil invades the world and there will be no life. Survival of the fittest will dominate, that's why there should be a kind of limitation to his freedom, and thus the people of sapience draw lines to him.

Quite evidently, the religion of Islam restricts the freedom of man: man is free on earth in all his activities and conducts under the condition of legality, not in an infinite way, for two reasons:

1- Man is His most honorable creature, the Almighty Allah grant him mind to protect his stance, dignity and honour. No way to do so unless there should be a kind of limitation to his freedom under the condition of legality, without such a limitation man goes degraded.

2- Islam pays much heed to the social justice and the equilibrium between the strata of the society. This can not be done without



restricting the freedom of man in a way not to do harm to the principle in question, the rights of other and to be in conformity with the limits of reasonability and humanity.

In all senses of the word, the religion of Islam is a free and transparent religion in pace with science, civilization and development and adjusts itself with the demands of all ages, as much as time develops. Freedom in Islam comes equal to the principles of man and his status and also equal to the woman as she is free, under the conditions of legality, in taking so important a role the community as man without prejudice. Moreover, they both could practice any cultural,, social and political activities under the conditions that she has to protect her dignity, honour chastity and human principles honor and never to be insipid as there is no value to the insipid even the secular societies: freedom of the woman does not stipulate being unveiled and trivial.

While the freedom in the West is not based on human values and reasonable religious foundations therefore they run into triviality and animal instincts and exceed the ethical, human and reasonable, to the extent one feels disgusted shy of mentioning their name. In time, they persist in applying such infinite freedom and spreading it in the Islamic states to destroy Islam and its human traditions and meritorious culture based on ethics and respect.

Third Pretext:

Entirely Islam is never ever against the human rights, if not, why it gives much shifts and attention to protect them, never violate them and entails forfeiture to them for the sake of social justice between the strata of the society and equilibrium. Nothing could be gained without protecting the rights of all under no prejudice on the one hand. From the perspective of Islam and even the people of sapience none could be usurped.

It is the religion of Islam considering equality on an eye for an

eye basis, under Sharia 'eye for eye' retribution law, in dealing with wounds, a life for a life, harm for harm as mentioned in the Glorious Quran, similarly done with the money:

In the law of equality

There is life

To, O ye men of understanding

That ye may

Restrain yourselves ".the Heifer: 179.

Supposing that a person gouges someone aggressively and unjustly and violates his right. The Almighty Allah grant the oppressed the right to do justice in gouging the eye of the oppressor, it is run so for two reasons:

1-The right of the oppressor is not of priority over the right of the oppressed: if the oppressor does not consider the right of the oppressed himself, the Almighty Allah grant the oppressed the right of the retribution as equally as he is harmed no more no less. This is the real meaning of justice and right, as mentioned in the previous sacred ayat.

2- There will be a lesson for the oppressor and other people not to transgress the right of others. For such a retribution there is so vital a role in protecting equilibrium and the social justice. It is unfair to leave the oppressor free of punishment under the pretext that it is his right to keep his eye safe, here two reasons rise:

First: It designates that the right of the oppressed goes with the wind, such is impossible on the scale of law, mind and reason.

Second: having applied the Western approach of human rights, it is a reward to the oppressor his aggression and a stimulus for him and other people as well. Besides, it is a way to promulgate injustice and despotism, it is more evidently to have instability and insecurity in the

country, as clarified in the sacred ayat:

In the law of equality

There is life

To, O ye men of understanding

That ye may

Restrain yourselves “.the Heifer: 179.

Man has the right to live peacefully and none could usurp such a right unjustly or aggressively. If being confiscated, Allah grant his heir the authority to retaliate, as mentioned in the Glorious Quran, “ A soul for soul and an eye for an eye “, it is the heart of justice and right. One who kills somebody unjustly and aggressively loses his right to live on earth, one who never considers such a right of somebody lose the same right. There is no way to apply the human rights to the interest of the killer and to leave the right of the killed, such violates the secular and the Islamic perspectives as well and is regarded as a reward to his injustice and aggression and as a stimulus to the other. Doing justice is a way to strike a lesson to all people and to implement justice and equilibrium in rights and security in the country, as the blood of the Muslim is not to go with the wind, many states in the world believe in the law, in the near future the world will believe in the eye for eye retribution law, since there are many increasing shouts calling to legislate such a law in their countries.

(8)

Reasons for the Intervention of Foreigners in Islamic States

One who surveys the governments of the Islamic states could trace the dominance of some great colonialization over, by some means or other, the Islamic governments. There are certain factors as follows:

Factor One:

There is nondevelopment in the Islamic countries economically and technically leading them to surrender to the West or the East and instability.

Factor Two:

There are no freedom and democracy in Islamic countries creating a pretext and a precious chance the foreigners exploit to interfere.

Factor Three:

There is unfamiliarity of the incharges in the Islamic countries with the Islamic system as divine and universal covering all people to the doomsday. Moreover, these incharges believe that such a system runs counter to applicability in the present time. Such creates a pretext for the foreigners to interfere in the Islamic land.

Factor Four:

There are blurred information and false propagandas against Islam, the West and the East create, having so vital a role in affecting the incharges and leaders and providing them with the Western or the Eastern culture, which instigates them into rejecting the Islamic traditions or rather fighting the Islamic traditions.

Factor Five:

There are disparity and a lack of mutual vision, for the leaders and the incharges in Islamic countries on a par with the East and the

East, having so vital impact on their independence. If it were a mutual vision, there would have been dominance over the matter of their independence, power, defense and protection of pride and dignity of the Islamic nations.

Factor Six:

There is a belief, the leaders and incharges in the Islamic countries take hold of, that their reign lasts as much as they have good ties with the West and the East. Such a belief is mistaken, since their reign lasts as much as they are loyal to their country, serve their people faithfully and honestly and offer their people the right of freedoms; freedom of faith and freedom of expression under the terms of legality.

Ostensibly accounting, all these factors take so great a role in having the foreign intervention in the affairs of the country to inseminate their blurred thoughts, trivial degraded cultures in the Islam lands to demolish the Islamic thoughts and human traditions and dominates the wealth of the target country.

(9)

Accountancy System in Islamic Government

is not a constant determined and studied one in a legislative text from the Glorious Quran and the traditions. It is at the hand of the ruling authority in all ages: the duty of the ruling authority, legal, stipulates scrutinizing objectively and precisely an educational or security plan on the scale of positive and negative circumstances and the susceptibility of its success e and, before applying, through experts, thinkers and the entrusted. After pondering over the project and ensuring its success, the government is to bring it into effect. Having intended to establish economic project, the government should study carefully the



relationship between this project and the International and regional economy and the interest of people in the present moment and in the future, record the concomitant information and events, and give the kiss of life to the project in question. Thus some matters rise into surface:

First:

The accountancy system cannot be stable or constant or static for a long time. In fact it is dynamic, changeable and progressing with process of the government age by age. Moreover it is not possible to apply the system used at the time of the prophet (Peace be upon him and his posterity) to the government in the present time, since it was very simple on all the scale, yet in the present time it takes different colours of development in its entities and units. Such developments require innovating the accountancy system to be expanded. as much as at that time was simple while the government nowadays is extended and developed.

Second:

Not only does the accountancy system cover the economical activities but it includes all the activities in the government, entities and units, on the basis that the governing authority of the legal government is decreed to implement such a system, in a precise and studied way, in all its units and entities and the general and special projects. As its main target, as legal government, is to achieve the noble Islamic missions; social justice, protection of the societal equilibrium, moderation between the strata of the nation, security and stability. Nothing could be gained unless there is an objective and precise application of the accountancy system to the all units and entities of the government.

Third:

The accountancy system in the Islam grows more distinguished than the secular accountancy system in one point: the accountancy system is limited on the scale of legality. That is why there is no application of such a system on the forbidden activities: establishment of wine factory, usury and so forth, yet the secular accountancy system is not limited to these activities. As the accountancy system in the Islam develops with the process of time, it is subject to be under the academic lenses.

(10)

Success Factors of the Islamic Government

After surveying the Islamic system and its features and pillars, now it is necessary to know how it grows more successful than other systems. Take it into your consideration that there are many factors for the success of the government adopting the principles of Islam:

First:

The psychological factor lies in the fact that faith in Allah alone without a partner is the cornerstone of the Islamic government. The legal government, according to its benchmarks, consists of the competent and faithful members and the sincere experts, resistant to any external influence or other subsidiary matters; partisanship, sectarianism, favouritism and so forth. For these issues there is so great a role in having an honest government, as regarded that these members believe in Allah, the Almighty, and consider themselves responsible for everything in the sight of Allah; no way to keep such a responsibility intact and pure, but by moderate, honest and hard working.

Second:

All the officials, high or low ranks, in the legal government, are considered as employees, under hiring contract [lease], so they should be loyal to the legal government and do what they have to do in return for the fee, salary. Providing that they violate the rules of the work, they are not worth full paid.

Third:

The obedience to the ruling authority in the legal government is commanded [obligatory] for the people under subsidiary angles, as manifested in the Glorious Quran:

O you who believe, obey Allah and obey the Apostle and those in authority from among you. Women: 59.

Accordingly, the employees are decreed to work under the ruling authority as the prefect and under the surveillance of the authority on other legal government units and entities.

It is quite obvious that these factors are not found in the non-legal governments.

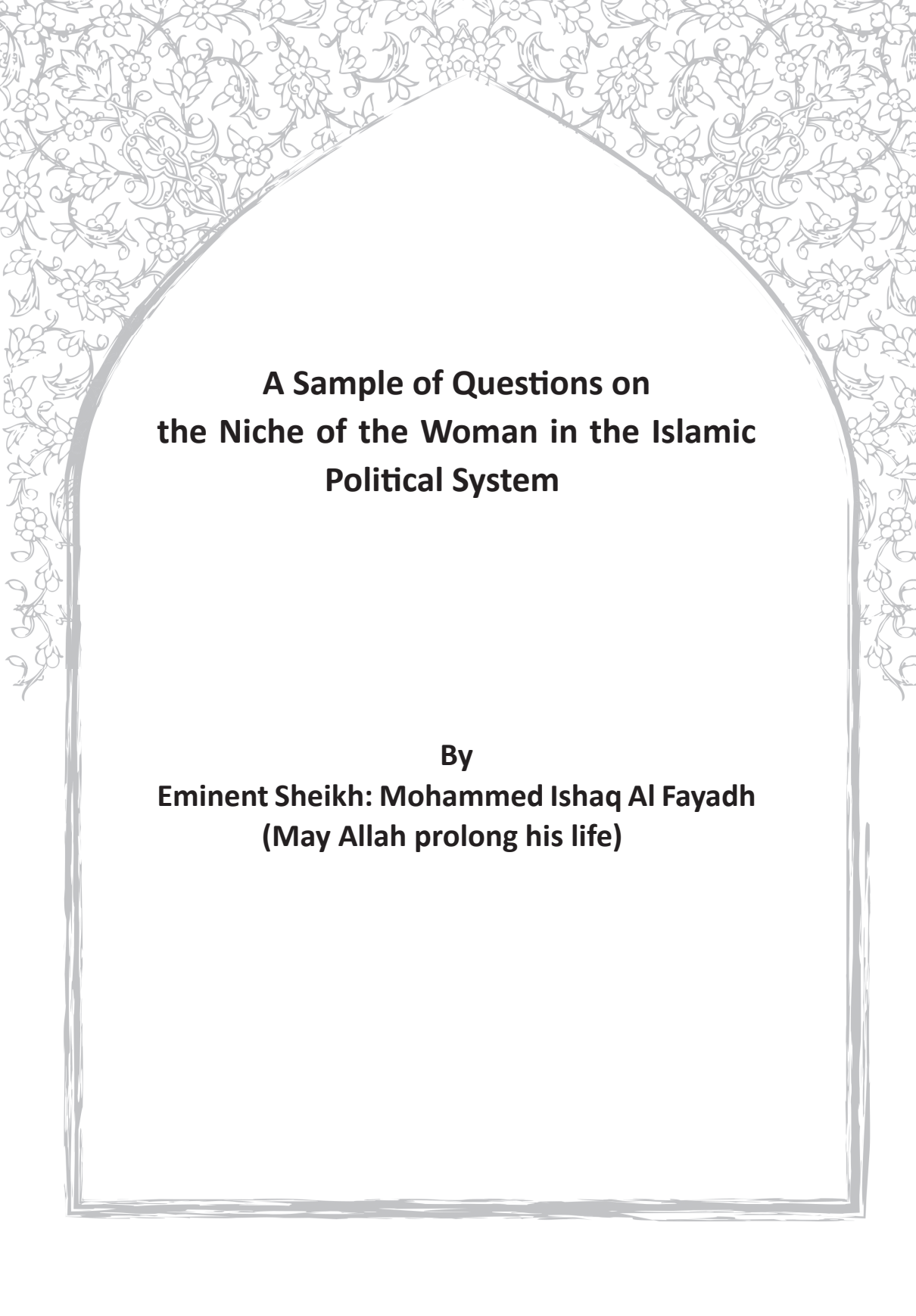
As matter of fact, such features give an impetus to develop and evolve the country economically, educationally, technically, administratively and on the security scale and have so prominent a role in ensuring the principle of equilibrium, the social justice between the strata of the nation, unity of the society, solidarity and the formation of a cohesive society void of exaggeration and negligence where one fears not for himself, honour and possession, which is a government based on the religion.

No success nor succor but from Him

Thanks be to Allah, the Lord of the worlds.

Holy Al-Najaff

10 Thualqada 1426

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A Sample of Questions on the Niche of the Woman in the Islamic Political System

By
Eminent Sheikh: Mohammed Ishaq Al Fayadh
(May Allah prolong his life)

—❦— Introduction —❦—

Eminent Ayatollah: Sheikh Ishaq Al-Fayadh (May Allah bless you)
Peace is upon you:

I do lay your generous hand on a sample of prepared questions on the niche of the women in the political Islamic as a part of a PhD dissertation. It is the first time to tackle such a conjecture in light of the viewpoints of the various Islamic denominations and the principles of the different political systems in Islam.

I do ask Him the Almighty to grant us all the reasons for the success to provide the purviews of the Islamic thought with the universal Islamic facts; genuinity, steadfastness and revivalism at one time and hope you answer them within a two-weeks period, if possible, as there is a limited time in the research schedule.

Please send me the addresses that I could use to keep in touch with you for the scientific revision with your eminence.

May Allah grant you the light of His ability and His abundant reward.



Question One:

The responsibility of the government in the Islamic state is executive one to implement the divine constitution. The Islamic state is based on the principle that there is no authority but for Allah without a partner: no individual, no group, no authority has a share of His authority and the legislator is Allah. None has the right to legislate or change anything He does for man. The authority the nation practices is caliphate, delegation, to act on behalf of Allah, the Almighty, as He is the source of all the authorities.

Accordingly, the woman who is a part of the nation that does not have any power, authority and right to legislate as the authority is for Allah alone. On the executive scale, she is just like man to obey the divine law in applying His law, the Almighty, in light of the boundaries the street accepts thoroughly:

Is it permissible for a woman to hold the following positions in the Islamic state:

1. Supreme Presidency of the country?
- 2- Prime minister?
- 3- Ministry of different types: delegating, executive, advisory
- 4- Emirate through Delegation? [someone appointed to rule according to the Islamic law]
- 5- Emirate of Seizure? [an emire seizes a place forcefully]
- 6- Commander of all kinds of armies.
- 7- Emirate to fight the polytheists?
- 8- War Leadership of Interests: fighting the aggressors of Muslims, violators, warriors and bandits?
- 9- Police Command?
- 10-Leadership of the Intelligence Police, Secret Police.



Answer: The Muslim woman should cover her body and clothes from the foreigner, preserve her dignity, honor, chastity and purity of her body from any desecration. If the Muslim woman comes in line with these, she shall be permitted to do any job that does not run counter to her duties in Islam, whether the job is a social one such as the presidency of the state or the other positions, or it is individual, such as a driver, a pilot and the like.

It is quite clear that holding a position by a woman does not stipulate unveiling her head or body [safour, without a scarf and an abaya and not preserving her Islamic dignity as a Muslim woman. In fact, preserving her dignity when holding a high position gains her value, social niche and adamant doctrine and faith.

To conclude, If a Muslim woman is adamant in having her will, her faith and her trust in Allah the Almighty and in keeping her honour and her dignity intact, she is to hold every position referred to question one. In this regards, there is no difference between man and woman and such is in the illegal governments, whether in the Islamic countries or nonIslamic ones.

If the government is legal and based on the religion authority, it is different from the illegal one. In the former, the authority is appointed by Allah alone without a partner, either by name and person as in the time of existence or by qualifications as in the time of occultation. Yet the ruling authority of illegal government is either appointed by the free general elections or based on force and coercion. Hence, the ruling authority in the legal governments maintains a ubiquitous authority to implement the divine constitution and apply it in all walks of life economic, political, legal, social justice, cultural, security and the like by virtue of consulting and having a dialogue with the competent scientists and experts in the country.



The difference between the legal and illegal governments is based on the doctrine of the immamite Shiitism. In light of such a denomination, the government is legal if it is based on the principle that the authority is for Allah, Most Exalted, Most Glorified, otherwise, it is illegal. If the government is legal, it is possible to appoint the ruling authority by Allah the Almighty whether it is in the time of existence or in the time of occultation. As the reign of the messenger, the most benevolent (Peace be upon him and his posterity) and the immaculate imams (Peace be upon them) is appointed by Allah, Most Exalted, Most Glorified as well as the reign of the fair jurist in the time of occultation.

It has been shown that the reign and the caliphate, whether in the time of existence or in occultation, in light of the Shiite denomination should be made and determined by Allah Most Exalted, Most Glorified. As for approving it by unanimity and the opinions of people, it is not permissible and the consensus has no value in this concern.

Whereas on the basis of the Sunnite denomination, the most proved issue of Allah for them is only the message of the most benevolent messenger (Peace be upon him and his posterity) and the caliphate and the reign of the caliphs are proved by unanimity and the opinions of the people; not by a text from Allah Almighty. Consequently, if the government of a ruler in the Islamic countries is proved by the opinions and the choice of the people, he is a guardian of the Muslims, whose authority is valid, whose government is legal. Here lies the difference between the denominations of Shiitism and Sunnism on the one hand.

On the other hand, is it permissible for a Muslim woman in the time of occultation to hold the ruling authority in the state based on the principle of religion authority by Allah if she meets all the qualifications of such a position: eloquence, knowledgeability, justice, integrity and executive ability to implement the divine constitution?

The Answer: most of the great jurists do not say such an issue in a proving way, though the proving is not void of power as there is no evidence for not being proved but by unanimity. Being unanimous could not be an evidence unless it is proven in the time of the infallibles (Peace be upon them) and reaches us from their time hand by hand, paper by paper. Actually, there is no way for us to have such a procedure.

11- The Justice in all its departments: the general justice, the oppressed justice, apostasy justice, the Hisba reign [dominating the application of the Islamic principles] observing the, juvenile judgment and the women justice?

The Answer: The justice in Islam is to settle a dispute between the opponents and solve it on the basis of the street stated standards. The legal judge appointed by Allah, the Almighty, is the one who has the legal reign to implement the legal provisions, to apply the orders, to establish punishment, to resolve the disputes and the pleas between Muslims and to take the rights of the oppressed from the oppressors. As possible as he could legally to maintain the greatest interests of the believers; social justice and equilibrium creation.

Question Two:

Are the last positions; nominating and electing for a parliament, being in an embassy abroad, a policewoman and an informant, consider as the positions of the general reign?

If the answer of the first question is that the divine appointment in the executive responsibility of the divine constitution comes through the Islamic government, the females could hold these positions or some. So please answer the third and fourth question and skip the question five.



Answer: The referred positions are not considered to be of general reign, as the general reign is limited, as a whole, for the benevolent messenger (Peace be upon him and his posterity) and the immaculate imams (Peace be upon them) and the jurisprudents in the time of occultation. As tackled previously that The governments in all Islamic countries are not legal ones, the legal governments are based on the principle of the authority by Allah, Most exalted, most Glorified and its ruling authority is appointed by Allah, the Almighty. As abovementioned, no obstacle for the woman to hold these positions.

Question Three:

The conditions to have the general reign:

- Knowledge of Islamic law.
- Justice
- Competence and the Qualitative expertise according to the reign.

These conditions could be found in womankind as well as in mankind. Is it permissible for a Muslim woman to hold the seventeen positions mentioned in the first question or some of them, if she meets these conditions or is it required in addition to these conditions to have the masculinity as a condition, here she is forbidden to hold them in Islamic state? why? Please explain such a questions by the Islamic evidences?

Answer: Most of the jurisprudents of the denomination, old and new, do not give the general reign to the jurisprudent who meets all the conditions, the knowledgeability is one of them, the ones who give it are rare. The one who gives it to the jurisprudent says if he meets its conditions; knowledgeability, justice, and the like. As for proving that such a reign is for the Muslim woman, it is in controversy or rather it is prevented by most of the jurisprudents. However, for us, to prove it is not impossible if all the conditions of the reign are found in her: knowledgeability, justice, competence and the like. Besides, she could hold other positions.



Question Four:

[They are] those who, if We establish them in the land, establish regular prayer and give regular charity, enjoin the right and forbid wrong: with Allah rests the end [and decision] of [all] affairs. The pilgrimage: 41.

The abovementioned ayat expresses the task of enjoining virtue and forbidding vice,, refers to the duty of the executive authority and also describes the faithful people who dominate the authority. Merely it is a description to the ruling regime and the executive authority. The task of the “enjoining virtue and forbidding vice” needs both capability and authority: collecting money for charities and dividing money equally between Muslims. These matters pertain to the economic strategy of the society.

A- Is the task of “enjoining virtue and forbidding vice” a social duty limited for men only or for women also according to the Glorious Quran and traditions? What is the evidence of your answer?

The task of the enjoining virtue and forbidding vice is a divine, commanded, duty for all, no difference between a man and a woman. That it is concerned more with man than the woman is not probable as much as the ayat and the honest speeches refer to her too. Specifying a group of people, females, depends on the issue itself, for instance; menstruation, puerperal time and so forth. Except these matters, only related to women, the promotion of virtue and the prevention of vice is the responsibility of all regardless of being a man or a woman. It is as obligatory and commanded as the duties of prayer, fasting, pilgrimage and so forth., specification, here, has nothing to do with gender,. That the verses of Quran seem to be directed to men does not mean specification, definitely covers all man and woman as well. In this regards, there are certain points:





1- The legal legislated conditions in the sacred law do not specify a group of people, males or females, according to the principle of the mutual responsibility [taklif] of the sharia people.

2- Most of the Quranic texts, according to their types, are directed to people or man and cover both man and woman on the one hand. The enjoining virtue and forbidding vice takes certain stages; by tongue, here there may not be an executive authority for the person who enjoins or forbids, one could do the act of enjoining virtue and forbidding vice does it to all people, if not, will be commanded to do it to his family.

If the answer will be that she is much concerned with the act of the enjoining virtue and forbidding vice:

B- is she committed to practice the fifteenth positions [official ranks] in the first question or committed to some of them, what are these with reference to the evidences?

Answer:

As referred to in the first question she is permitted to practice all the seventeenth positions.

Question Five:

That sovereignty for the nation in the Islamic system is one of the principles and the values of the Islamic political ideology.

Now such a supposition stems from confusion and a lack of differentiation between the state based on the ruling of religion and the state that is no based on religion. So the ruling authority of the former is elected and appointed by Allah the Almighty, yet the latter is elected by the people or rather based on coercion and dominance. There are some questions stirred on the basis of the abovementioned principle:

A-What is the responsibility of society in forming the state and electing the ruler?

Answer:

Forming the state based on the authority of religion in the reign of occultation lies in the hand of the ruling authority that, if there are convenient circumstances and no obstacles, has to consult scientists, teachers, thinkers, experts, the competent, the faithful and the sincere in the country to elect the government members. No way to achieve such a threshold unless there is a universal history study of them; his suitability to rule, experience, competence, austerity and honesty without any sense of sectarianism, partisanship, racism and favouritism. Moreover, the ruling authority should bring the accountancy system into effect in all the state components economic, social, cultural, educational, security, military, political and so forth to be managed by the honest expert and the competent. These are the standards of the Islamic government running counter to those of the non-Islamic government where the partisanship, sectarianism, racism and the like dominate more than do integrity and competence.

Providing that there are restrictions and obstacles at the time of forming the Islamic government, the duty scientists and grand ayatollah scholars is to guide and call the decision makers to form a state under the law, sharia, of the Islam, not to form a secular state void of the authority of the religion on the one hand.

The scientists in all the fields of knowledge and science have to take the responsibility of promulgating the Islamic perception in the society and confront a foreign intellectual invasion at all costs. Not only do they achieve these responsibilities, but also they should provide and support the Islamic thoughts, religious values and the human culture, as the religious duties in Islam; implementing the legal duties and averting divine sins are not merely ways of protecting the self in the sight of Allah: they are also to grant people good ethics, virtuous endowments,



religious stamina and unabating faith. Such is spiritual and could be felt, the experiencing these passions is of great evidence. As a result, a society, provided with these Islamic thoughts and traditions, is to grow with the stamina [instinct] of religion, has a society armed with such a stamina, it would be safe and stable and everyone will live without fear, anxiety about himself, his honour and possessions. This is the real meaning of Islam as a mentor to man and creating the perfect man to be a deep-rooted mountain.

B—Enabling the ruler and the ruling authority units to implement the divine Law.

Answer:

As mentioned before, forming the Islamic state based on the authority of religion is at the hand of the fair in implementing the divine Laws, otherwise the state is considered as non – Islamic.

C—Establishing the civil community in all its aspects and scopes.

Answer:

Establishing a civil community is something acceptable whether it is a legal Islamic state or a non-Islamic one under one condition that it must not derail from the orbit of Islamic scopes, aspects and fields. something different but no condition, it should not be out from the restriction of Islam in all it is zone

D—Offering consultation practical and scientific experience, could it not be through the following?

- The competent persons in the community?
- The Advisory units and entities?

Answer:

Such an issue is of necessity in the state units and entities, Islamic or non-Islamic, as the consultation is legally commanded [wajaba] on the ruling authority in its all units and entities and considered as an



essential element it could not do without and takes decision without consensus in a unit and an entity of its structure. Furthermore, the ruling authority must consult the competent experts, the faithful and the sincere in the country in all the units and entities of the state and study the conditions of applying objectively and precisely the accountancy system in its structures.

On the basis of the above-mentioned issues, certain questions are stirred:

1-Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity. The Family of `Imran: 104.

The abovementioned ayat expresses the duty of enjoining virtue and forbidding the social vice. Such is the duty of the Islamic nation, the source of sovereignty in the Islamic state.

How do you know the nation?

Does the application of the enjoining virtue and forbidding vice duty, sufficient duty [kafaia] stipulate excluding females from the applying group even though having science and demanded specialized competence?

Answer:

The group nation means applying the acts of enjoining virtue and forbidding vice duty by a group of people, other people are exempt from doing the duty in question, as it is in all sufficient [kafaia] duties. Similarly could be done by, the commonest nation, from man and woman, there is no difference in applying such an important social duty.

2-Women Allegiance to the Prophet (Peace be upon him and his posterity), here the second allegiance, Aqaba, strikes a portrait of supporting the ruler and the state systems to bring the divine law into effect:



O Prophet! When believing women come to thee to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with Allah, that they will not steal, that they will not commit adultery [or fornication], that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter,- then do thou receive their fealty, and pray to Allah for the forgiveness [of their sins]: for Allah is Oft-Forgiving, Most Merciful. Mumtahana: 12.

What does the excerpt “**they will not disobey thee in any just matter**” refer to in the acts of enjoining virtue and forbidding vice duty? to the individual duty in the orbit of the social advice that stipulates power and authority?

Answer: Doing good or virtue here means the traditions, sunnah, the prophet Mohammed (Peace be upon him and his posterity) establishes, whatsoever the prophet establish is obeyed by Muslims.

-Is the act of doing good, mentioned in the sacred ayat, limited to certain issues or as known with its universal meaning to cover the Islam **entirely**?

Answer:

Obviously it could be elicited from the answer above, that the act of doing good refers to the traditions set by the prophet in its broadest sense and not limits itself to the act of the acts of enjoining virtue and forbidding vice duty.

-Does the women pledge of allegiance to the prophet represent a political act or a sheer doctrinal feminist issue?

Answer:

Giving oath of fealty means promising and obedience and refers to accept the caliphate, acceptance and obedience. The glorious ayat, here, manifests that Allah addresses his prophet: “ When believing women come to thee to take the oath of fealty to thee..... then do thou



receive their fealty “ elucidates that if the believing women accept you as their ruler, give you their oath of fealty and obey you, you accept their fealty under conditions as referred in the ayat above. So it is not a political act, it is an act of obedience, compliance and faith in religious mission.

3-As the sovereignty can be attained by consultation and practical and scientific experiences of the competent persons and the advisory units in the country: "Those who respond to their Lord and keep up prayer and their rule is to take counsel among themselves". The counsel: 38. According to the glorious ayat: “ The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil”, the acts of enjoining virtue and forbidding vice duty, individual limited duty, are highly manifested on the scale of advice.

Now under the shade of sacrifice and doing good and being patient: “ and do righteous deeds, and [join together] in the mutual teaching of Truth, and of Patience and Constancy. **Time through Ages: 3** “, the inevitability of choosing the most competent, if found, perhaps the most competent is a woman in the fields of science, jurisprudence and justice in demand and in concordance with the standard of experience diversity and the qualitative competence in the Children and family affair, is it possible to choose or elect a woman to be an MP practicing the role of consultation, doing right and being patient and enjoining virtue and forbidding vice?

Answer:

The sovereignty of the nation according to the immamite denomination could be implemented in light of a state dependent on the authority of Allah the Almighty. As such choosing of the ruling authority pertains to a text from Allah the Almighty, by name, as





applied in the time of existence [presence] or in light of the prominent features as applied in the time of occultation. While the dominance of the nation in other Islamic denomination could be achieved through election and polls to have a text with exception of the message of the prophet (Peace be upon him and his posterity), as it is static for them on the one hand.

It is the duty of the state to hold consultation between the competent of the nation, woman and man, in all the state units and entities. Exchanging thoughts, practical and scientific experience and consultation in the affairs social, political, economical, security, cultural, educational and so forth is of necessity in a state, legal or non-legal. As previously tackled, it is the duty of the legal Islamic state to consult and have a dialogue with experts, the sincere, and the loyal, women and men, in all the units and entities of the state. What is to the point, holding a position in the government should be in line with efficiency and courtesy, woman or man, so a woman could be nominated for the membership of the parliamentary councils if having efficiency, courtesy and experience whether it is in an Islamic state or a non –Islamic state.

If it is permissible a woman to be an MP:

-What is the judgement on chairing the parliament committees?

Answer:

She is permissible to chair the parliament committees.

-What is the judgement on chairing the parliament?

Answer:

She is permissible to chair the parliament.





Question Six:

In concordance with what the Islam faqeehs state:

The Islamic state protects all human rights of man and ensures various forms of freedom;

personal freedom, intellectual freedom, freedom of belief, freedom of expression and opinion and freedom of politics. That means a person could hold administrative positions and participate in political affairs; consultation, advice, criticism and freedom of expression under the limits of legality.

One of the basic principles in Islam is the act of equality between people in the society; gender equality, equality between males and females.

Is the woman, though equal to man, exempt from certain rights and the all the political freedoms, or certain? What is the evidence from the transparent texts?

Answer:

There is no exemption to the woman as she is equal to man in the social, individual and intellectual rights and the freedom of expression, participation in the monetary activities; markets, international stock exchange, possession of all natural wealth and the poor land resuscitation under the limits of legality. No way to her to practise the economic forbidden activities violating values and ethical and religious principles; usury, trafficking in alcohol, dead meat, the flesh of swine, drugs, monopoly, fraudulence and so forth on the one hand. The legal Islamic state takes the responsibility to protecting all human rights of a Muslim and offers him the freedom in all its various trends and activities under the limits of legality, not infinitely permissible to practise these freedoms, to the extent, infringing the rights of other people, values, ethical and religious principles; lying, gossiping, and the like on the



other hand. None is free in doing so as there is no difference between man and woman in such an angle.

Question Seven:

-Is there any difference in answering the issue of holding political positions, for the woman, whether there is non Islamic states; the European countries or Islamic countries without the authority of the Glorious, as in most of recent Islamic states,?

Answer:

Holding positions for the woman in the state based on the dominance of religion in the ruling authority finds controversy in certain positions; jurisprudence and opinion giving most evidently it is permissible for us if she meets all the conditions of such positions. While there is unanimity of all and no objection to her holding other positions. Being in a non-Islamic state, she is permissible to practise all the positions without exception.

Question Eight:

One of the essential Islamic principles is that man has an authority over his possessions.

If it is so, then no one could take the possession of other without permission. Here people maintain dominance over themselves and their possession without permission. What is more, the woman also has sheer dominance herself and possession, so the dominant state, from presidency of the state to the legislative authority, should seek the approval of her in electing its members.

Consequently,

-Is the woman permissible in Islam to elect the president of the state, authority members, executive authority members and other electoral councils?

Answer:

Yes, the woman is permissible to elect the president of the state, authority members, executive authority members and all the other electoral councils.

Question Nine:

legislative council of the parliament, dose her testimony come equal to the half of the testimony of the man as considered in some social and jurisprudent cases?

Or rather, is her vote in the political affairs regarded as one or a half?

Answer:

The testimony of the women in all issues political, economical, social, cultural coming equal to that of the man evidence. There is no difference between them: here vote ruins equal to his. Concerning the testimony as a half of that of the man, it comes as so in certain angles of the Islamic jurisprudence.

Question Ten:

Quite ostensibly, the family distribution of the roles depends mainly upon masculinity and femininity. Thus a man has to take the responsibility of his wife and his children, the dominance is given to him. Is it permissible to apply the family distribution, according to masculinity and femininity, in the public life, or impermissible to do so as the family and the public life are of different fields and standards?

Answer:

The family system in Islam based on the fact that the most onerous responsibility in life is taken by the man, not the woman. As it is to protect the identity of the woman and her duty in bringing up. In time, the Islam never prevents her from doing duties without detriment to her dignity, and Islamic identity. In the public life, there is no difference between them.



Question Eleven:

And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree [of advantage] over them. And Allah is Exalted in Power, Wise. The Heifer: 228.

- What is accurately such a degree that men have over the women? What does it mean? Is it limited to the family life or expandable to the public life?

Answer:

In the sacred ayat above, the degree designates the niche. Merely the position of the man in the family takes precedence and dominance over the woman, that is to say, her affairs are at the hand of him. Whenever he desires to enjoy his sexual rights, she has no right to refuse. In addition he has the right to divorce. This provision is limited to the family, in the interest of his dominant status in the family system, the woman has rights to be fulfilled by the man, expenses that come equal to her dignity and status in housing, clothing, feeding, drinking, living in peace and other rights. While in the public life, there is no difference between them in all the walks of life, its educational, economical, political affairs and to name but a few.

Question Twelve:

Men are the protectors and maintainers of women. The Women: 34

Are men the maintainers of women only in the family life? Or is it expandable to the public life in all its walks?

Answer:

Men are the maintainers of women only in the family life, somewhere else, the public life, and no difference could exist between them.

Question Thirteen:

Are the holy speeches narrated on behalf of the prophet Mohammed (Peace be upon him and his posterity) true in describing the woman as deficient in intelligence and religion? if true

What is the deficiency in question?

How is she deficient and her testimony is accepted and with monetary responsibility?

Why not being limited in her monetary affairs or at least being no permitted to deal with anything unless there is a permission from a husband or a wally [prefect]?

Is there any repercussion to such deficiency depriving her of the political rights, duties in the public life?

Answer:

Such a speech is not reliable and could be attributed to the prophet (Peace be upon him and his posterity). In addition it is unbelievable as it derails from what one feels and observes externally. Sensibly and apparently, the mind of the woman does not come less than that of the man in all the field the woman finds existence and being. More reasonable, the ayats and narratives manifest that there is no difference between the woman and the man. Perhaps the abovementioned speech takes the nature of the woman into consideration as more sensitive, more emotional, more tender and with a propensity of decoration and beauty than the man.

As a result, these sensations, passions and emotions dominate her mind and way of thinking in the public life, such is not a generalization, and there might be a more adamant woman in volition and heart than the man, so called, the iron woman.





Question Fourteen:

The Hadith that is attributed to the prophet (Peace be upon him and his posterity) is as follows:

No people survive even though their leader is a woman.

1-Is this hadith true?

Answer:

The abovementioned hadith is reliable and unbelievable, as it designates that the woman as a female is unable to run all the affairs of the country. Whose authority is to certainly lead the country into deterioration since there is deficiency in her intelligence and way of thinking. As mentioned previously, such is not in conformity with what the woman does in the fields of scientific institutes and social venues.

2- If it is assumed that the hadith is truly pertinent to the messenger of Allah (Peace be upon him and his posterity), what is classified as? Is it Ahad [singular], Mashur [famous], or Mutawatar [successive, from the infallibles to reporters generation by generation]?

Answer:

It is one of the Ahad hadith and whose content derails from the reason, so it is twisted in such a portrait of meaning.

3- If it is assumed that the hadith is truly pertinent to the messenger of Allah (Peace be upon him and his posterity), does the prophet (Peace be upon him and his posterity) mean a limited time, place and people that there is no success to the people who do not revert into consultation, they are the people of Khosrow whose daughter ascends the throne after his death and seems not well qualified e, does the prophet mean the act of legislation that it is to forbid a woman to hold the highest rank in the country?

Answer:

It is quite reasonable that such a hadith is not believable and not proven, that is why it is twisted.

4- Does the prophet say such a hadith as a legal ruler cognizant of the circumstances of the people in his time? Alternatively, does he legislate, as a promulgator, a static text stressing that no woman should mandate the highest authority in a time and a place?

Answer:

Apparently it is the legislation of the messenger of Allah (Peace be upon him and his posterity), but as mentioned previously, such a hadith is not static, that is why it is twisted. So now way to be convinced by its appearance.

5- Is it possible to consider that all the political positions, mentioned in question one, are no more ruled by the woman on the scale of generalization?

Answer:

Thought it is not reliable, it does not cover all the political positions, mentioned in the question one, apparently it designates the ruling authority.

6- Is it possible to deal with the hadith in question in concordance with “ the lesson lies in the general wording, not in the reason “, that is to say, when having a general wording for a specific reason, so the reason is not to be limited, but it is generalized as it is general?

Answer:

Such is different from one source to another, if there is a justification, it will be of the general focus, if there is no justification, it will be of wording or to use [the wording] it.



Question Fifteen:

A-Is it possible to depend on the Ahad hadith though its connotation is debatable and not decisive?

Answer:

Yes, if it comes from the imam (Peace be upon him and his progeny) through a chain of the entrusted.

B- Is it possible to consider the Ahad hadiths and other debatable ones in the cases of the Islamic system and the legal rules?

Answer:

Yes, if it comes from the imam (Peace be upon him and his progeny) through a chain of the entrusted, under the condition that it should not be infinite and its content does not infringe the Glorious Quran and traditions.

C-Is it possible to consider the Mashur hadiths in constitutional cases?

Answer:

Yes, if they serve contentment and credibility, otherwise they are not considered.

Question Sixteen:

The opponents [opposing the rights of woman in ruling], who assume that the woman has no political rights, revert into unanimity.

A- How is such unanimity achieved?

Answer:

Most of the fair jurists (May Allah be Pleased with them) assume the acts of preventing the woman from holding the positions of jurisprudence, legal legislation and general wallaya in the Islamic state only based on the authority of religion. Yet she is permissible in other positions political, economical, social or legal without any opposition and unanimity.



The entitlement of consensus is restricted by proving its existence in the time of impeccability. What is more, the evidence of unanimity need only be proved by the infallibles (Peace be upon them) and such should be known by people, otherwise there is no evidence for its unanimity, as no difference will be between the unanimity in words or in silence. Here the history of the, in the time of the infallibles (Peace be upon them) legislator need be signed by an infallible, if it is after the time of the infallibles, it goes accepted as signed by an infallible: no signature, no evidence. Unanimity could not be regarded as evidence though it reaches us from an infallible: it is not reliable.

Presuming that it is an evidence, there is no doubt that it is a proof of a static [permanent] legislation unchanged with time and place as in the Glorious Quran and traditions. In time, there are no temporary provisions [rules] in the divine law limited for certain time or place. It is of necessity to realize that the divine laws of permanent legislation for humankind on this globe regardless of the difference between a man or a woman, white and black, or between a continent and another. They are static and uncatchable throughout ages, though life takes development and evolution, for instance, the prayer in the stone age is much the same in the age of atom and space, and it is imposed on both those who do their duties by hands; hand plough and on those who do their duties by the power of atom to moving a machine. As the prayer done by the hand people is much the same one done by the atom people. No difference could be traced between the prayer at the era of the prophet (Peace be upon him) and the prayer at the time of atom and space because such rules need no development and no change and they don't change with the process of time. Similarly could be regarded with fasting, pilgrimage and other duties and forbidden issues; lying, forbidden in the sacred law, is not changeable with the

process of time and place, gossiping and stealing. The main reason lies in the fact that the relationship between man and worshipping acts is a moral and spiritual one, static and unchangeable with the process of life, as they show a strong bond between the worshiper and his Creator, a moral and spiritual relationship not altered with the process of time and circumstances. On the contrary, the relationship between man and nature is a material relationship subject to changeability and development with the process of time, that is why life nowadays seems more advanced than life in the past.

Thus worshipping acts in Islam demand a spiritual and educational role solidifying the relationship between man and his Infinite Creator, faith in Allah and none else. they are to inculcate such a bond in the soul as they could remedy the negative angles of the greatest problem of man. For they reject loss, atheism and nonentity and sets man responsible, in the sight of Allah the Almighty, for all his decisions and behaviors. Moreover, they dominate man and cultivate his conduct in all the walk of life in line with the bless of Him. Here, the role of worshipping items in Islam is to establish the absolute bond with the infinite and to reinforce such a connection to have man as just, straight and resistant to the problems of loss, nonidentity on one hand and resistant to exaggeration of belongingness and relationship; idolism and atheism on the other hand. The atheist changes what finite he creates into something infinite, though it is void of power and volition, emotion and response, made by hands of man. Such stems from ignorance, misguidance, vainglory and loss on the one hand, and from the need to be related to the infinite in his life on the other hand. For these two issues, it is to change untruth into truth through illusions and blurred thoughts that make him blind to imagine a god to worship. Is it reasonable for man to reach such a level of degradation believing

in a god made by his hands?

The mere remedy for these two angles is as follows:

First of all, the angle of loss, atheism, dislocation, idolism and polytheism could find its remedy in believing in Allah without any partner the divine law presents to man. Such runs as a double-edged sword; to obliterate atheism, idolism and polytheism, the belief in the infinite Allah the Almighty sets man responsible in sight of the Creator in life and in all the venues social, individual, familial, religious, educational and so forth, extirpates his conduct, to be in the straight path and protects him from misconduct and vice that deface the moral values and religious doctrines. Here man plunges into life in light of the Glorious Quran and traditions and takes succour from Allah the Almighty as He is the Most Omnipotent; the role of belief in Allah is to yoke man altogether with the infinite, it is the role of contentment in the souls, guidance, identification and companion with Allah in all the walks of life.

On the other scale, the woman in the non-Islamic state void of religion whether on Islamic lands or not, could hold a government position, even the president position, without a restriction

B- In case unanimity is limited by the chronicle of the legislator in the time of infallibles (Peace be upon them), is it right to consider it as an evidence to a permanent, throughout ages and paces, legislation? Alternatively, is it unanimity for temporary laws and can't be considered as an evidence for another time and place?

C- Is the reticent unanimity considered as evidence?

Answer:

The evidence of the legislator's chronicle demands its credibility [the approval] at the time of infallibles (Peace be upon them) and its arrival to us bit by bit. There is no way but this one, similarly could be



done with the reticent unanimity

Question Seventeen:

Can the measurement [qias] be considered as an evidence of inducting legal laws?

Answer:

No way to consider the measuring in inducting the legal laws. As they pertain to the realistic entities, unreachable. Moreover, it, in all venues, depends on the ownership of the measured thing, such is impossible, as such protests and condemnations stirred in certain narratives, for instance, the prophet (Peace be upon him and his progeny): “ have the traditions been measured, religion tends to be devastated “.

A-If so, what are the extent, limits and duties of the measurement?

Answer:

As previously tackled, no way to take it into consideration.

Question Eighteen:

Do you consider the political rights and duties of woman on the scale of the framework of the Islamic political system in general illustrating a different provision to her as a part of jurisprudence in such a system?

Answer:

As previously tackled, there is no difference between a man and a woman in the Islamic system in all its forms and colours ideological, practical, political, economical, legal and so forth, with exception of the three positions mentioned before.

Question Nineteen:

In the era of the message, there are many an evidence and incident manifesting certain political and Islamic duties the woman women played, such is not found on ground nowadays:

A- Why did women lose these roles after the promulgation of Islam?

**Answer:**

The reason of such a difference lies in the differences of time and circumstances of the circumstances and ambient conditions. No change for the duties of the woman whether she is in the era of the message or in other late ages. The legal provisions are static for both man and woman, no way to be changed with the process of time or life as they represent the spiritual and moral; bond between the creature and the creator. So they do not be affected by the changes of life; the prayer is much the same throughout ages, from the age of the promulgation. One who uses his hands to work prays and one who uses the atom to work prays.

The relationship between the creature and the creator is a spiritual and a moral one and never yields to the changes of life. On the contrary, the relationship between man and nature demands changeability as it is a materialistic one and moves in tandem with life on the scale of development and time, century by century. Consequently, it is impossible to say that the duties of woman at the time of Islam promulgation are different from the post-Islam period.

B-Is this difference due to environmental, political and social factors?

C-Is it because of the misconception, narrow-minded perception, of the verses and narratives pertinent to the role of women?

D- Or does Islam decline the duties and the political rights of woman?

Answer: B, C and D:

As previously delineated, there is no difference between man and woman in regard to the duties and political rights, so there is no ground to these questions.



Question Twenty:

What is the impact of the jurists, faqeehs, on the social and political circumstances on the scale of their jurisprudence understanding to the texts and the speeches pertained to these issues?

Answer:

Never does the understanding of jurists to the legal, sharia, provisions of the legislative texts from the Quranic verses and sacred hadiths yield to the political circumstances and the changeable social conditions. What is to the point, here, is that their induction of the legal provisions designates the acts of applying the general basic rules to their own elements. Such is pertinent to the political circumstances and the social and cultural status. Yes, perhaps the jurist might commit a mistake in inducting the general rules of traditions theoretically or in applying them to their own elements in jurisprudence, such mistakes stem from:

1-Self-Intellectual ability:

The difference of jurists in the self-intellectual ability has a significant impact on determining the rules and the general theories and their formation more precisely and more deeply to be applied to their own elements.

2-Accumulative Scientific ability.

The difference of jurists in the accumulative scientific ability has a prominent impact on determining the general rules more strictly and more precisely to be applied.

3-The inadvertence of jurists sometimes finds existence during the study of these deep theoretical rules and their practicing and determines what is to included in the process of formation and application.

4-Differences in the living circumstances and environmental



conditions the jurists experience might be a reason of such mistakes, but it is so rare. All in all, the political circumstances and the general social conditions, in the country, never do harm to the understanding and inducting of the jurists to the legal provisions of the fundamental general rules.

Question Twenty One:

Is it permissible for woman to hold the position of the jurisprudence legislation [faqih legislation] and Marj`aya to emulate?

Answer:

As previously declared that most of the jurists decide the impermissibility of woman to hold such positions, but for us, as obviously, it is permissible if she falls within all the conditions of fatwa legislation and taqlid [religious reference].

Question Twenty Two:

“ And when ye ask [his ladies] for anything ye want, ask them from before a screen ”. The Allies: 53.

“ And stay quietly in your houses ”. The Allies: 33.

Are these verses limited to the women of the prophet (Peace be upon him) or to all Muslim women?

Answer:

These verses are exclusively limited to the wives of the prophet (Peace be upon him).

Question Twenty Three:

If the marital recommended duties of Muslim women; making love and going out of the hour with the permission of the husband, collide with the political and social rights of the Islamic state, are the marital rights given priority over the rights of the nation and the Islamic state or vice versa?

Answer:

The husband has the right to enjoy his wife wherever he desires and she wife has no right to repudiate nor to leave the house without permission: going out of the house might infringe his rights if it exceeds the common standards that limit the acts of her employment and her going out, the common standards between 6 h to 8h a day as regards that the man goes out to work in the same span of time.

If such a claim comes into fore on the scale of perversity to prevent her from being employed, does she have to obey?

Answer:

There are two issues to be recommended and it runs equal to the acts of enjoying the woman for 24 hours, here, obedience is not recommended as there is no evidence to do such a duty [for such a period of time]. If being employed is recommended, in the Islamic state, by the jurist [ruling authority], no rights the husband has to prevent her though violating his rights, otherwise being employed is not recommended to violate his rights.

If a woman is employed as a teacher and a man asks for her hand and he knows about her status. Then she accepts the offer to marry him under the condition that she will never abandon her post, here, the man has no right to prevent her from doing such a post. Or if the wife makes a condition in the marriage bond that she should be employed in the government, the husband never repudiates such a condition. So he does not have the right to prevent her later. As for making love, it is the right of wife the man has to preserve and not vice versa.

Question Twenty Four:

Does a Muslim woman have the right to make restrictions or conditions in the marriage bond pertinent to the marital duties; making love and going out of the house under the permission of the husband?

Answer:

A woman has the right to make conditions in the marriage bond, if the husband accepts these conditions in the marriage bond, there is no way to decline any and he has to fulfill them.

Question Twenty Five:

Is it of the authority of the jurist, the caliph Omar Ibn Al-Khatab to:

- determine the rate of dowry?
- determine the absence period of the husband from his wife?
- bestow [something] upon the newborn baby weaned by his mother and then it is changed into a law to bestow [something] upon every newborn baby.

Answer:

Yes, the dowry could be determined if the legal ruler considers a public interest as it does not find existence in the sacred law. Moreover, he has the right to determine the absence period of the husband from his wife, to a certain period of time, if he considers an interest.

As regards the changing the legal ruling, it is beyond the authority of the Islamic ruler whose rank is of whatsoever it is, though he was the prophet himself, he could not do it according to the sacred ayat below:

Nor does he say [aught] of [his own] Desire. It is no less than inspiration sent down to him: He was taught by one Mighty in Power.
The Star: 3



Remark

As commonly agreed and discussed in the previous pages, a Muslim woman has to pay much heed and attention to her dignity, chastity, valour and veil as a Muslim in all the walks of life social, individual, familial, political, economic, educational and so forth. Furthermore, it is a must for the Muslim man to take hold of his dignity, honour, pride and religion as a Muslim man and a believer in all the political conditions and other fields. Both man and woman alike in theses duties and rights. For each who holds a position in the Islamic government or non-Islamic government focuses upon serving Islam, Muslims and the country in all its entities to implement security, stability, social justice and equilibrium and never pants after the chair [authority] and the private interests at the expense of the social and qualitative interests. Here also man and woman alike.

Muhammad Ishaq Al-Fayadh

6 Shawal 1424



One Question and One Hundred Questions: Writing, Books, Libraries and Their Answers

Sheikh: Mohammad Ishaq Al-Fayadh



Question (1):

Some people who read the daily newspapers and weekly magazines resort to an agreement with bookshop owners or employees to photocopy certain articles or columns from these publications to avoid buying them. Is this permissible if the companies that issue these newspapers do not accept such a procedure, because it runs counter to their interest?

Answer:

If the bookshop owners own these articles and the magazines, they have the right to duplicate or photocopy and so forth and to permit others to do so. Though the right of authorship is quite known to all, the knowledgeable, it is one of the modernized rights, not inculcated in the mind as common; sharia never approves such a right unless it is settled.

If the bookshops owners do not hold the copywriting of these articles or magazines, they have no longer right to do anything or these articles and magazines are left to them on trust to be sold or published, there is no way for them to photocopy or duplicate them. It is not permissible to deal with the possession of the other without possession.

Question (2):

Is the bookshop owner or the employee considered to have committed an act that is legally forbidden?

Answer:

It is obviously answered in question (1).

Question (3):

Is it permissible for the owner of the bookshop or the employee to read these magazines without buying them if the exporting companies do not accept that? In particular, if they are packaged, and the employee



removes the plastic package from the commodity to see the magazine or the published items and then covers these commodities as though there is nothing happened to them. In the knowledge that these magazines and newspapers are not owned by the bookshop and sold by the distrusting system, the bookshop buys and whatsoever remains is restored to the distributing company. Here a small rate of interest goes to the bookshop according to the amount of the commodities it sells.

Answer:

It is not permissible for the bookshop owner or the employee to deal with these magazines and newspapers as their owners do not accept such a matter.

Question (4):

Some bookshop owners rent weekly or quarterly magazines to some readers in return for money and when the representative of the distribution company attends to take the unsold magazines of the previous edition and replaces them with new ones the bookshop owners claim that there is no selling of any edition. The he repeats renting these commodities, what is the opinion of sharia on the behaviour of such a person?

Answer:

It is not permissible as it is betrayal to trust.

Question (5):

Is it permissible for bookshop owners to sell magazines, newspapers and books showing pictures of women without veil, bare hands, necks, legs, tight clothes that uncover their bodies? In the knowledge that most of the bookshops and stationeries in our communities offer these magazines and newspaper for sale on the pretext of attracting customers to these bookshops and stationeries.



Answer:

Selling is permissible. The pictures of the unveiled women do not prevent the act of selling, yet if there is moral corruption in the country, the fair jurist is to prohibit such corruption.

Question (6):

Is it permissible to sell books accusing Islam in general and the denomination of Ahalalbayt (Peace be upon them) and its adherents in particular of kafirization and the people of heresy and misguidance? Is it permissible to buy from these bookshops? Is it permissible to talk with the owners, repelling vice by virtue, to cease selling such books? What should be if talking to them causes harm to the one who advises them?

Answer:

In general, selling these books or distributing them is not permissible because they are the most evident proves of misguidance and steeped in lies, false claims on the doctrines, denomination and distorting the portrayal of the denomination as a whole. In time, it is permissible to buy them, to ponder over them and to refute their content logically. No prevention could be to have a dialogue with the owners of these books on the scale of wisdom, advice, reasonability, and objectivity without curse and expletive.

Question (7):

Is it permissible for a Muslim adherent to Ahalalbayt to buy these books to fathom the suspicions stirred by their writers to refute them? Or is such an act limited to the competent scholars with scientific ability who could fathom these suspicions to refute them?

Answer:

Buying them is permissible but under the condition that s/he is competent, enough to refute these suspicions properly, realistically and scientifically.

Question (8):

Some authors buy references and sources about certain topics, start writing their research studies and borrow many thoughts and citations from these references and sources without documentation. Such runs counter to the common scientific in the academic research writing methodology. Do they transgress a legal limit? Is it permissible for publishing house to publish their books though knowing such transgression? Is it permissible for the bookshop to sell these books though knowing such transgression?

Answer:

There is no prohibition, as the scientific honesty does not come equal to the financial honesty: the act of borrowing from these books, verifying them and making citation from them is considered as betrayal. Thus, it is permissible to buy these references and sources about certain topics and to make use of them on the scale of quantity and desirability without documentation. There is no legal prohibition to transfer private thoughts without refereeing to their creator, that it is why these issues are here.

Question (9):

Some bookshops have a deal with authors to show their books to publicity on the scale of selling part by part after subtracting a certain rate from the total sale of these books, the common rate in the publishing houses and bookshops, could amount to 40%. Sometimes the publishing houses and bookshops gain this rate and delay paying the dues of the authors. Perhaps it takes so long time, years, to the extent their right goes with the wind, or they gain their right after hardship. In some cases, the publishing houses store these books and ignore the acts of preservation. As a result the author loses the right of gaining his dues, as such a case is entitled in the damage provision of



the contract. Many an author suffers from such incidents. What is the opinion of your eminence on such publishing houses and bookshops conducting in such a way?

Answer:

Bookshop owners and distributing and publishing houses should sell, distribute and publish the books according to the conditions and regulations set between them and the writers and the authors. No person may default these terms and conditions. The bookshops and the publishing houses should deliver the rate of interest, the dues, in the exact time without delay or as soon as the authors want these dues. In case the author is satisfied with the delay or it is written in the contract, it will be harm to the authors. Furthermore, these bookshops and publishing houses have to preserve without any negligence. Providing that the books are damaged due to negligence, the bookshop owners or publishing houses have to be forfeited, as they are entrusted.

Question (10):

Some people revert into the commercial libraries and review references and sources, in the meantime they take note from these references and sources in their notebooks to be used in their writing, sermons and lectures on the sly and without permission of the bookshops owners books in the bookshops and copy the notes they need in their own notebooks without permission. What is the opinion of your eminence?

Answer:

It is not permissible without the permission of the bookshop owner unless such behavior is commonly agreed and he has no objection.

Question (11):

An author takes the opportunity and plagiarizes an idea from another one, makes advancement to achieve it first and then attributes it to

himself themselves. Consequently, it comes as a surprise for the real author to know that his idea, under application, is plagiarized. What is the opinion of your eminence?

Answer:

It is quite convenient to make use of the ideas and theories in their writing; yes, it is permissible to attribute them to themselves, as it is a lie.

Question (12):

Do you see that there are rights to the author and publisher? In the knowledge, that such rights are commonly agreed in all the ministries of media and publishing houses in different countries and enrolled in the provisions of the copyright of the author and the right of invention.

Answer:

As reviewed previously, the copyright of the author and publisher has not been legally established. Even if it is settled for reasonable people on the basis that there is no way to have the agreement of the street to the modernized rights between customs and the reasonable people in the late ages before the ages of legislation.

Question (13):

What is your opinion on the copyrights of invention and scientific creativity in applied sciences or research sciences and discoveries in Chemistry, Physics and the like?

Answer:

As previously stated, the copyright has not been legally established and there is no objection to benefit from these creatives and inventions even if the creator is not satisfied to benefit from them because they do not belong to his possession nor are his legal right.

Question (14):

Some publishing houses adopt publishing a book for an authors at the rate of 10% from the total number of published copies, is it permissible to re-publish the book again without the knowledge of the author and without having his due as happened in the first publication?

Answer:

Yes, it is permissible to do so without the permission of the author.

Question (15):

Certain public sectors in the country subscribe to daily newspapers and a financial provision is made for this purpose from the budget of this sector, the public sector. The managers and some personnel make use of these newspapers, reading. Is it permissible for these managers and employees to take these newspapers even though they are bought with the public money? It is customary to keep a copy/ies of these newspapers in the sector archive for the sake of information if need be, but it happens that the managers and the employees take them, what is the opinion of your eminence?

Answer:

It is not permissible to use the public money except the legal permitted fields of use, so it is not permissible these people to take the newspapers or something else, bought from the public money.

Question (16):

If these newspapers are purchased in a sector, public or private, under the provision of the petty cash from which some items are dispensable and, after used, have no real value, so there is no need to keep them after being used, is there?

Answer:

In this case, they could be taken.

**Question (17):**

Some books are of great benefit for the society and nation. Is it permissible for the believers, bookshop owners, to publish and sell them to spread the interest to all without the permission of the authors, in particular when the permission is hard to be taken? For fear that the publishing houses owners will be subject to certain legal problems in case the authors or their heirs lodge a complaint against the owners of the publishing houses in the specialized courts.

Answer:

Legally it is permissible if the book falls in the possession of the bookshop owner, as described previously there is no legal evidence proving the right of the author.

Question (18):

Is it permissible to use these newspapers in other purposes; eating on them, cleaning the glass, packaging the cans and so forth. In the knowledge that these newspapers are not void of the Glorified Name of Allah or the name of the prophet or the names of the impeccables or some Quranic ayats or sacred hadiths?

Answer:

Overall, if it is known that these newspapers hold the Glorified Name of Allah or the name of the prophet or the names of the impeccables (Peace be upon them) or some Quranic ayats or sacred hadiths, it is impermissible to use them for these purposes to desecrate or humiliate them.

Question (19):

Is it permissible for a preacher or a lecturer recite certain excerpts or topics from various sources to the audiences without mentioning their sources or references? In the knowledge that leaving these sources without documentation misguides the audience into believing



that these facts belong to the preacher or the lecturer. Yet the fact is that the sources belong to another scientist or another writer. What is the opinion of your eminence?

Answer:

It is not obligatory for the preacher or the lecturer to refer to the sources of his sermon, as it is the same with the author who collects the information, theories and opinions, of his book doesn't have to use the marginal documentation and averts misguiding the audience into believing that these information are of his mind and he is the creator of such information.

Question (20):

Some ministries of media in the Arab and Islamic countries take hold of monitoring the books arrives at their lands and if they find books pertinent to Ahalalbayt, confiscate them to be burnt later. Thus some believers resort to other methods to bring these books despite the probable risks. Is it permissible for such believers to do so thought fathoming the risk and its repercussions?

Answer:

It is not permissible as there are great dangers or repercussions to the denomination [Ahalalbayt].

Question (21):

Is it permissible to buy foreign books, magazines or newspapers issued by companies owned by Jews, enemies of Islam, buy, here, is to know what the enemies of Islam and the Islamic nation write and think on the scale of " Whoever learns the language of a nation shall be safe from their evil ".

Answer:

It is permissible if it is for a sapient reason as abovestated.

Question (22):

Some writers search for critical topics participating, implicitly or explicitly, in casting dissention between the people of the nation. For instance, they tackle the controversies between the Islamic, criticizing a scholar, a maraja or a writer on the basis of nothing scientific or evident and exploit everything to be on the limelight in rocking the trust of people in this scholar or that one. What is the opinion of your eminence on buying such books? Is it permissible to read such books? Is it obligatory to refute such writings with objectivity?

Answer:

It is impermissible to buy or distribute them publicly as they are of great corruption, destroy the mindset of people and rock their confidence in the religious scholars, then in the denomination and religion. As for criticizing these books, it a duty in a scientific and objective way to know, precisely and realistically and without cursing or insulting, their sources, defects and falsehood.

Question (23):

Some publishing houses publish edifying Islamic books and sometimes do the same with books steeped in controversies on their content and the propensity of their writers or rather they could be misleading. The pretext these houses hold is that they are commercial and publish to whoever pays more. What is the opinion of your eminence?

Answer:

If these books are from the ones leading to misguidance and misconception, it is not permissible to publish and distribute them. Yet it is permissible to publish them if they take hold certain untrue content, not so effective against the mindset of people as found in many books in the libraries.



Question (24):

Is it permissible to publish the edifying Islamic books tacking specific topics people need in their daily life; legal one-fifth, khums, a writer makes a deal with one of your agents to sponsor the act of publishing from the amount of the one-fifth and to be paid at the beginning of the year? Or is it necessary to take permission from your eminence for such an issue?

Answer:

It does not need any permission if the agent finds that it is for the good of people.

Question (25):

One of the faithful receives a sum of money from a donator to be spent on the Muslim orphans, the amount is not from khums, alms, considered as charity. Is it permissible to give the money to your legal agent to sponsor publishing edifying Islamic books tacking issues necessity to all people? Or is it to be spent on the Muslim orphans as commanded by the donator himself?

Answer:

It is permissible to give it to our legal agent to be spent, as commanded by the donator, on the Muslim orphans. If not spent as commanded, it is to be spent on the charity projects on the scale of importance.

Question (26):

Most of the educated people are used to borrowing books from others for a limited period of time, but they take so long time in returning these books to them. Some exceed the time of borrowing to years to the extent the books owners fall into despair or forget them. If the owners remember and ask for his books, the answer will be that they are lost or taken by someone else and the other common excuses. What is the opinion of your eminence?

**Answer:**

It is impermissible for them to take so long time in returning the books in time to the owners. If they are too late in returning for tolerance or negligence, they commit something wrong, or if lost, they are to be forfeited.

Question (27):

Is it permissible to increase edifying Islamic prospectuses to be spread for free after being photocopied without taking the permission of their owners? In the knowledge that these books and prospectuses might be forbidden in specific countries. Furthermore, to increase these publications gives knowledge to the community and understanding to its doctrine generation by generation and grants it a genuine Islamic culture?

Answer:

Yes, it is permissible, as tackled previous, the owners of these books or the publishing houses owners have the right to prevent legally such an act. If some buys something from these books and prospectuses, he is free to increase their number by photocopying or duplicating or printing and publishing.

Question (28):

Some educated people, in our communities, fall under the spell of the western theories in culture, ideology and literature to the extent they adopt such a trend in their life and ignore the fount of culture and the genuine thought in our great Islamic heritage. When being argued by the believers about such a trend, they give no importance to the whole issue and accuse the religious people of radicalism and traditionalism. Such runs counter to the ground facts as commonly agreed that the scientific hawza, seminary, with its schools calls for keeping the Islamic religion, reforming the mindset of the other as compared with the Islamic methodology, proving right and confronting wrong. What is the opinion of your eminence?



Answer:

Such stems from:

First: Those people are not familiar with the Islamic culture heritage and its cultures.

Second: The visions they have in their mind is that the West is developed in culture and traditions.

Third: The impact of the blurred media on Islam and Muslims. The duty of the faithful, here, is to confront them by sapience, advice and good words with optimistic face; such reinforces love and affects them. Furthermore, the duty of the religious scholar and scientists is to guide them into the religion of Islam, its culture and moderate Islamic value to manifest that it is the one and only religion on earth solving the greatest problems of man and providing him with the tremendous psychological power, virtuous endowments, and good ethics on the basis that the Islamic culture is a practical divine function to cultivate man. Moreover, it is the way that equips man with the instinct of religion and faith in Allah without a partner that cultivates the conduct of man in life in all the walks individual, social, familial, economic, and cultural and the like. Yet the degrading culture in the West equips man with the animal instincts and carnal desires and denudes him of the values and the human standards. Yes, it is for our youths who immigrate to the West to do the higher studies take cognizance of having the highest technologies in medicine, engineering, astronomy, economy and so forth on the basis that they should preserve their Islamic traditions and human culture. As a result, coming back, they could offer their countries a great technical and scientific service in different fields to lead their communities into the developed countries.

Question (29):

Some of the edifying Islamic books whose creator write with an opaque style not everyone could perceive and target the vanguard readership, the educated and thinkers in the society. What is the opinion of your eminence on those who summarize and simplify these books and then to be published to serve the society in general? Is it a must to take the permission of the owners of the books in question?

Answer:

As tackled before, no permission is required from their owners as they have no legal right to prevent publication or summarization. It is beyond their right according to legality [religion].

Question (30):

Some investment companies recycle the paper collected from the garbage to be sufficient for use. Is it permissible for the presses and the publishing houses to buy such paper to publish the Glorious Quran or the religious books? In the knowledge that this paper fell into destitute and left in the dump, or it contained something violating the religious ethics or the Islamic teachings in general.

Answer:

Yes, it could be bought and there is no hindrance to use it in publishing the glorious Quran and the religious books as much as its impurity is not known, or it is purified in the process of recycling. Concerning the previous written information on it, violating the religious ethics and the Islamic teachings, it is all obliterated as its topic; it is new paper and has nothing violating ethics.

Question (31):

Some publishing houses publish stories about the prophets and imams (Peace be upon them) with illustrations. Is it permissible to show certain drawings illustrating approximately the prophets and imams (Peace be upon them) in conformity with the narratives about their descriptions?

Answer:

Evidently it is permissible to illustrate man, but it is not good.

Question (32):

Some writers are used to publishing the books of supplications and claim that these books are written by them. In the knowledge that they were written by some towering scientists, mujtahid and licensed to narrate from the prophet and imams sermons and speeches. Even as it is noted that some writers take such supplications and edit books and classification to theses books being licensed to narrate from any maraja. Are they required to be licensed to narrate? Are they required to mention the references they depend on?

Answer:

They are not required to be licensed to narrate nor to mention the references used in their books.

Question (33):

Some owners of the bookshops, stores and publishing houses want to take books from the high shelves and set step on other books or on a block, packages, of books that might contain ayats of the Glorious Quran or the sacred hadiths. Is it considered as sacrilege to the ayats of the Glorious Quran and sacred hadiths?

Answer:

If he knows that there are ayats of the Glorious Quran, the Name of Allah and religious books, it is not permissible as it is sacrilege to them or if he never pays attention to the entities of these books, nothing could harm him. At any rate, the owners of these bookshops are not to make these containers, packages, as a ladder.

Question (34):

Some despotic governments consider everyone who is not with it is against it, expropriate the views of those who oppose its policy in ruling, confiscate burn the books they author if they run counter to its policy in politics and ruling. Usually the government justifies such policies in saying that these books are against the state and the public interest. What is the legal duty of the believers on such governments, to confront such a kind of conduct?

Answer:

Confiscation of the properties, books or other possessions, of people is not permissible. The stance of people on such governments is to protest such illegal acts in line with the legal permissible limits, not leading to tumult in the country, dissension, insecurity, destruction to the properties of the innocent and blood shedding.

Question (35):

Some countries prohibit exporting many edifying Islamic books. Is it permissible to photocopy your books for the communities of these countries under the condition that the yield of selling these photocopied goes to the Islamic projects; mosques, husseinyas [a mosque for the Husseinist mourning meetings], morning meetings, committees for the orphan protector, collective marriage and the like?

Answer:

Yes, it is a good project, serious, to serve the community.

Question (36):

What is your opinion about those who photocopy and sell them for his own interest?

Answer:

It is permissible and we have no right to prevent such an act.

Question (37):

Some bookshops stick a price label on the cover of the Glorious Quran to be sold. It is commonly known that to buy a copy of the Glorious Quran should be with the intention of a gift giving, not with the intention of buying or selling. What shall bookshop owners do to face such a legal caution for not sticking the price labels on the covers of the Glorious Quran?

What is the legal way to purchase a copy of the Glorious Quran from the bookshops?

Answer:

It is permissible to buy a copy of the Glorious Quran even from an unbeliever with the intention of buying to see the sharia and Islamic knowledge. Yet it is not permissible if it is known that buying from the unbeliever holds an act of sacrilege to the Glorious Quran.

Question (38):

Some lecturers and preachers depend on others to transfer the audio and video lectures into formal written ones, after extirpating and cultivating these lectures stylistically. Moreover, these lecturers and preachers publish the lecturers with no mention to those who proofread these, acknowledging their efforts in the introduction or at the end of the books. Certainly such is an act of wasting the spiritual right of those who render the lectures into formal and literary language. What is the opinion of your eminence?

Answer:

It is permissible for the lecturers to publish their lecturers under their own names without mentioning the effort of those who proofread them as there is no wasting of their right and there is no legal evidence to such a right.

Question (39):

Is it permissible for any publishing house to publish religious lectures of a dead lecturer, say, without having his permission as he is dead, it is not possible to have the permission from his relatives?

Answer:

As tackled previously, it is permissible as the copyright is not proven legally.

Question (40):

Some bookshop owners and street vendors sell smuggled books with high prices, doubled-price, what is the opinion of your eminence? Some of them photocopy these books, video tapes of Islamic series or religious programs to increase them and sell them for the sake of their own interest, is it permissible? In the knowledge that these books and video tapes go with "All rights reserved". For surety, the owners of these books, tapes and producing and publishing houses do not accept such a matter as it is detrimental to them.

Answer:

It is permissible for them to duplicate these books, photocopy documents, video tapes of Islamic movies and series and religious programs to be increased and sold for the sake of their own interest. As previously tackled that the copyright is not proven legally.

Question (41):

Is it permissible for any governing system to spend money from Muslim almshouse to advertise itself and reprobate its opponents or competitors at all means; media, newspapers, magazines, websites and the like?

Answer:

It is not legally permissible for any governing system to spend from Muslim almshouse. This money should be spend only for Islam and



Muslims interests; building Islamic institutes, religious schools, scientific seminaries [hawzas], promulgating the religious culture and the Islamic thoughts at all means. Yes, it is permissible to spend from the Muslim almshouse for the interest of itself, if the governing system is Islamic and based on the divine authority, Allah without a partner. Even as the system is at the time of the presence of the prophet and the infallible imams, yet at the time of occultation, the fair jurist, with all the conditions, knowledgeability as one, takes the responsibility of doing so.

Question (42):

What is legal decision on a writer plagiarizing a book from another writer and attributing it to himself?

Answer:

It is not permissible to attribute the book to himself, even as it pertains to somebody else, it is a kind of lying.

Question (43):

What is the opinion of your eminence on telepathy? A poet writes certain lines in a country and another poet does the same line in another country, even as there is no communication between them, the psychologists tackle such an issue, is there any justification for such a case in our religious thought?

Answer:

There is no justification for such a phenomenon in the religious thought and it is not based on mere coincidence as the coincidence does not last forever. It is based on the convergence between them in the power of creativity, versification, arts and style, Allah best knows.

Question (44):

What is the opinion of your eminence on the fact that some presses and publishing houses publish the heritage books, which are not legally owned by someone and take profit from such an act? What is the



opinion of your eminence on publishing the old books whose creators are anonymous or the relatives of the creators have no right to publish and distribute them, who has the right to publish and distribute them? Is it the legal jurist represented by marjayas and agents? What is the opinion of sharia [religious law] on these presses and publishing house that take hold of the right and gain many profits?

Answer:

It is permissible for the owners of the presses and publishing houses to publish the old Islamic heritage books; theology, traditionalism and the like to be promulgated in the service of religion, doctrine and revivalism of the Islamic heritage. As stated previously, the right of publication, edition and distribution is not proven legally for the writers and authors to be devolved to their heirs, even as there is no need to take the permission from the fair jurist.

Question (45):

Some families publish the supplication books, dedicate them to the soul of their dead relatives, ask people to recite the sura AL-Fatima and distribute these books for the public interests. Is it permissible to publish these books in such a way? Is it a must to take the permission from your eminence or one of your agents to make sure that the source and the writing of the supplications are quite right to avert being published and transferred in a wrong way?

Answer:

It is permissible in the abovementioned way and there is no need to take the permission of the fair jurist under the condition that there are no improvisations in the supplication, adding or omitting.

Question (46):

What is the opinion of your eminence on acquiring religious sciences by cassettes without restrictions and supervision of a



sheikh or a teacher? In the knowledge that some subjects, doctrines and philosophy, might have ambiguity that leads a student into misconception. Should the student hold scientific discussion with a sheikh or a scientist to make sure of the acquired information?

Answer:

There is no objection in acquiring religious lessons in theology, traditionalism and doctrines by cassettes, as there is no difference between having such information from a teacher or a cassette. Surely if the student is not qualified enough to acquire such information and falls into doctrinal misconception, he should attend a lecture and never depend on a cassette.

Question (47):

Some daily newspapers publish articles written by readers on the page of the readership or on the page of the audience opinion without being paid any fees, yet it is noted that the newspaper editors receive salaries, though doing nothing as compared to the participants. Usually they classify the articles to be designed and published. Is such an act considered as withholding the due of people and usurping their spiritual rights? In particular the newspaper is covered by the efforts of people and bought to gain profits and the participants receive nothing in return for their efforts.

Answer:

It is permissible as the copyrights are proven legally.

Question (48):

Some journalists justify the policy of specific rulers and their shameful stances on the death-life issues of our nation, the Palestinian cause, issue. It is noted that most of the Arab rules comply with the peer leaders of the white house and their conspiracy, so called, peace plan. Media in the Arab and Islamic states grows instrumental in



serving the America and the international Zionism. For opponents to refuse such a stance are accused of either an extremist, or an opposing one or a terrorist Zionism or other terms. What is the opinion of your eminence on such journalists who justify the policies of these rulers?

Answer:

The duty of every Muslim on the scale of sharia is to defend the right at all possible costs, avert defending the unjust as just and manifest that Islam is the religion of peace, safety and justice and condemns terrorism in all its colours and shapes as the Glorious Quran states: “ if any one slew a person--unless it be for murder or for spreading mischief in the land- it would be as if he slew the whole people: And if any one saved a life, it would be as if he saved the life of the whole people “. Maida, or the Table Spread: 32, and denies killing people without any reason, is there any text, like this Quranic one, worldwide paying much attention than the abovementioned one protecting the dignity of man and his rights? Unfortunately, nowadays there is a group of Muslims doing vice and terrorist acts against humanity, killing the innocent; women, men, children and old men, in a gruesome way under the name of religion, in time the Islam has nothing penitent to these acts and disowns them all. Thus the leaders, religious and political, should be one hand to obliterate such a cancer tumour from the body of the Islamic nation at all means; media, force and the like. Having such malignant tumour in the body of the nation gives the chance to the enemies of the nation to invade under the pretext that Islam promulgates terrorist and extremism or the Muslims are not able to confront terrorism or terrorists in their land.

Question (49):

Some experts in computers decode the security number of the CDs having religious programs and Islamic lessons to copy and sell them for their own interest. In the knowledge that the companies and foundations, issued such CDs, write on them "All rights reserved " and no way to copy or increase the number of them. Moreover steeling these CDs to be increases causes financial harm to the companies and those who issue them. What is the opinion of your eminence?

Answer:

As previous tackled that these rights are settled for the tradition and the people of reason in the present time, but they are not settled in the time of the infallibles (peace be upon them) and forbidden by them. Thus it is permissible to decode these CDs to be increased and sold for more profits and there is no financial harm to these companies and foundations issuing the CDs but it decreases the profit of them.

Question 50:

Is it permissible to print and publish books without mentioning the name of their author?

In the knowledge that such could do harm to the publishing houses and bookshops as their content exposes specific cultural, economical and political facts about certain countries or groups. In addition, publishing books without mentioning the name of their authors is not of conventionality in the orbit of thought and ideology. What is the opinion of your eminence on such a viewpoint? Is it considered as a way of secrecy and calculated deception?

Answer:

It is permissible if there is an interest in printing books without mentioning the name of the author. Causing harm to the publishing houses and bookshops in certain conditions does not cease the acts of publishing or mean that it is not permissible.

Question (51):

Sometimes an owner of a publishing house makes a deal with an author to publish a book. After each one takes his way, the publisher falls in confusion as to choose the kind and price,, the cheaper the lower, the more expensive the higher, there are three sources of paper, the lower could increase his profits, the higher could decrease his profits. Probably, he is to choose the kind that gains more profits. The question to be asked is that if the kind of paper is the one and only one and has many sources of production with different prices, is the publisher free to choose the kind? Or should he settle the matter with the author or add a provision in the contract in fear of falling in a legal prohibition?

Answer:

If the kind of paper is not determined in the contract, it is better to use the familiar kind of paper used by presses and publishing houses.

Question (52):

If there is a contract between the publisher and an author to publish a book, has the publisher to delimit the author to certain number of book pages and its size? In so doing, the publisher could dominate the size of the book as he could change the font size of the letters, the book pages could be minimized and maximized, as a result the book size also could be bulky or not. So if the publisher wants to gain more profits, he will increase the number of the book pages as much as the font size of letters is maximized. In this regard, the greed of the publisher could find existence in such an issue. What is the opinion of your eminence?

Answer:

If such details are written in the contract, they should be applied. If not, the most common standards in publishing such books, font and book size and the like, should be applied.



Question (53):

Some authors depend on quantity not quality in writing books and revert into many sources to summarize certain information without documentation. Such designates that they are not prolific and creative to have some innovative or inventive in the world of thought and culture. Do the Islamic freedoms permit those to be authors? Does such a way be regarded as transferring and summarizing not as precocity and true creativity b?

Answer:

It is not a requisite for an author to be creative as the creativity of editing is different from one to another. That is why edition does not run beyond transferring information from one source to another under the condition that there fidelity is required in transferring.

Question (54):

The religious books for religious scientists take publication without any digital number to keep the text intact and resistant to change or fabrication in the future if fallen in the hand of the infidel. As it is happened with the most hadith books of other Islamic denominations being published after omitting many hadiths tackling the virtues of the commander of the believers [Imam Ali Ibn Abitalib] (Peace be upon him) and his right to a caliphate after the messenger of Allah and the posterity of the prophet (Peace be upon them all). Doe you see that keeping pace with such an international library system makes any publication of an author, in any field, a standard digital space to keep the true text as it is without changing of a letter, or addition or fabrication though being old? In the knowledge that the great libraries in the world depend on such a system that grows as a permanent legal supervision over the truth of the text, as it comes from the author, and for a book published later.

Answer:

As for the scientific verifying books; traditionalism, theology and the like, should not be under any digital restriction to keep any opinion, in time it not obligatory. As for books of Hadith, it is possible to subject them to such a system to preserve them from addition or omission yet it is not obligatory; it is forbidden to fabricate and to violate fidelity and the authenticated texts pertinent to the virtues of the commander of the believers and his right in caliphate (Peace be upon him and his posterity)

Question (55):

Our Islamic history suffers much from the fact that there are writers employed by rulers to record history and events in favour with the palaces, to the extent, to bury truth and reasons of events and conspiracies. Many of these writers, still, hover around rulers and coercing regimes inmost of our Islamic countries. What is our legal duty for those writers who doe fabrication and twist the neck of truth?

Answer:

The legal duty for whatever those writers fabricate is to expose reality and truth by writing and media, objectively, wisely and advisedly and refer to where the suspicion, change and fabrication lie in the book without appealing or cursing. Such a way affects people more positively than confronting them.

Question (56):

Some critics, cultural criticism and literary criticism in particular, have recourse to the Western theories irrelevant to the Islamic intellectual system and the Arabic heritage, its language and literature. Such causes a kind of critical and intellectual controversy for most of the interlocutors and readers of this genre of criticism. They criticize a text of a Muslim adherent to Islam in all his life with theories far from Islam, so there will be many discrepancies, intellectual contradictions



and differences in principles and these critics dissect the Arabic text on the scale of the Western theories tenets, non Islamic, into being void of its evident content to run as grotesque and impertinent to them. What is the opinion of your eminence?

As such Western theories are detrimental to our generation.

Answer:

Our task in this open world is to confront these critics with criticizing what they write about the Western theories and culture objectively and realistically without cursing and appealing and to show them their misconception, falsehood and fabrication of truth that portray the intellectual Islamic system as vague. Furthermore it is to remind them of the fact that the Islamic culture has so great a role in educating man and his relation with the community, in cultivating his behaviour in all fields individual, social, familial, economical and the like and in conducting his ethics to be straight and moderate and never to derail left or right. More into the point, it provides him with great psychological energy, virtuous endowments and good morality grants him the instinct of religion. On the contrary, the Western culture, known to all in the Western countries, provides people with animals instincts and carnal desires, therefore the family and ethical moral system is deteriorated and such deterioration wreaks havoc on the morale of the youths who find morale, in the familial and social system of Islam, absent in theirs and find, in theirs, deterioration and degradation. That is why they prefer Islam and convert to it.

As for young Muslims, it is no use, for them, indulging in the trivial widespread culture of the Western countries culture, as it is better for them to curb their Islamic traditions and humanitarian culture, to provide themselves with the highly advanced techniques and the developed technology in modern age in different fields; medicine, engineering,

space science, economic and the like, and to exert themselves, to the nth power of their efforts, to acquire these technologies.

Question (57):

What is the opinion of your eminence on the books of horoscope and their relation to the circumstances, happiness, sadness and destiny in life?

Answer:

It cannot be a legal evidence and no way to judge its coincidence, since it has no value on the scale of sharia.

Question (58):

Some people practise palmistry and gain profits and also some bookshops sell the palmistry books. What is the opinion of your eminence on palmistry? Does it have scientific source known in our Islamic heritage?

Answer:

It is not permissible as it is a way of predicting the unseen; it is legally not permitted.

Question (59):

From time to time there appear some books tackling the number miracle in the Glorious Quran. For instance; collapse of Israel in 1443 Hijra, corresponding to 2022 AD. In the Glorious Quran do the authors, of these books, prove such a fact as mentioned in certain ayats after relating certain historical events altogether with each other, and also in what they write about the first Jewish state destroyed in 722 BC, the prediction of the decline of the Israel kingdom comes in 621 AD. The number of years between the prediction and the establishment of the second state of Jewish in 1948 AD is 1368 years. The number of years between the prediction to the completion of the second state in war of 1976 and taking Jerusalem 1444 years. Here they mention if we reconsider the sura of Israelites: verse 5, we find the word "the first



“, “ When the first of the warnings came to pass, We sent against you Our servants given to terrible warfare “, take number 38, then in “ So when the second of the warnings came to pass, [We permitted your enemies] to disfigure your faces, and to enter your Temple as they had entered it before, sura Israelites: 7, we find the word “ warnings” take the number 72 and the word “ the second warning “ takes the number 73, the word “ “ to enter” does 76. Multiplying these numbers by 19 we shall find “ the first “ as $19 \times 38 = 722$, this summation comes in line with the date of destruction of the Jewish first state, “ warnings “ as $19 \times 72 = 1368$, this summation come equal to the number of years from the foundation of the second Jewish state in 1948 AD, “ the second warning “ as $73 \times 19 = 1387$, equal to the number of years from the coming of prediction in 612 AD to 2022 AD. When crosschecking all these information we find them all right, 100%. So what is the opinion of your eminence on such an issue? Is it related to the science of “years and arithmetic” as mentioned in the Glorious Quran:

We have made the Night and the Day as two [of Our] Signs: the Sign of the Night have We obscured, while the Sign of the Day We have made to enlighten you; that ye may seek bounty from your Lord, and that ye may know the number and count of the years: all things have We explained in detail. Sura Israelites: 12. What is the opinion of your eminence on such a topic? Is it pertinent to the number miracle of the Glorious Quran?

Answer:

It is not of the Quranic miracles, it is an act of speculations and there has no value in the science of years and arithmetic. Moreover there is miscalculation; “the first”, “and”

And other words do not take the number 38, why are they multiplied by 19? Why not by 20 or 18? What is the importance of 19? It is a

matter of fact to add the number of ayats or words or letters to each other and then to be multiplied by a number, the summation will be something strange.

Question (60):

Is it permissible for the government to monitor the internet sites and to prevent people from access to the pornography immoral. Even as it prohibits accessing to specific Islamic sites where a note appears “not permitted sites” or something else? What is the opinion of your eminence?

Answer:

Having surveillance over the pornography and immoral sites is a legal duty for the legal Islamic state and it is the duty for a Muslim not to access to these sites. As for forbidding to the Islamic sites, it does not run in conformity with the Islamic state.

Question (61):

Is it permissible for any government to lay a media blackout on any nationality or a doctrine opposing its ideology or thought or habits and traditions? That it is to say it does not permit this nationality to have its freedom of expression; practicing its habits and traditions in life and also not to be independent on the scale of culture with its respected personality among other human cultures?

Answer:

According to the international law, it is not permissible, for any state, to do such a procedure. It is the freedom of religion and denomination for anyone and impermissible it is for a state to prefer a denomination to another denomination as it might cause tumult, dissension and hypocrisy in the country. If the people of every denomination are free to practice their rites without criticizing another denomination, such necessitates stability and security in the country.



Question (62):

What is the opinion of your eminence on disseminating the scandals of the enemies of Islam, Americans and their allies, and a government or a person takes their path and gyrates in their orbit? In the knowledge that disseminating their scandals in their society, politics, economy, industrial strategies and commercial domination gives conception to the nation to fathom the machinations and deception of the enemies?

Answer:

It does not matter if it is objective and realistic. Definitely the corruption of them doe more harm than good to the nations and denominations, in particular it leads more to dissention and hypocrisy in the Islamic nations and their denomination. In time, it is highly required and important in the street to have the unity of Muslims and their words in the face of the conspiracies of enemies and their machination.

Question (63):

What is the duty for scientists, thinkers, the educated and pious litterateurs in confronting the Western media wave, in general, and the American one, in particular, that distorts the reputation of Islam and the Islamic nation?

Answer:

It is the duty for all the scientists, preachers, thinkers, littérateurs and writers to confront these media conspiracies at all available means objectively, criticize their misleading ideas and false accusations of Islam and to state that the Islamic religion is a religion of peace, justice and humanity and calls, at its nth power, for the value of man and his rights, as mentioned in the Glorious Quran: “ if any one slew a person--unless it be for murder or for spreading mischief in the land--it would be as if he slew the whole people: And if any one saved a life, it would be as if he saved the

life of the whole people “. Maida or the Table Spread: 32. Does the Islamic religion with such texts promulgate extremism and blood shedding? It is against terrorism and extremism in all its shapes and colours.

Question (64):

Some governments deal with liberal Islamic movements, defending their homelands, traditions, dignity and religion, as terrorist movements and as the Americans claim. Fore surety such serves Zionism and Israel. What is the opinion of your eminence on such an issue? Is the one who defends his religion, homeland and dignity considered as a terrorist? What is our duty for those who take up arms of jihad to defend the heart of Islam; their religion, homelands and dignity? What is the opinion of your eminence on the duty for the scientists, thinkers and pious littérateurs to help those fighters, mujahedeen? For your own part, what should their written message be in the orbit of such an issue?

Answer:

Whoever defends himself, honour, money and country is not a terrorist and comes as a reasonable legal right decreed in all the divine religions. As it is one of the priorities of man on earth, a terrorist is the one who kills the innocent in a horrendous way void of humanity, invades the land of other, casts its people into different lands, slays them and rapes them by all means. As for the legal duty for the scientists, thinkers and pious littérateurs, it is to support and help them financially, spiritually and by media to restore their legal rights. Here what they do is to defend themselves, their honour and land and is no to defend the heart of Islam on the scale of Jihad to call all Muslims to participate with them at all costs.



Question (65):

Many scientists, thinkers and specialists write about the conspiracy theory as there is a great conspiracy woven and still under weaving by the enemies of Islam and Muslims to take seizure of the capabilities of the Islamic nation and fight the Islamic religion worldwide for the benefit of the Zionist movement and transcontinental great companies which aim to control the world by, so called, sole dominance and unipolarity, America. What is the legal duty of scientists, thinkers, the educated and litterateurs for confronting such a great conspiracy?

Answer:

Thinkers, the educated and politicians in a nation are to think seriously of what is the essential factor of their dominance over the world and the Islamic nation? The answer is as follows:

1-Weakness of the economy in the Islamic state though having natural resources in its land.

2- Recession Muslims in contemporary sciences, highly advanced techniques and developed technology. Such recession stems from their weakness in the economy and there is no exploitation to the natural resources in the country as possible as it should be; in so doing, there should be also exploitation to the highly advanced techniques and experience.

3- Dissension and controversy between the political leaders in the Islamic countries who never take a unified stance on the West and the East and pay much heed to their interest and the authority chair than to the public interest of people. Thus none in the West or the East considers their stance as there is no one unified directions in the fields of politics, economy, education and so forth. These factors pave the way to the enemies to invade the Islamic lands and to take seizure of the capabilities of the nation in all destination economic, political,





cultural, educational, military, security and so forth.. The main reason behind all that is to encage the country in the state of recession and to be a pretext to linger in the lands and control its capabilities. As a matter of fact, if a country stays in scientific, economic and political recession in the modern age, it is no independent, so it has to gyrate in the orbit of the West and the East to meet his needs, it is a pity!

That is why the political leaders and the sapient in the Islamic lands are to think of the life-death issues of their people in the modern age, the age of science and space. How long do the Islamic lands stay in recession, they aught to, for the sake of their conscience and responsibilities in the sight of Allah and their people, do:

1-Unity in word and stance on all destinations, West and East.

2-Much heed to the interests of the nation and negligence to dissention and controversy and exploitation to the highly advanced technology at all means; institutes, colleges, specialized universities to drag the youths and thinkers to use these technologies. As for the acts of fighting Islam, it is a matter of fear that Islam as a humanitarian, familial and social system could be promulgated worldwide and day-by-day. It is heard that the youths in America and Europe convert to Islam thought having little information about the humanitarian system of Islam. Therefore the enemies of Islam they do fight such a religion, Islam, at all means to cease its promulgation and expansion. It is the duty of the scientists, thinkers and the people of pen, the educated, to disseminate the perception of Islam among people to be armed with Islamic thoughts, religious culture, morality, norms and principles antithetical to the foreign thoughts, false rumours and supported conspiracy to expose their defects and lies objectively and realistically without cursing. Such a response should be known in the newspapers, magazines and satellite channels not for one or twice but continually



to manifest the traits of Islam social, individual, familial and legal. The Islam as a religion gives much importance to man; his life, honour, money and dignity and condemns all the acts of blood shedding as found in the Glorious Quran and tradition:

If any one slew a person--unless it be for murder or for spreading mischief in the land- -it would be as if he slew the whole people: And if any one saved a life, it would be as if he saved the life of the whole people. Maida or the Table Spread: 32

Moreover, the traditions have many to mention, is there a text in a system in the world stronger and stricter than these texts to protect the rights of people? Does such a religion with these strict texts disseminate terrorism and extremism?

In conclusion, the remedy for these false malignant conspiracies is to be at the hand of the people and in particular the youths and the educated ones from them and the scientists, the Islamic thinkers.

Question (66):

Is it permissible for Islamic countries to steal theories and scientific thoughts of the Western scientists and thinkers in various fields of science and knowledge to be developed and exploited for the sake of the nation and the Islamic civilization? In the knowledge that the West stole much scientific theories of Muslim and but their civilization and technical development, according to these theories and thoughts, in the world of medicine, pharmacy, mechanics, astronomy, space and other fields. What is the opinion of your eminence?

Answer:

It is permissible to steal the theories and scientific thoughts at all available means, it is necessary to do such an act in this age to develop the Islamic community to be a civilized community with high technology in medicine, engineering, economics, space science and so forth.

Question (67):

Electronic information exchange becomes so manageable for those who are professional in using the internet. What is the opinion of your eminence on those who disseminate mistaken information in a science to misguide and cover certain facts for sake of beneficiaries; companies of goods or for governments, for instance, some companies belittles the value of the research studies on the harm of smoking, or the harm mobile phone on the public health, all these attempts are achieved by misguiding and false studies, what is the opinion of your eminence?

Answer:

It is not permissible to cover the right information and to be published with defects and underestimation of research studies on the effects of smoking is not considered as changing the information, as there studies mostly are based on exaggerations. In conclusion, dissemination of falsehood, lies to cover facts is not permissible and underestimation of these studies, based on exaggeration, is no bad.

Question (68):

Some publishing houses publish the books of magic, witchcraft, necromancy and dealing with jinn and the like, though these books are detrimental to most of people, what is the opinion of your eminence?

Answer:

There is no use publishing these books, or rather it is not of sanity, a book that tackles magic should not be published and considered as a book of misguidance: to teach magic or to be taught is haram, impermissible. In other narratives the magician is to be killed. As for sorcery and necromancy and dealing with jinn preparing spirits, they are of imagination and have nothing in reality.



Question (69):

In the last years some of Islamic and Arab countries change the curricula of their education system and eliminate whatsoever it is pertinent to jihad or to call for the libration of Palestine and the resistance of the Zionist Jews to satisfy the policy of friendship with America and its allies. What is the opinion of your eminence on such a procedure of these countries?

Answer:

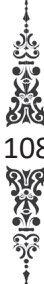
The call for jihad, the libration of Palestine and the resistance of the Zionists are not the duty for any one. At the time of presence [existence], such a call should be from the imam (Peace be upon him); in the time of occultation it should be from the fair jurist, acquired with all the conditions and the knowledgeability, it is not permitted to anyone. Whether in the time of presence or occultation it should meet all the conditions, requirements and success. Yes, a Muslim should defend himself, property, honour and land in the face of any attack at all the available means under the condition that he could do defense otherwise he is not obliged.

Question (70):

Some educated people and thinkers fall under the spell of gold and money certain governments offer to exploit their pen in line with its interest and policies. What is the opinion of your eminence on what these governments do on the legal scale? What is the opinion of your eminence on such educated people and thinkers who comply with these governments at the expense of the interests of nations and its essential causes?

Answer:

If the purpose of those educated people and thinkers behind being with the government is to serve their Muslim people, public interests





and legal essential causes as well as the government and its policies, it quite good and there is no objection, but under the condition that these services should be prohibited legally. In conclusion, being employed in the government is permissible as much as it is acceptably legal, or rather it is necessary as there is no job to earn livelihood. Yes, it is not permitted to exploit the job and take it as pretext for coercing people.

Question (71):

Intermittently in the media do some trials and legal interrogations to certain writers accused of desecrating Islam or the Divine Self or the prophet or one of the impeccables with a sense of underestimation or criticism. As a result supreme courts decides to separate a writer from his wife after being charged with atheism. What is the opinion of the Ja`afari jurisprudence on such issues? Is such a writer considered as a kafir, if there are such violations in his writings?

Answer:

The criterion of atheism and apostasy is to deny monotheism or the message. Here denial should be of both the theism and the message, otherwise there is kafirization. As for apostate, if his apostasy is by nature as he is from Muslim parents, or one of his parents is a Muslim, he should be killed and his wife should be separated, take iddah [a period of waiting as if her husband dies] and divide his property between his inheritors. If he is from another religion and repents in three days, he is saved. If not, in the fourth days he will be killed, his property is not taken as he is an apostate, the marriage bond becomes invalid, his wife takes iddah of divorce if her virginity is lost

Question (72):

The various media means; newspapers, magazines and satellites, audio and visual, shows to people programmes for women to focus on: fashion, decoration, dancing, perfumes and so forth. Yet it far and

farthest for these channels to think of the culture and the commitments of women. What is the opinion of your eminence? Is it permissible for women to be indulged in dealing with these means; newspapers, magazines, satellites, internet sites and so forth doing harm to women and offering her misguiding culture to serve the enemies of Islam in all the sense of the word?

Answer:

It is not permissible for a woman to deal with these programs if they do harm to her conduct and ethics and force her to derail from her path. If not, she has nothing with these programs whether she deals or not, or rather they could reinforce her personality and faith in Islam and its humanitarian meritorious culture. No objection to see the acceptable programs, there are many women, steadfast in holding their faith in Allah without a partner and their doctrines of Islam and its meritorious culture, no program or mundane lures and trivial pornography could budge them a hair. On the contrary, these women grow determined in embracing faith in Allah and steadfast in holding Islam.

Question (73):

What is the opinion of your eminence the monetary rewards some governments, or state units or cultural foundations offer to creative people; scientists and littérateurs? In the knowledge that these units offer the rewards under the condition that the ideology of these creative people should run in line with that of these governments and its policies. On the contrary, those who serve the nation, call for jihad and fight the enemies of Allah and His messenger are to be expelled from the creativity list as it is proposed that they have thoughts detrimental to the state and its polices. Perhaps these people are called as the people of the extremist mind or accused of terrorism. What is the opinion of your eminence on such conducts of these governments? What is



the legal duty for these writers and creative people who abnegate the mundane lures and never relinquish their principles?

Answer:

Offering the rewards to the creative under the condition that their thoughts and creativity run in line with the interests of the governments and their political policies is not of sanity and does not serve the interests of the nation and the country. As the viewpoint of these governments and their policies are narrow-minded and pay heed to their personal interests, candidly it is their duty for offering the rewards or prizes for each thinker and creator whether their ideas and creativity run in line with political orientations of these governments or not. In so doing, these government serve the nation in the fields of creativity and science to further.

In conclusion, every Islamic government should be serious about inspiring the thinkers and the creative and providing them all the spiritual and materialistic means to be creative and to think of different scientific fields. Such is to serve the nation and ourselves, also the thinkers and the creative should not relinquish their principles, take hold of them to the last and exert themselves to embrace creativity and thinking at all possible means in different technical and scientific destination for the sake of the nation. Besides they should confront these governments on the scale of sapience and advice and manifest their defects with acceptable and good mannerism. Not every thought or creativity that never complies with their narrow-minded interests is regarded as terrorist or extremist though serving the nation and the community.

Question (74):

Some writers, so called, as pillars rely in their book publication on purchasing the themes and issues from unknown writers, poverty-stricken, then these pillars reshuffle these themes and issues to be published. Such a case finds existence in newspapers and magazines



in certain countries. What is the opinion of your eminence on the probability of such a case to grow momentum in our Islamic and Arab communities? Is such a case considered as a threat to the intellectual and cultural situation as the one who does not deserve to be promoted runs to the forefront, yet the real creative one remains under the fangs of poverty and need, his creativity avails him nothing?

Answer:

Yes, such a case is considered as a threat to the society as it could lead people to underdevelopment. Thus the Islamic state and the concerned units should motivate thinkers and the creative and prepare all the means of creativity to further. As for purchasing the topics, it is permissible as a case.

Question (75):

What is the opinion of your eminence on the legal duty a writer should do as the nation confronts historical circumstances and transitions, in particular, Iraq, deep-rooted, invaded by Anglo-Americans?

Answer:

The legal duty for the scientists, the educated, thinkers and all the Iraqi people, classes and denomination in the recent circumstances is to unify the word and call for quietitude, stability and security, avoid waging sedition and chaos in the country, not to be involved in the issues instrumental to tumult and corruption, support each other to confront the conspiracies of the enemies and their plans. In so doing, the people could liberate themselves and cull the fruit of independence; no safety in tumult, disunity and setting the fire of sedition as these could be pretext to the occupier to stay and no independence could be gained. Since the invasion is imposed on them, not permitted by them and never comes for the sake of their interests. It is necessary to know the blessing of freedom that comes by force, not by their choice, make





use of such a blessing and not render it into a way to do tumult and chaos in the country, here people do a meritorious service to the occupier to stay in the country.

Question (76):

What is the opinion of your eminence on the emergence of poetry collection attributed to the Impeccables; Imam Ali, Imam Hassan, Imam Al-Hadi (Peace be upon them)? How authentic is such an attribution?

Answer:

No attribution proved. These books were not proven to be their.

Question (77):

It is noted that many books, booklets and circulars sold in different bookshops of the Islamic Arab countries about Shiite and their denomination and fraught with insult, curse and kafirization. Yet these governments do not allow publishing any reply from the Shiite scientists to these publications and never receive a book to answer these publication. What is the opinion of your eminence on the policy of these governments? What is our legal duty for such a phenomenon?

Answer:

The duty to confront such a phenomenon is to defend the doctrine in peace and logics without condemnation and protestation that instigate people negatively and cause dissension. If it is not to publish them in the country, it is to be published somewhere else by all possible means, visual and aural.

Question (78):

What is the opinion of your eminence on the poets and littérateurs who employ symbols of other civilizations and religions; perhaps some of these religions are pagan or atheist and could be reflected in their artworks; poetry and fiction? When being criticized, they hold a pretext that it is of civilization interference and interaction with other human



cultures. Yet the reader could be affected by these artworks when reading them: such wreaks havoc on him, as he may admire these cultures and thoughts different from the Islamic ones that hold monotheism? symbols because he may admire different ideas from those in Islam.

Answer:

If these artworks are negatively effective, it is not permitted to do so.

Question (79):

Some postgraduates in universities rely in preparation for their theses on a deal with other writers to accomplish these theses for money in return. The these postgraduates submit their theses to discussion after reading them well on the basis that they themselves do them, after all they will gain a master or doctorate degree by fraudulence and falsehood. What is the opinion of Sharia on these postgraduates? What is the opinion of Sharia on these who do write the theses instead of the postgraduates?

Answer:

It is not permissible to do such an issue and also it is not permitted to those who write the theses instead of the postgraduates.

Question (80):

Is it permissible for a Muslim to purchase other divine books of other religions, not of Islam, though having twisted fabrication and falsification?

Answer:

It is permissible and the twisted fabrication and falsification in them never prevent purchasing.

Question (81):

Is it permissible for a writer or a lecturer to cite a hadith from the prophet or imams (peace be upon them) although he is not sure about its real construction of the hadith, or rather he uses the content with reference to its origin, prophetic or immamite?



Answer:

It is permissible to cite it as it is narrated in a book and impermissible to cite that the prophet or an imam says so unless there is authenticity of the hadith as a document.

Question (82):

Concerning the Glorious Quran ayats, is it permissible for a writer or a lecturer to cite an ayat without being sure of its real construction or rather he uses the content in reference to it? What is your opinion if he does not refer to?

Answer:

It is not permissible to cite an ayat unless there is certainty of its text.

Question (83):

What is the opinion of your eminence opinion on translating the Glorious Quran into other foreign languages by inefficient translators who might commit mistakes? They render the real Quranic meaning into other meanings, what is the opinion of your eminence, if it is not intentional? What is the opinion of your eminence if it is intentional to misguide people or to twist the Words of Him?

Answer:

No translation without the efficient as it is impermissible to commit a mistake in translation of the Glorious Quran, Words of Allah, the Almighty. As for intentionality, if he does not know the mistake, inessential, it is permissible, if the twisted fabrication and untrue interpretation are intentional, it is impermissible.

Question (84):

Is it permissible to publish the Glorious Quran in publishing houses whose owners or employees are not Muslims, in Islamic or nonIslamic countries?

Answer:

It is permissible and not bad under the condition that it is commonly known as sacrilege to the Glorious Quran.

Question (85):

Is it permissible to lay the Glorious Quran, divine book, on a shelf of a library with other mundane books? Is it considered as sacrilege to the Book of Allah? What is the opinion of your eminence on the one who lays permanently the Glorious Quran in a specific chair near the place where he is used to pray in his house? In the knowledge that the praying place and the Quran chair on the ground [on one level].

Answer:

It is permissible and is not considered as sacrilege and insult to the Glorious Quran, it is not bad to lay the Glorious Quran on a specific chair as stated in the issue in question.

Question (86):

Is it permissible for a man in junub, impure, [due to sexual intercourse or seminal discharge], to print the Holy Quran in the computer without touching the writing [paper] of the Glorious Quran?

Answer:

It is permissible to print the Holy Quran by the computer.

Question (87):

Every now and then we read in books of the Common, Sunnites, improvised interpretations to Quranic ayats or sacred hadith that have no scientific evidence, that is why they become scientifically incorrect. Should the competent people reply and explain these mistakes in reference to the Mashur [the famous] interpretation and to the hadiths of the benevolent messenger and imams of Ahalalbayt and to what mind and majority accepts?

Answer:

No, they should not, harm might be in replying.

Question (88):

What is the opinion of your eminence on the principle of doubt; a researcher starts showing scientific issues to stir logical enquiries about the doubt, it is either for misconception or for complete certainty, and then he searches for the solution bit by bit to find the truth? Is it permissible to apply such a methodology in the Quranic studies to tackle certain cosmic facts found in the Glorious Quran, the science is prospecting for their meanings?

Answer:

Not bad, but it is not permissible to attribute what he gains through studying, verifying, speculating and improvising to Allah, the Almighty.

Question (89):

The Glorious Quran refers to some issues pertinent to death; the soul and its departure in death, world of Barzakh [a place between physical and spiritual worlds], day of resurrection, doomsday and so forth. Is it impossible for modern science to research for these issues to the extent that such an impossibility is infinite and permanent? Or is it possible to research for them reasonably?

Answer:

Yes, it is impossible for the modern science to fathom these issues as they are from the occultation issues none knows but Allah and whomever the messenger accepts.

Question (90):

The authenticity of certain Mashur[famous] hadiths leads many writers not to mention the documentation of them. That is why some Sunnite scientists regard such a state as a controversy some Shiite writers do when writing and focus on the text itself. What is the opinion

of your eminence? Should the source of the hadith and its evidence be documented? Or is it sufficient to document the source?

Answer:

If there is a positive significance in mentioning the source and its evidence, the writer should document them.

Question (91):

It is narrated in the hadiths that there is a blessing to the one who writes a line of poetry about the messenger and imams will have a house in paradise? How authentic are these hadiths?

Answer:

Such hadiths are not proven. As for doing so, not bad, it is of hope to be accepted.

Question (92):

The narratives tackle epics and dissension throughout history. How authentic are they? Have they origin in our Islamic heritage or not?

Answer:

They have no origin in our Islamic heritage. as for the narratives, they have no origin.

Question (93):

What is the opinion of your eminence on how authentic the Al-Bayan Sermon of imam Ali Ibn Abitalib (Peace be upon him) is?

Answer:

No attribution of such a sermon to the imam Ali, the commander of the believers (Peace be upon him).

Question (94):

Some opinions come to the fore to cast doubt into the unjust suffering of sayada. Fatima Al-Zahra (Peace be upon her father, her, her husband and sons) and many replies respond to such opinions, some responses adopt trivialization, humiliation, cursing and, may be, kafirization. What is the opinion of your eminence?

Answer:

Concerning kafirization, there is way to kafirize someone unless there is either denying the message or disbelieving it. As for the unjust suffering of the sayada. Fatima after the dearth of her father, there is no a shadow of a doubt on the scale of text and history. Moreover, discussion at such an issue, argumentation, altercation, cursing, condemnation and denunciation never do good to the denomination and causes dissension the enemies exploit. To solve such issues there should be wisdom and good advice not by bawling, condemnation and denunciation that complicate the issue more and more. The solution could be between the good poles to serve the denomination and the general interest of the sect.

Question (95):

Some books appear to tackle certain narratives of the imam Al-Hussein chronicle and the events of Ashura Day and cast doubt on specific incidents; the marriage of Al-Qassim Ibn Imam Al-Hassan with Sukeina Bent imam Al-Hussein (Peace be up[on them all]). What is the opinion of your eminence on these events? What is the opinion of your eminence on how authentic the marriage of Al-Qassim is?

Answer:

There is no a proof to such a marriage. As for Ashura cause with all its details, it could be equal to reality or rather more real than just real. Some of these peculiarities are not known to in right texts, please, not bad to convey them.

Question (96):

Our students who study abroad face many difficulties; for instance, women without a scarf ort veil in anywhere, even the textbooks there are pictures of unveiled women to the extent a student could be used to have such scenes and regards them as normal in the Western lifestyle. What is the legal duty for our students to confront such a case?

Answer:

looking at those women who are warned and advised and never come to their sense is legally permissible under the condition that there should be no lust for them, similarly could be done with the pictures in the textbooks.

Question (97):

What is the legal duty for a writer who discovers a mistake in a specific study published in a book or a journal or a newspaper? Should he legally make mention of the scientific mistake committed in the study, in particular if such a mistake does harm to others who take hold of such an opinion?

Answer:

If the mistake is committed in the theoretical study, he should not make mention of it unless it falls in the practical side. As for the mistakes of fair jurist, if he issues to permit something and in reality it is recommended or haram [forbidden] or he issues something to be recommended and in reality it is haram or vice versa, he should make mention of it and inform people about the mistake as much as possible. Furthermore, if he issues something to be permitted or forbidden and it is in reality mubah [allowable] he should not make mention of it. Similarly could be done with the doctor, if he commits a mistake and knows his mistake could lead to do intentional harm or death, he should make mention of it and save the situation.

Question (98):

What is the opinion of your eminence on publishing the photo of the she-writer or a she-littérateur in veil beside her column or literary article in newspapers and magazines of the Islamic countries?



Answer:

Not bad if she is in veil, but it is not favoured.

Question (99):

Do you permit summarizing and simplifying some of your books to serve young readers? Or should we ask permission and do arrangement with one of the representative or the agent of your eminence?

Answer:

It is permissible if there is a religious benefit, there is no need to ask our permission but it should be under the consideration of an agent of us.

Question (100):

Is it legally permissible to take a photo of a living thing [people or animals] and to be published in a magazine or a newspaper or a book?

Answer:

It is permissible for us to take a photo to a living thing, but its embodiment is not permissible.

Question (101):

Is it permissible to make ink from impure materials?

Answer:

Not bad, the intention is to keep the ink as impure if the process of making it is not impossible.

All praise be to Allah, the Lord of the Worlds and peace be upon Muhammad and his posterity.



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Innovative Cases

Eminent Sheikh Muhammad Ishaq Al- Fayadh

Al-Azeezi publication



In the name of Allah Most Merciful, Most Compassionate

Praise be to Allah, the Lord of the Worlds, prayers and peace be upon the most honorable of His creatures, Muhammad and his benevolent and immaculate posterity.

Now

Such a concise collection of research cases sheds light on the reality of innovative issues in the contemporary society that represents a theological reading of the Grand Ayatollah Muhammad Ishaq Al-Fayadh (My Allah prolong his life) on certain modernized cases.

The current research cases purport a collection of scattered articles. Verily he intends to be republished in a book, Innovative Cases, to facilitate its exposure to all for reading and edifying, they are as follows:

- 1- Model in the Islamic government.
- 2- Medical Cases.
- 3- Niche of the Woman in the Islamic Political System.
- 4- Glance at Al-Jihad.
- 5- One Question and One Hundred Questions: Writing, Books, Libraries and Their Answers

We do ask Allah, the Almighty, for sapience and success, inshallah.

The publisher

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Medical Cases

Eminent Sheikh Muhammad Ishaq Al- Fayadh

Introduction

To his Eminence Grand Ayatollah Sheikh Muhammad Ishaq Al-Fayadh, may Allah protect him?

Peace be upon you.

The second half of the twentieth century witnessed the fulfillment of the most important medical scientific achievements whose main parts come for the sake of the life of man and his health. After the advent of the modern medical equipments surpasses the limit of the traditional medical processes in treating many chronic and obstinate diseases, thousands of people survive. In particular, after the organ transplantation and the discovery of a new drug that inhibits the immune system from preventing and rejecting the strange human organ find existence, man flourishes.

Yet such a success creates a legislative gap that demands attention from the incharges. Thus, a legislative scientific clamour surges into view about the legality of dealing with the human body and triggers a conflict between the pure material science, stemming from the Western civilizations, and the restrictions of the Islamic legislation, stemming from the divine revelation beyond and suspicion, Allah best know interests of people. In this regards, many research studiers, symposiums, conferences, books, studies and fatwas [edicts] from Islamic centers in Egypt, Saudi Arabia, Kuwait, Jordan and other countries stress the legitimacy of human organ transplantation and its concomitant issues in terms of jurisprudence and legal angles. Unfortunately all



these studies, articles and rules researches and laws turn a blind eye to what the Ja`afari denomination rules and the viewpoints of the Shiite Twelver scientists in such a case. No a researcher touches upon these viewpoints, yes, there is mention to the viewpoint of the Zaidi group: perhaps they consider such a group as a representative of the Shiite denomination. No viewpoints, argumentation, discussion and inference on the scale of studies for Shiites in such angles come to the fore, some Shiite jurists express their viewpoints but there should be more details. Ostensibly, no inferring jurisprudent books tackle such issues on the scale of evidences, discussion, application and proofs.

I am a student of seminar [Hawza] religious sciences and pursue a postgraduate project, MA, on the transplantation and the donation of human organs to lay a foundation brick in promulgating the ideology of Ja`afari denomination: Comparison between the denominations: Al-Ja`afari and Law. I do ask your eminence to answer the questions with their criteria when necessary to be included in the discussion of the other opinions.

It would be so great if your eminence mentions the books, which deal with such an issue to have recourse to and to be documented on the project or other projects.

May Allah bless you to serve such a religion, right, promote you to the state of prophets and the entrusted.

Peace be upon you.

Clinical Death

Question:

Is the person considered dead when the brain is dead, in the knowledge that that the death of the brain is irretrievable, his breathing comes from the attached devices and if there are no devices or they are stopped, no breathing could be, but the heart does not stop unless these devices are detached to cease breathing? Is it permissible to stop? If it is not permissible, is the person who stops them considered as a killer? Is it permissible to pay the fee of these from the money of the patient though there are minors? In the knowledge that the patient will overcome his coma as the brain is dead. Should the responsible one bear the fee, even if he has no money?

Answer:

Man is dead when the brain is dead. No hope to live there is under the umbrella of the medicine law unless there is a miracle from Allah. In the knowledge that his organs cease to perform their normal functions and living movements and die, but with the assistance of the medical industrial devices his heart does its functions. Thus, if the doctor switches them off, his heart immediately ceases, as the efficacy of his state is no longer existed. That is why he is treated as dead. Evidently, accounting, it is not permissible to switch these devices off, if someone switches them off and his heart ceases, is the doer to suffer retribution or pay blood money (diya)?

Answer:

Neither this nor that. As for retribution, it is to kill a believer intentionally, no way to believe that switching these devices is considered as a murder. As it is commonly known that these devices give life more than death and no life could be for the person in question, whose organs cease moving naturally; his heart beats by these devices not itself.

Therefore, it is not believed that the one who switches the devices off kills the patient, merely he prevents the heart of the patient from throbbing artificially; he is an artificial killer not a real one. The retribution is to fall on the second if he does it deliberately, not on the first. Similarly could be done with diya, as it pertains more to the one who kills a believer by mistake or rather intentional or a sheer mistake. Moreover, it is not believable to regard switching the devices off as a murder. It is permitted to pay the fees of these devices from the money of the patient though there are minors as he is has not in a state of a heir, If he does not have money, his responsible one should bear the fees, otherwise the Muslims or the almshouse could do it.

Question:

My mother has stroke preventing her from moving and talking, but breathing and the throbbing work naturally. In the hospital, the doctor asks my brother to sign a consent paper not to help her if one of them stops. In the knowledge that there is no expenditure, it is to let her die or to do the necessary assistance, recovery devices, and the like, my brother signed the first option, not to help. In such a case, is he considered an unjust person and does he have to pay expiation and how to rule?

Answer:

Yes, he is considered as unjust and deserves punishment.

Question:

Is it permissible to establish a bank to save the human organs supposed to be transferred from one person to another?

Answer: Yes, it is permissible if it is to serve human beings.

Organs Transplantation

Question:

Is it permissible to transplant an organ, a kidney or a lung, from a living donor to save a human? In the knowledge that such a donation does do harm to the life of the donor, perhaps he will face some future possible dangers. What is your opinion on the probability of the donation to cause weakness to the body of the donor?

Answer: Yes, it is legally permissible to transfer the unessential organs; kidney and the like, as a donation or as a compensation [by payment] or as a gift, under the condition that there should not be harm to the donor to the extent he could not tolerate or face major dangers in the future. Yes, if saving someone stipulates transplantation: no transplantation, no life, here donation is to be sufficient [kafai] or by money under the condition that there is no death to the donor, as man has authority over his organs to deal with them with the proviso that:

First: There is no death.

Second: there is no deliberate harm.

Third: There is no deformity in his appearance, otherwise it is impermissible.

Question:

Is it permissible for me to donate one of my kidneys to build the two holy shrines?

Answer: In the name of Allah, it is permissible under the condition that it does not entail a significant damage.

Question:

What is the decision on compensating the heirs of the eye donor or the heirs of the insane person, whose eye is transplanted, to have an amount equal to half the blood money [diya] of a human paid by the donee or any of his representatives?



Answer: It is not permissible as the blood money is paid for crime, not for possessing organs. It does not rescind the duty; respect.

Question:

Is it permissible to transfer the testicles from one man to another, whether in his life or after his death, say, regardless of its decision? Does the testicles donee stipulate purity, and reproduction; if he reproduces, the children will be his as the doctors say that the child endows the genetic traits of the doner? Similarly could be regarded with the ovary transplantation from one woman to another, whether the ovary donee is living or dead.

Answer:

In the name of Allah, it is not bad as the testicles are not from the essential organs that stipulate deformity. However, such an issue requires the exposure of awrah [intimate parts] and it is not permissible in this angle. After transplanting, the testicles become as a part of the donee, when reproducing by them, they are attached to the donee not the doner. As for transplanting from the dead, it is not permissible and forbidden to deal with his body. Besides, it is sinful to look at the awrah. Similarly could be regarded with the woman.

Question:

Is it permissible to donate an organ that does no harm to the life of the doner but it leads to deformity such as the eye of a living or dead one?

Answer: It is not permissible to donate organs that do deficiency and deformity to the doner in appearance, such as the eye, the hand, the foot, and so forth and there is no difference between the living and the dead. Moreover, the donation will of someone goes invalid after his death, as there is something haram [forbidden] in the will and there is no difference in preventing someone from distorting himself





or distorting somebody else. Man does not have the organs that give him life; head, heart and so forth, or any transplantation leads to deformity in the creation and the appearance; eye, hand and foot, yet other organs. Thus, it is permissible for him to transfer them to others either for donation or for money; kidney, blood, skin and the like, on the condition that it does not lead to expected damage, otherwise it is not permissible.

Question:

Though there is a great scientific development achieved in modern medicine by the His grace, favour and light, but there are still incurable cases modern science is unable to perform successful treatment except that the use of the organs and tissues created by the Allah the Almighty could be; such as liver, kidney and cornea. The transplantation could be done in transferring these organs and tissues from donors during their lifetime. After making sure that no harm could be on the life of the donor, or in transferring these organs or tissues from a dead body to a patient with the consent of the guardian of the dead, or after the prior consent documented in the will of the dead that the doctors are permitted to use an organ or a tissues of his body to save the life of another person that cannot be saved only by transplanting such organs or tissues in the body of the patient. Thus, it is vague in the legality of such a medical interference, we do please your eminence to clarify such a point, may Allah bless and reward you.

Answer:

Legally it is permissible for everyone to donate an organ, not essential, to a patient, here we mean the organs that do not put end to the life of man or deform his appearance; liver, kidney, tissue, cornea and skin and the like. Moreover, it is permissible for him to take the money for selling his kidney or liver or tissue or skin or the like on



the condition that the life of the doner is not subject to death. As for the necessity of transplantation, the family of the donee or the donee himself should find a doner at all cost to save their son/daughter or himself.

Question:

if there is no doner, is it legally permissible to transfer an organ from the dead to the patient by kind permission of the heirs or without?

Answer: It is not permissible to transfer it even by permission of the heirs because they have no authority over the corpse. Yes, if the deceased recommends in his will, there should be implementation and his heirs are not to prevent such an act. If the life of the patient needs transplantation to save his life, so the doctor must transfer from the body of the dead to the body of the patient though the heirs of the dead do not allow such a transplantation, or rather there is no sign of their prevention. Therefore, the mantle of the doctor is to save his life at all available means. As for blood money (diya), it does not be cancelled and falls in the responsibility of the direct doctor who transfers the organ from the dead to the patient. For the humanitarian role of the doctor in doing good for the sake of man to revive a valuable soul, the patient or his parents should to pay the blood money instead of the doctor, his nobility. All this could be done on condition that transplantation is delimited to the organs of the dead and there is no available transference from the living to the patient for certain reasons. Allah best knows.

Question:

Is it permissible to recommend in the will to donate organs after the death to save the life of a man on the scale of medical patchwork [e.g. Dermatoplasty]? Could the heirs donate to save a human life?

Answer: Yes, it is permissible to donate the unessential organs



that don not cause distortion to the deceased when transferred from the dead to the patient, otherwise it is not permissible. Donation is permissible. Yes, if the life of the patient depends on the dead.

Question:

Is it permissible to take the bone or the skin or the parts of the dead that are not essential to give life for the sake of the medical patchwork by permission of the person before his death to use his corpse for medical treatment? Have the heirs the right to do so though his will does recommend such an issue? Do the heirs have the right to prevent if the legal order permits such an issue, and the deceased recommends in his will?

Answer: It is not permissible to use the corpse without the will. In case there is a recommendation in the will to donate the unessential organs, it goes permissible. No right for the heirs to prevent the act of implementation.

Question:

If the parents permit a minor to donate an organ to a brother, or a father to save his life, or rather the father takes the imitative in donating as he has the authority over his son. Do they have the right to donate by permission of the donee? If not accepted, is there retribution or blood money [diya]? Who is to pay the blood money, the doctor or the donee?

Answer: It is not permissible for parents to let the doctor transplant an organ from the minor to his brother or his father, unless there is an act of saving someone 100%. Thus, the parents are to save his life on condition that:

First: This should be restricted to his organ so that it cannot transplant an organ of the adult to the minor. If it is not restricted to the minor, it is not permissible for the parents to do so, but they have

to transfer an organ from the adult to the minor to save his life instead of donating the organ of the minor.

Second: The given organ should not be from the essential parts of a donor, on conditions that his life stipulates such an organ and the act of transplantation does not cause distortion to his demeanour and appearance.

Third: There should not be a danger to the minor in future. Under these conditions that the parents could permit transplanting an organ. As for the father, he could not do so as he has no authority over his such acts, there should a meeting to the aforementioned requirements. Concerning the blood money, it is not to be cancelled and on the one who transplants not on somebody else. If the conditions are not met and doctor transfers an organ from a minor, he deserves the punishment, even if it is done by permission of his parents as they have no authority over such behavior; no retribution, blood money should be paid. Yes, the guardian of the child has the right to be exempted from retribution or blood money, if there is no harm to the child, otherwise it is impermissible.

Question:

Is it permissible to transplant the organs of someone who is declared to be killed; infidel warrior, the apostate, and the intentional murderer, without pardoning of the parent's victim to save the life of a believer? Say, is it permissible to take unessential parts of life; skin, eye and bone, and to transplant them for the believer?

Answer: Yes, it is permissible to transplant the organs of the infidel warrior and the apostate, and there is no objection and after the transplantation process, the organ becomes an organ of the believer and is dominated by his will. Moreover, it is permissible to transplant the organs of the intentional murderer, who is sentenced to punishment

and is the owner of the organs that are not essential parts of life or whose transplantation does not cause distortion to his demeanour and appearance. He could donate them and take the unessential parts of them. Not All these run counter to the fact that he sentenced to punishment since there is no way to prevent him from using his organs.

Question:

Is it permissible to donate the sustainable organs; blood and skin? Is it permissible to take from a disbeliever and donate to him?

Answer: Yes, it is permissible to donate it as it is permissible to take it from the disbeliever, also the donation of blood and skin to the disbeliever is permissible._

Question:

Is it permissible for a doctor to transfer an organ from a dead person to save a human life on condition that there is a will the dead recommends to do so? If there is not a will, is it permissible by permission of the heirs?

Answer: if he recommends, it will be permissible to save the life of a Muslim, if there is no will and his life depends on such a transplantation; no transplantation, no life, so it is certainly permissible, but he needs to pay the blood money, otherwise it is not permissible.

Question:

Assuming that it is not permissible to donate as a gift or as written in a will, is it permissible for the patient to accept an organ to save himself if the organ is of a disbeliever or a Muslim? Is it permissible for him if he did not know the consent of the deceased or his heirs to save his life in a state of emergency?

Answer: Yes, it is permissible and obligatory, if his life depends on such a transplantation, and it doe not make difference whether the organ is of a disbeliever or a Muslim or he knows about the consent of the deceased or his heirs or not, provided that his life depends on it.

Question:

If an organ is amputated for some reason; retribution or a health condition demands s amputation, as if a person has three kidneys for congenital malformation and suffers from disturbances leading to amputate them, is it permissible for him to sell such an organ it or to donate it?

Answer: Yes, it is permissible to sell it and it is not bad.

Question:

Is it permissible for a living person to donate the parts of his body that does not benefit from for some reason to another one who could take advantage of; parts of the eyes, the cornea and retina, if he is blind and retina or cornea of the same eye is intact, and can benefit others? Is it permissible for him to donate it after his death as it will be written in the will? Is it permissible for the guardian to do so?

Answer: Yes, it is permissible for the living person to donate some parts of his body, if not essential parts that give life and whose transplantation does not do distortion or harm in appearance. Concerning transplantation of parts of the eyes; as cornea or retina, it is permissible on condition that there shall be no distortion and appearance as well, or else it is not permissible to donate or recommend in the will after death.

Question:

Is it permissible to take money in exchange for a donated or recommended [in a will] organ when transplantation takes place? Is it permissible for the heirs to take the money in exchange for their permission to use?

Answer: Yes, it is permissible to take money in exchange for an organ on the scale of both selling and gifting, but if it is recommended for free, it is not permissible to claim money in exchange, and if it is donated as a gift, it is permissible for him to take money, Allah best knows.

Transfusion

Question:

In some emergency cases, transfusion is much required as soon as possible.

1- Is it permissible to donate blood to save the life of a Muslim?

Answer: Yes, it is permissible, and it is obligatory if his life depends on such an act.

2 - Is it permissible to donate blood to save the life of a disbeliever [infidel]?

Answer: Yes, it is permissible and it is not bad.

3- Is it permissible to take money in exchange for blood donation?

Answer: Yes, it is permissible.

4-Is it permissible to give money to a blood donor in exchange for his blood by someone else who has no relation with the patient, the donee? Is this money, paid by the person to the donor, regarded as alms? Shall he be rewarded by Allah the Almighty?

Answer: Yes, it is permissible and he shall be abundantly rewarded for the paid money, it is one of the preferable charity acts in the sight of Him, Allah best know

Contraceptives

Question:

Is it considered to remove the intrauterine contraceptive device (IUD) after being inserted as sacrilege?

Answer: In the name of Allah, if removing the IUD is only for having a look or touching the intimate parts, it is haram [forbidden].

Question: My question is twofold:

1 – Does the IUD kill the sperm or the ovum or is it an obstacle to prevent the sperm from reaching the ovum?



2- Is the use of the IUD by a woman permissible, whether it is a contraceptive or a killer?

Answer:

In the name of the Almighty

1 - Doctors are different to such a point, some say that it kills the sperm after being stable in the wall of the uterus, some say that it prevents its stability in the uterus. Rather objective it is permitted to insert the IUD on the scale of such an angle.

2- There is nothing wrong in inserting the IUD as an issue, but its insertion requires exposing the intimate parts, so it is not permissible unless the doctor who inserts is her husband.

Question:

For the purpose of reproduction control [decreasing reproduction] medical operations are performed to obliterate the spermatic cord the semen cord in men after these operations, a fluid that flows does not differ from normal semen in terms of external characteristics, but it has no sperms.

1 - Is this liquid considered as natural semen in terms of legality, or is this fluid not considered as semen as it does not contain a sperm?

2- After obliterating the spermatic cord, should the junub be obligatory for the man if he masturbates?

Answer: In the name of Allah, yes, it follows the provisions of semen if it flows as the semen does [in the same features].

Question:

Is it permissible for a woman to use the IUD as a contraceptive device or not? In the knowledge that the IUD insertion requires exposing the intimate parts?

Answer: It is not permissible as the IUD insertion requires exposing the intimate parts unless the doctor who does the operation is the husband of this woman and the IUD prevents the semen from taking



its course. However, if the IUD kills the sperm after taking its course, it is not permissible to insert it.

Question:

Should a woman take the permission of her husband before having the IUD or not?

Answer: If she is allowed to insert the IUD, she is not to take the permission as much as it does not run counter to his right.

Question: If her husband orders her to remove the IUD, should she obey him or not?

Answer: She should not obey him in such a matter, Allah best knows.

Question:

There is an operation called tubal ligation [fallopian tubes are clamped, blocked and sealed] to prevent pregnancy and it requires opening the abdomen and running the risk of the surgery and takes place in hospitals:

1- Is it permissible for the she-doctor to do such an operation as a way to stop reproducing or not?

Answer: Since the operation is not necessary and not legal, it is not permissible for the she doctor to do it as it stipulates uncovering the intimate parts.

2- Should she take the permission of her husband for such an operation?

Answer: She should not take his permission as much as it does not run counter to his right.

3- Should a woman obey the husband in the following cases:

A- The husband orders not to do the surgery.

B- The husband orders to do the surgery.

Answer: It is not obligatory for a woman to obey the husband in these two cases, Allah best knows.



Artificial Reproduction

Question

There is what is called sperm bank or semen bank or cryobank where the semen of the male is kept and could inseminate the ovum after the death of a man several years ago:

1- Before a man dies and keeps his semen in these banks, Is it permissible to inseminate the ovum of his wife after the death of her husband or not?

Answer:

It is controversial to be permissible to inseminate the ovum in the womb of his wife after his death.

2- If the act of insemination is recommended in the will, should it be implemented or not?

Answer: the will turns invalid in case there is something illegal.

3- Should the wife decline or accept such a recommendation?

Answer: she should decline.

4-If it happens to give birth to a newborn baby under the artificial insemination after the death of the husband, is the child considered legal not? What is his relation to the dead? Are there rights considered between them or not?

Answer: the bastard, son of adultery, provisions are not considered in such a case, he is really the son of the dead, yet the matter of paternity and sonship [affiliation] is not concerned here, Allah best knows.



Body Parts Provisions

Question:

Some students of medical colleges buy human skulls and bones for the purpose of studying outside the college:

1- Is it permissible to buy such bones and skulls if they belong to a Muslim or not?

Answer: Yes, it is permissible to buy them for the purpose of studying and making use of them. No difference it makes whether they belong to a Muslim a kafir.

2- Is it permissible to buy them if they belong to a non-Muslim?

Answer: it is answered in the abovementioned question.

3- What is the decision on the money taken in the process of such a deal?

Answer: Not bad for the money taken in exchange for such a deal.

4- Is it permissible to buy it and its source is unknown, a Muslim or a kafir?

Answer: it is answered in the first question.

5- While studying them, it is inevitable to touch these bones and skulls without gloves, should I do the Ghushl of the dead [washing a Muslim corpse provision] as much as the touching happens.

Answer: No, you should not.

Question:

If a testicle is removed from a dead man or an ovary from a dead woman, should the removed organ be stitched or is it possible to bury without stitching the place of the removed organ?

Answer: In the name of the Almighty, it is not permissible to do so with the deceased.

Question:

Some surgeries are done to remove an organ or a part of the organ



itself for being diseased by cancer types; uterus, spleen, urinary bladder, the gall bag, part of the stomach, intestines that, a part or an organ, are sent for histological examination to diagnose the condition more accurately. Is it permissible to keep these parts or organs in bottles to be shown to the Medicine college students?

Answer: Yes, it is permissible and not bad.

Question:

Is it permissible to be thrown in the garbage or not?

Answer: it is permissible.

Question:

Has the size of the organ or its part or its the type has a role in the permissibility or not? In other words, could the provision of an organ weighing a kilogram be considered with a part of the organ weighing no more than one gram?

Answer: the size of the organ,, small or large, has not a role in the legal permissibility or impermissibility, at any rate, it does not stipulate the provisions of the dead. Allah know best.

On Embryos Cases

Question:

In the museums of medical colleges, there are embryos, from one month to several months age, of Muslim mothers in formalin glass boxes, aquariums, to persevere and prevent decaying for many years to be shown to the medicine colleges students. Sometimes, they are shown in the exhibitions held at universities for various events.

1- Is it permissible to put these embryos of the Muslim mothers in such aquariums for being shown?

Answer: It is permissible before being completely created, yet after the fourth month, in particular after the descent of the soul, it should



be buried and it is not permitted to be put in these aquariums for being shown unless there is a public interest stipulating such a procedure.

2- If the mother is not a Muslim, is it permissible?

Answer: Not bad.

Surgery Provisions

Question:

If a man undergoes surgery, the semen does not come out of the body in the sexual intercourse practice and frigidity, relaxation, lust and all the concomitant acts that lead the semen into coming out at the end of the normal sexual intercourse practice, all in all, no semen could be after the surgery:

1-Supposing such a case, is it permissible for such a man to masturbate?

2/ Does he have to do junub ghusl if he does masturbation?

Answer: 1-In the name of the Almighty it is not permissible for him to do so.

2- As for ghusl, it is not obligatory, as the semen does not come out.

Question: What is the murder type, when the specialist surgeon commits a mistake in the surgery to cut a healthy artery, the patient dies? The reason of the death lies in the cutting of the healthy artery.

Answer: murdering in the supposed case is sinful and the killer has to pay the diya and atonement that could take one of two choices; fasting for two consecutive months or feeding sixty poor people.

Question:

A specialist surgeon does surgery for a patient and spares no effort. Because of the poor condition and its criticality, the patient dies after the operation. Is the death of this patient considered as a murder or not? If it is a murder, is it a deliberate killing or rather deliberate act or an inadvertent mistake?



Answer: In the supposed case, if the death of the patient results from the criticality of his unhealthy condition, not from the surgery, nothing the doctor does. IF the death results from the surgery, he is the murderer inadvertently under the condition that it is not probable for the surgery to lead him into death otherwise he is the murderer deliberately.

Question:

In some surgeries; the appendectomy, the surgeon opens the abdomen of a patient, in some cases, the appendicitis is not diseased and healthy and need not be removed or a surgical intervention. Nevertheless, what it occurs is that the surgeon removes the it under the pretext that he opens the abdomen so he is to remove it, ye it is a misdiagnosis. Is it legally permissible for a surgeon to remove something healthy from the body of the patient?

Answer: It is not permissible to do so without the prior permission of the patient, moreover the surgeon has to pay the diya, the fair jurist is to determine the amount of the diya.

A question:

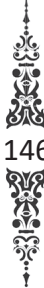
Should the surgeon inform the patient about such a fact?

The Answer: Yes, he should do so as a first step to pay the diya or to be exempt.

Question:

Should the surgeon take a prior consent of the patient before the surgery within the bounds of possibility of such a case?

Answer: Yes, he should do so if the possibility is of reason. Allah best knows.





Introduction

Clinical Death

Organs Transplantation

Transfusion

**Contraceptives
Artificial Reproduction**

Body Parts Provisions

On Embryos Cases

Surgery Provisions



Medical Specialization

Question:

Is it permissible for male doctors (men) to specialize in gynecology and obstetrics?

Answer: Yes, it is permissible to do so, unless the acts of specialization and study stipulate doing haram acts; looking at a vagina of a woman, touching and dissecting her, then it will be permissible only specific cases?

Question:

If a doctor is specialized in gynecology and obstetrics, should he leave his job or not?

Answer: He should not leave it if he is self-confident and self-content that if he does medication to serve the community and save many people from death or troubles. In particular if the community desperately needs such a doctor.

Disqualification

Question:

There are many people in the society who practice many types of medicine and take them a profession of earning money. In the knowledge that they are not really doctors, did not study medicine academically and did not have a certificate to allow them to practice medicine. Merely they acquire some information in a specific field from experience and practice for several years; Almjabarchi, [bonesetter] who treats bone fractures and some bone diseases. In the knowledge that specialized doctors in the field of orthopedic surgery and fractures are available everywhere nowadays. Is it right for these bonesetters to practice this profession, Almjabarchi, bone setting? Are they considered

as guaranteed? In the case of the death of the patient undergoing the bone setting, do they have to pay the diya, blood money, or not?

Answer: Yes, it is permissible for them to do so in the orbit of their experience in the field of medical profession to no more, yet if they practice this profession without experience and it leads to the death of the patient, they have to pay the diya.

Misdiagnosis

Question:

A doctor prescribes a medicine for a patient or does a surgery to him, then the patient dies from the medicine or the surgery. What a provision does the doctor fall in if he commits the mistake unintentionally [he is incompetent]?

Answer: If the doctor himself treats the patient and injects him or lets him drink the drug and then the patient dies from such a treatment, he should pay the diya, if is incompetent, no punishment he deserves, yet if he is negligent he is to deserve the punishment.

Moreover, if the doctor prescribes a medication for the patient or gave it to him by hand and then the patient drinks it by and his independent will, there will be no diya. Yet if he dies from the surgery done by the doctor directly, his death from the surgery, he has to pay the diya and nothing else. Allah best knows.

Question:

Is the doctor responsible for a writing mistake; a word for different one or dose for a different one. in the knowledge that the doctor is not infallible and the possibility of mistaking is expectable for a doctor, so is the doctor legally responsible for such mistakes in the two cases below:

1-There are a great crowd of patients and commotion that leads the doctor into committing a mistake in prescribing the medicine.



Answer: If the mistake lies in writing a word for another one or a dose for another one and in tolerance and negligence for the crowd of the patients, he is guilty. If such leads to the death of the patient, the doctor has to pay the diya and he is sinful as well, if he not negligent, he tends to be not sinful, but he has to pay the diya.

2-There is no great crowd thronged around the doctor, but the doctor is negligent in doing his job and writes a wrong a prescription leading into a wrong medicine.

Answer: It is tackled above.

Question:

I am a doctor and prescribes medicines to patients, but the problem is that my handwriting is not legible and so often leads to mistaken medicines dispensed by a pharmacist who fails to read the prescription very well. Moreover I try to improve my handwriting but in vain and it continues as not legible, as a result the mistaken medicines continued being dispensed. The question to be asked here is that am I legally permissible for the handwriting mistakes of the prescriptions though I try to prevent such mistakes from being on ground or not?

Answer: If the mistake in writing prescriptions leads to the death of the patient or to the aggravation of his state, he will be responsible for these condition and have to pay the diya, in case the patient is dead. it is of the duty of the doctor to ask the patient to come again after he dispense the medicine to make sure whether these items are the medicines in question or not.

Question:

A doctor, graduated from the medical college ten years ago, reads during his studies a remedy for a disease. Let us say the disease is (x) and the medicine is (y), today the doctor treats the (x) by (y), but the patient is dead because of the medicine (y). After reviewing





modern medical books in their latest editions, it is manifested that the treatment becomes inappropriate for the disease (x) disease for its side effects and a remedy is discovered for the disease (x) as (z) and the medical boards recommend that doctors should not use the medicine (y) and depend on the medicine (z). The question to be asked is that is the doctor responsible for the death of the patient, because of the medicine (y), in the face of the family of the dead? Does he have to pay the diya or not?

Answer: Yes, the doctor has to pay the diya.

Question:

Should the doctor legally stick to the treatment method as written in the medical books approved by international medical bodies, results of long and deep research and studies? Alternatively, is it permissible for him to improvise a prescription counter to the medical books because he is not satisfied with these books on the one hand or he tries a medicine and succeeds once or twice on the other hand? In the knowledge that doing so does not depend on a research or a study or precise scientific bases; it is a mere personal improvisation leading the life of Muslims into a great danger.

Answer: It is not permissible to improvise in prescribing a medicine and may lead the patient into death. For a doctor is to practice all treatment requirements precisely; analyses, tests and so forth.

Question: If the doctor depends on the x-ray laboratory tests; blood, tissue, for a patient and on all the basic medical methods to diagnose, but these tests are not true and the doctor does not know such a truth, then he prescribes, according to these tests, an intravenous injection to the patient leading to his death. The question is that is the doctor responsible for such a case? Should the doctor pay the diya?

Answer: Yes, the doctor should pay the diya and the killing, here, is by mistake.

Question:

If a doctor prescribes a wrong intravenous injection according to wrong radiological laboratory tests, the doctor does not know that they are wrong, and the nurse gives the patient such an intravenous injection that leads into his death. Is the doctor responsible for the case and paying the diya? Alternatively, is the nurse only responsible for the case and paying the diya? Alternatively, both of them are responsible?

Answer: It is not beyond the responsibility of the doctor who orders the nurse to give the lethal injection to the patient on the basis that the actions of nurses to treat the patients, different, in hospitals; medicines giving and so forth are done automatically in line with the common and applied system in a hospital.

Question:

if a doctor makes efforts to diagnose and spares nothing but he misdiagnoses: as some diseases have the same clinical symptoms of other diseases and veil the correct diagnosis. Furthermore, many doctors, specialized and experienced, misdiagnose and give an intravenous injection that leads the patient into death. Is the doctor responsible for such a case? Should he pay the diya or not?

Answer: Yes, the doctor is responsible for paying the diya though guilty as reflected in the question: he is excused and not negligent.

Medicine Dispensation

Question:

Some patients are given a medicine, relaxing, for backaches and surgical pains. Is it permissible to sell them to others as medicine or as narcotic pills prescribed to people man deal with these pills as done with alcoholism, in the knowledge that we live in the West and such a matter is regarded as unlawful? What is your paternal advice on the scale of morality and legality? What is the legal responsibility of the believers in such a case?

Answer: selling these pills, as a matter of selling, is permissible unless it is not harmful, not unlawful and desecrates the Islamic religion, or rather it does harm ostensibly to the Islamic religion, here it is not permitted.

Question:

There are medical drugs called Corticosteroids, with a broad spectrum of use; bronchial asthma, skin allergies, hypotension, some blood diseases and many other diseases. There are dangerous and important side effects for these drugs coming to the fore to patients who use them for a long time and take large doses, these side effects could be potassium drop, glucose sustainability changes, increased susceptibility to inflammation, delayed wound healing, gastric and duodenal ulcers, eye diseases, bone strength drop, fluid accumulation in the face to form what is called “face-moon “, of the moon or central obesity and the failure of the adrenal gland that may lead to death. There is a large number of young men and women using to get, so called face-moon, as they take much doses for a long time to acquire the face-moon: they make use of the side effects of the medicine.

1 / Is it permissible for a pharmacist to sell these medicines for such a purpose, in the knowledge that the person takes these medicines for



the abovementioned purpose, to have, so called, the moon –face?

Answer: Yes, it is permissible if its dangers of use, in large doses and for a long time, are known, or rather, it is entirely permissible if its dangers are slight and not harmful; it is harmful if the buyer is cognizant of it.

2/ Is it permissible for young people to use such drugs for these purposes?

Answer: Yes, it is permissible if the damage is slight and not significant.

3/ Is it permissible for a doctor to prescribe these medicines for such a purpose?

Answer: It is permissible under the condition he should inform the users of its dangers, it is entirely permitted.

4/ If a young person dies of the failure of the acute adrenal gland from the use of these drugs, does the pharmacist, or the one who gives him the medicine, commit a sin in his death or not?

Answer: Neither the pharmacist nor the one who gives him the medicine is a sinner, Allah best knows.

Doctor Permission for Treatment

Question:

Who is authorized legally to give permission and initiative to the doctor to begin treating a patient?

Answer: If the patient is an adult and reasonable, so he could give the treatment permission, if not adult, his guardian [father, mother, adult brother and sister, relatives] could give the treatment permission.

Question:

What is meant by the permission that the doctor takes from the patient before starting treatment?





The Answer: it means the satisfaction or the patient or his guardians, Allah best knows.

Question:

Is it sufficient for the doctor to take the permission from the patient to start treating verbally or should it be a written permission to be legally valid?

Answer: The lesson, here, is the heartedly consent to be treated, it might be expressed verbally or in a written form or a deed; visiting the doctor designates the consent of the patient to be treated, Allah best knows.

Question:

What is the legal form of a permission given by a patient to a doctor before starting treatment, if there is a legally specific decided form?

Answer: There is no specific form for a permission, Allah best knows.

Question:

What is meant by the irresponsibility a doctor takes from the patient before starting the treatment?

Answer: the irresponsibility means that the doctor will be exempt from both the guarantee and the diya of the wound in the surgery, Allah best knows.

Question:

Is it legally sufficient for [the irresponsibility] to be written on paper to become valid?

Answer: There is no a form for irresponsibility, it need be known either in deed or in writing or in speaking, Allah best knows.

Question:

What is the literal legal form for the irresponsibility a doctor takes from a patient if there is a specific legal written form for it?

Answer: As stated, there is no a specific form, Allah best knows.



Question:

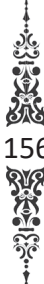
In cases of emergency; road accidents, severe bleeding and the like, there require a surgical intervention instantly to save the life of the patient from death and no way to save him but the surgical intervention, in such an issue there are two cases:

Case One: A patient is in a serious condition and needs surgical intervention to save his life, but the guardian of the patient refuses the surgical intervention for illogical reasons; sometimes he is satisfied with the doctor, sometimes with the hospital or for his own part there is no need to the surgery. In the knowledge that he is not specialized in medicine, is the permission of the patient guardian cancelled to do the surgical intervention or not?

Answer: If the patient is in a serious condition and needs surgical intervention to save his life, the doctors should do so to preserve his life, the permission of his guardian no longer is needed. Or rather, it is useless for the guardian to prevent the doctors from doing the surgery as the duty of the doctors in the sight of Allah is to save his life by doing the surgery in question, Allah best knows.

Case Two: A patient is in a very serious condition and needs surgical intervention and he arrived at to the hospital without his guardian or one of his family, there is no time to make contact with his family to take the permission, Is the guardian permission it legally cancelled to start treating?

Answer: Yes, his permission is cancelled or rather no use preventing the treatment.



Training a Student in Treating a Patient as a case of Explanation and Training

Question:

There may come to the hospital some rare cases a student could seldom have a look at and see alike, what is the decision in the following cases?

A- Is it permissible for a patient to refuse being a training case?

Answer: Yes, it is permissible for the patient to refuse being a training case.

B- If he refuses being a training case, is it permissible to force him to do so by the lecturer?

Answer: Yes, it is permissible to force him to do so by the doctors and the lecturer professors and doctors if his being a training case is of essence and interest to the community health; to save people, those, who fall under the fang of such a disease, from death.

C – in case he is forced, are the students permissible to take him as a training case?

Answer: Yes, it is permissible for them under the condition that the above-mentioned principles are available [concerned].

Question:

Is it permissible for a patient able to cooperate with a medical student on the scale of learning? Is it permissible to charge a fee in return for his service whether the hospital is educational or not?

Answer: Yes, it is permissible for the patient to cooperate with the student for free or for fee, and it makes no difference whether the hospital is educational or not?

Question:

In some hospitals, there are specific rooms a patient could enter on condition that he is to be a training case to the students in return



for fee. Is it permissible for this patient to refrain from being a training case to the students as he claims that he is to grow annoyed or harmed from such a case?

Answer: He should pay attention to the system of the hospital and never violate it, yet in the private hospital, he is not to refuse being a training case if the hospital owner stipulates that he should enter this room for training as mentioned in the [contact condition].

Question:

In the clinical examinations, the student is asked to go to a patient, take sufficient information about his disease, examine him and then infer the medicine to the disease; there are two questions:

A- Is it permissible for the student to ask the patient about the diagnosis of the doctors and their medicine, so the examination will be easier to the student?

Answer: Yes, it is permissible for the patient to be asked about his case, the diagnosis of the doctors and the kind of the medicine.

B- If the examination time is half an hour and the examiner runs late, is it possible to take advantage of the extra time?

Answer: Yes, it is possible to take advantage of the extra time unless it is contrary to the system applicable in universities, institutes and colleges; here the system should be implemented.

Question: Should a student introduce himself to a patient and ask him to be a training case as the patient might mistake him as a doctor and allows him to do so? Is the chest identity badge quite enough to identify him?

Answer: If the student fails to have the consent of the patient to be a training case, he is to introduce himself to him; the chest identity badge is quite enough to identify him if the patient pays attention to it.



Experiments on Patients

Question:

What is the decision on medical tests performed on patients to prove the efficacy of new drugs and innovative methods of treatment to promote the scientific level of the medical science and, as a consequence, the level of services provided to humanity in general, and alleviate the suffering of people in life? What is the opinion on medical tests performed on patients in the cases below:

1-New drugs used to treat simple cases and symptoms; simple headaches or simple skin rash and there is no fatal harm in these new drugs, on trial, on the patient, but these experiments are performed without the consent of the patient?

Answer: These tests should not be conducted without the consent of the patient as they stipulate to do something to his body.

2-New drugs, on trial now, used to treat simple cases; simple headaches or simple skin rash and there is no fatal harm and these experiments performed by the consent of the patient, orally or in writing, handwriting of the patient himself to bear all the consequences.[complication]

Answer: Not bad as the permission is to be taken in regard to the above-mentioned case.

3-New drugs, on trial now, used to treat difficult and obstinate; cancer, heart and neurological diseases and the possibility of significant damage to the patient, as a training case, it might be fatal,the experiment is performed without the consent and the knowledge of the patient.

Answer: Definitely, such an experiment is not permissible and there is a possibility that it might lead to death.

4- New drugs, on trial now, used to treat difficult and obstinate; cancer, heart and neurological diseases and there is a possibility of



significant damage to the patient, as a training case, it might be fatal, the experiment is performed by consent, verbal or written; handwriting of the patient, in which the patient declares to undergo the experiment and bear all its complications?

Answer: Legally it is not permissible for a patient to authorize undergoing such an experiment, it might lead to his death. As a result, it is not legally permissible; If a scientist performs such an experiment and deliberately he leads the patient to death of, should there be a punishment, on the scale of rationality?

Question:

Is it permissible to give money to certain persons in return for undergoing medical experiments to discover new drugs, or not, in the two cases below:

1. Experiments are simple and easy, and their effects are limited and do not usually lead to death of the person as a training case.

Answer: yes, it is permissible under the condition that the experiments are simple, do not lead to significant harm or to death of the patient and run in line with his consent. However, it is not permissible if it is complex and might lead to great harm or death of the patient.

2. Experiments are difficult and complex, lead to great harm and could lead to death of the person undergoing the experiment.

Answer: the answer is stated in the previous case.

Question: Is it permissible to undergo medical experiments to discover new medical drugs on patients suffering from incurable diseases; cancer tumors, which are often not cured and often lead to the death of the patient after a certain period of time? In case, it is permissible to do so, should the permission of the patient or his guardian be taken?

Answer: obviously accounting in the abovementioned case, if there is a reasonable possibility that it could lead to the death of the patient





or do great harm to him, it is not permissible though the permission is taken: nothing could render haram, forbidden, into halal, permitted.

Anatomy Provisions

Question: If there is none with a patient, unconscious, is it permissible to be examined by a student?

Answer: It is permissible with the intension of treatment.

Question:

The forensic doctor does an autopsy as there is a decree from the police or a judge to know the reason of the organic death. What is the legal opinion for what the doctor does, in the knowledge that he discovered many crimes?

Answer: If discovering and proving the crime depends on such a matter, it is permissible. As for the corpse of a kafir or a suspect Muslim, it is permissible for the case itself.

Question:

As for the autopsy of the Muslim corpse, is it permissible?

Answer: For such a matter there should be a brief introduction about the fact that any society in the contemporary world cannot do without the medicine science appropriate to the age in point, or else the society is not well and underdeveloped, primitive and far from the present time. Therefore, the death toll grows more momentum among its people and strata than that of the elegant contemporary modernized societies, their people and strata. Such an introduction urges the Islamic community as a whole into paying much attention to reach the modern advanced sciences and technology, including the science of medicine in all its types, since the power of a society economically, politically, socially, culturally, materialistically and spiritually comes from the acquisition of science and advanced technologies. Thus, all



the Islamic countries are to provide the possible and available means to acquire these technologies and contemporary sciences, so it will be applicable to prevent the interference of the foreign in their affairs and countries. On the basis of such an issue, the high general interest of Islam stipulates the Muslims to make the utmost effort in way of acquiring the advanced technology; the medicine science in all its specialization in concordance with the needs of society in the present age. Moreover, it is common that acquiring the advanced medicine relies practically on the acts of autopsy to the Muslim corpse in the Islamic countries and on observing or touching the forbidden. Ostensibly, the self-interests and corruptions do not surpass the public interest in the country of Islam and Muslims. Therefore, it is permissible to practise such acts to reach the public interest, which shows the power of Islam and prevents the interference of foreigners. If the medicine were not well and undeveloped enough in the Islamic society to meet their requirements, the foreigners could have entered their countries in the field of health; being in these countries triggers spreading their misguided thoughts and trivial culture on the one hand and defacing the repute of Islam on the other hand.

Therefore, Muslims are to pay much attention to the medicine in all its fields to meet their requirements. Doing medicine, a Muslim should be in line with the characteristics below:

First: Having self-potentiality to analyze the medical cases.

Second: Paying much heed to the medicine to meet the requirements of the society throughout ages.

Third: Having the intention to serve the society, Islamic and human, in the field of health to save man from dangerous diseases and death, and to medicate and treat in line with the level of the health in the present time. The one who meets these qualifications is more likely

to practise the previous cases to reach the general public interest of Islam and Muslims under the condition that there is no another choice. Consequently, the answer of the question two finds its way to you.

Question:

Is it permissible to study and practise this specialization, in the knowledge that such a specialization is not limited to autopsy and also includes studying biology; wounds, bruises, fingerprints and the like?

Answer: The answer tackled previously.

Question:

In the crimes of raping the forensic doctor is asked to examine the hymen, here are two questions stirred:

1- Is it permissible for a doctor to examine her without a she-doctor in this specialization? Does the provision make difference in case she is alive or dead?

Answer: It is not permissible for a doctor or a she-doctor to examine her unless there is an important interest; saving a human, the highly respected, it does not make difference whether she is alive or dead.

2- Is it permissible for students to look at the intimate parts on the pretext of learning?

Answer: They should not do so unless they are qualified with the previous characteristics.

Question:

Is it permissible for students to help the professor of forensic medicine in the acts of autopsy?

Answer: Yes, they could help him in bringing the equipments and the necessary tools in dissection as long as they are not involved in the process.



Question:

When the autopsy is done by the forensic doctor, samples from liver, kidneys or stomach might be taken for the purpose of poison examination. What is the provision to such a case? What is the provision for these organs, not restored to the corpse?

Answer: Such an act is permissible in light of the previous characteristics; the intension of the act is to serve the community more fully and more precisely. As for the little organs, there is no provision for them and they should not be restored to the corpse.

Dealing with the Opposite Sex

Question:

If it is not permissible to touch, as referred in the previous question, is it permissible to touch in gloves?

Answer: It is answered previously.

Question:

In some clinical examinations, the student is asked to examine the patient,, it is necessary to touch her and if not, he may fail the exam, is it permissible to touch her in such a case?

Answer: It is not permissible as a case of touching, yet it is permissible if he will be prone to fail the exam under the condition that he is gloved touching does not arouse the lust.

Question:

Is it permissible for a he-doctor to specialize in the study of obstetrics and gynecology?

Answer: It is permissible theoretically or yet practically he should have the previous characteristics.

Question:

Some students of the medical college enter the childbirth ward



to learn how to do the process of birth and that stipulates observing the intimate parts. Is it permissible to do so, in the knowledge that he might be urged to give birth to a woman in the future and save her life, in particular in the villages and rural areas? Does it make difference in the provision for a she-student or a he-student?

Answer: it is permissible if the intension is to serve the Islamic community in the field of health and to save the lives of many women in the future, otherwise it is not permissible and does not make difference to the state of the intimate parts observing for the she-student or the he-student.

Question:

Is it permissible for a he-student to take a she-patient as a training case, in the knowledge that most of the she-patients never pay heed to the legal scarf; training could lead to touch the body, such as checking the pulse? Is it permissible for a she-student to touch a he-student for training and learning?

Answer: It is permissible to take a patient as a training case under permission and consent, it does not make difference to whether it is a she-student or a he-student, yet a man touches a woman and vice versa, it is not permissible, unless the hands are gloved. As for observing, it is not bad if there is no lust, here comes the answer of the tenth question.

Question:

A surgeon works in the operating theatre and there is only a she-anesthetist. Is such a situation considered as a forbidden privacy, in the knowledge that the theatre is thoroughly closed?

Answer: Being in the privacy with a woman is not forbidden as a case, if there is nothing sinful, Allah best knows.

Question:

Is it permissible to see a doctor who is smart and uncommitted? Is

it considered to advocate vice?

Answer: It is permissible, in particular, if there is no another smart doctor, seeing him is not considered to advocate vice. In addition, there is no evidence for advocating vice in such a case, what is forbidden is to be an accomplice with others in advocating. It is to advocate vice if it is known that the doctor spends the money of the patients in doing haram, Allah best know.

Question:

Some committed surgeons do the temporary marriage contract with a she-patient to pay money for exposing the intimate parts,'awrah? What is the provision for such a temporary contract without the contraceptives?

Answer: Not bad, if there is no objection to the temporary marriage contract, Allah best know.

Question:

As a she-doctor does a woman surgery for a she-patient, there is something urgent happened none could deal with but a he-surgeon not specialized in the gynecology; urinary surgery or general surgery. What is the provision for entering the doctor to save the patient, in the knowledge that the intimate parts are to be exposed? The she-patient doe not know that the he-surgeon is to complete the surgery, should the doctor take the permission from the she-patient or her guardian before entering? In case her family refuses to enter the doctor, is it permissible for him to leave the patient to die without saving her from death?

Answer: as shown in the case, if leaving the patient in her state leads to death, the specialist doctor should enter the operating theatre and it does not depend on the permission of her family to enter to the operating theatre. Moreover, they cannot prevent him from entering the operating theatre, and it is not permissible for the patient not to



give the permission. Yes, if leaving her does not lead to death, then if the patient is adult, he should take the permission from her not her family and if she is not adult or insane, insanity as evident, the permission should be taken from her father or grandfather, the father of her father, on condition that not doing her the surgery might lead her to death. Allah best knows.

Question:

Is it permissible for Muslim women to consult a specialized doctor in the following cases:

1. Simple cases can be done by she-doctors?

Answer: It is not permissible if the treatment requires examining her body.

2 - complex cases the doctor has an accumulative experience and greater potentialities for the success of medication.

Answer: This is permissible even though it requires uncovering her body.

Reasons of Legal Diya

Question:

I am a doctor, was monitoring the health condition of one of the hunger strikers and was beside him, then he died from not eating food, I was able to feed him forcibly through the vein and save his life from death. Am I responsible for the death of this hunger striker in the face of his family or not? Should I pay the diya or not?

Answer: you should not pay diya according to the case above, but you are responsible in the sight of Allah and you are to be punished if you know that saving the life of a Muslim is a legal duty to whoever could do so.



Question:

What is the provision for a doctor who puts death to a patient suffering from one of the incurable diseases and from permanent pain, here the doctor puts an end to his pain and his life for the sake of pity. Should the doctor pay diya only or subject punishment in the following cases?

1- The patient does not ask the doctor to end his life.

Answer: Here punishment is required, it does not make difference to whether the patient asks to end his life or not as it is no way for the patient to object or give the permission.

2-The patient asks verbally and writes a paper by his handwriting announcing his approval for the doctor to end his life?

Answer: The answer is tackled previously.

3 In this case, what is the kind of the killing; homicide or culpable homicide or sheer fault.

Answer: Yes, it is homicide, not unintentional manslaughter [the deliberate killing].

Question:

As for the punishment, is it the right ovary for the left one and vice versa?

Answer: In the name of the Almighty, oophorectomy [removing the ovaries] is a felony, whose diya legally is not determined, there should be indemnity the fair jurist determines according to the wound and the entrusted experts, usually the specialized doctors.

Question: Supposing that a doctor steals testicles of a number of people, how to deal with him? Is he to be punished or to pay the diya?

Answer: In the name of the Almighty, if one of them takes retribution from him, the rest is to take the diya.



Question:

A person does not reproduce and removes a testicle of someone who could reproduce, does the victim have the right to seek retribution or diya from the victimizer?

Or what? As there are two testicles in the body, the diya is to be complete, could such a matter be considered to the two ovaries in woman?

Answer: In the name of the Almighty, the retribution is to be evident as there is a removal to the testicles or to a testicle, if the right testicle is removed, the retribution is to be done on the right, and if the left is removed, the retribution is to be on the left. There is no diya unless the compromise and the reconciliation happen, the diya is to be complete in removing the two testicles and to be half diya in removing one testicle.

Question:

A medical practitioner does a surgery to a patient in his abdomen and knows that doing such a surgery will take risk with the patient. Though he is not specialized in the general surgery, he does it and the patient dies of the surgery. The question to be asked is:

1-What is the type of the crime in such a case, is it deliberate, homicide, or semi-deliberate or a sheer mistake?

Answer: Killing, in the case above, is homicide and the killer should be punished if he thinks that the surgery will be at the risk of the life of the patient and put death to him as tackled previously.

2-Should the doctor pay the diya or be punished?

Answer: It is answered previously.

Question:

Specialized doctor in urinary surgery does an operation impertinent to his specialization; plastic surgery and burns, and knows that he is competent to do such a surgery as it is beyond his specialization,



if being done, the life of the patient will take risks or end in death. However, the doctor does the surgery and the patient dies from the surgery itself, the question to be asked is:

1-Is such a type of killing considered as deliberate, homicide, or semi-deliberate or a sheer mistake?

Answer: Yes, such killing is considered a deliberate killing if the doctor knows that the surgery is beyond his major and might lead to death, though having such a fact he does it and then the patient dies, is it a deliberate killing and prone to be punished, if there is no reason, the guardian of the victim could forgive the doctor and take the diya.

2- Should the doctor pay the diya or suffer the retribution?

Answer: The answer is tackled previously.

Question:

Your excellence mentions in your book, Road of the Righteous, Part III, book of diya, issue No. 1151, p. 384 that the reasons of diya as follows:

the diya is proven wrong or semi-deliberate and as there is no need to retribution or there is no reason to do retribution, so the proven diya becomes as an offer on the scale of substitution nothing else. When the retribution is proven, there will be no need to diya unless there is compromise or reconciliation on the scale of the soul or something else, what stipulates retribution is pertinent to the fair jurist to choose either retribution or the diya as tackled above. originally the in the resources of pure error or semi-deliberate and also in what does not have retribution.

Please, we do want from your excellence to explain such a case in simplicity to be understood for all as it is an important fatwa, edict, in our project, research.

Best Thanks in Advance



Answer: The diya is proven right in the cases of killing by mistake or semi-deliberate one as commonly settled from the beginning of legislation. As for retribution, it is not settled legally as the cases require no retribution stated by the Islamic law: the diya is stated by the Islamic law. If the murderer is the father of the killed, or if the killed is insane, yet in the cases of homicide, the stated provision, from the beginning of legislation, is punishment and it not the diya, which is not proven unless there are compromise and reconciliation between the guardian of the killed and the killer. Yes, the payment of the diya, the blood money, could be as an offer to substitute the retribution on the basis that the blood of the Muslim is not wasted. Such lies in the cases prone not to retribution as in our present time, or the killer takes flight, consequently the diya is taken from his money. In spite of all these, the guardian of the killed is not to return anything to the guardian of the killer after the killer is punished; a man kills, or a woman kills a woman, as for the guardian of the killed, if he punishes the killer, he should not return anything. Yet what the guardian of the killed should return after the punishment achieved is the unanimous state between the punishment and the diya. Moreover, if a man deliberately kills a woman, then her guardian has a choice either to punish the killer or to take the diya, but if he takes the first choice, he should return half of the diya to the guardian of the killer.

Question:1 / I am a surgeon, have to pay a legal diya and decide to give it as two hundreds cows. Is it permissible for me to know the price of two hundreds cows at the current time and give the diya to the guardian of the killed in cash, in the knowledge that it is very difficult to prepare two hundreds cows to be given to the guardian of the killed? What is the provision for estimating the price of camels, gold, silver and sheep, and giving their costs in cash for the dealing convenience?



Answer: Determining the type of the diya is up to the murderer and not the guardian of the killed and he could pay the diya either with its same type or its cost and it is not for the guardian of the killed to oblige the killer with one of them. Moreover, the gradual payment to be able to give it as a whole pertains to the guardian of the killed. As for the price estimation of camels, gold and silver, sheep and cattle, it is to take consultation of the experienced.

2- Do I have to pay the expiation or not?

Answer: Yes, you have to pay expiation as stated in the question above, as it is a homicide expiation, if he is quite aware that cutting a healthy artery leads to death, much as having such an information, he cuts it, here the killing is deliberate. Yes, if the artery cutting does not lead to death and he is not deliberate to kill him, killing here is semi-deliberate and whose expiation is not of homicide.

3-Do I deserve to double the amount of the diya or not?

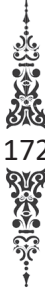
Answer: It does not deserve to double the amount of the diya according to the stated question above.

4-If the surgery is undertaken one day before the month of Rajab on the scale of such an issue and the patient dies in the first of Rajab, is the diya, blood money, considered in the sacred months or other months? That is, is the criterion considered in the time of the surgery, harm, or in the time of death?

Answer: Ostensibly, accounting, the criterion is the time of death.

Question:

I am a specialized surgeon, do a to one of the patients on the last day of Muharram, tend to be delinquent in the surgery operation and cut a healthy artery from the body of the patient leading to his death in the first day of Safer, is the diya considered as for the other months or for the sacred months, Haram months?





Answer: as postulated above, the diya should be for the other months since it is customary that the killing occurs in the Haram months not in other months.

Question:

I am a specialized surgeon in the general surgery and do surgeries to patients from almost all religions. In some cases, I have to pay the legal diya for my fault and delinquency during the surgery, so this is important to me and my colleagues, please, may your excellence refer to the diya of non-Muslim religions, in particular, the Christians, Sabeans, Yazidis, Indian-Sikhs, Buddhists and others as such a case is a trouble for us, the doctors?

Answer: Ostensibly accounting, the diya of Dhimmis, the people of the Holy Books, such as Jews, Christians and Majus, is the same as the Muslim, but the harbi infidel who is not Dhimmi there is no diya in killing him and no punishment for him. We mean by Dhimmi, one who lives free in the land of Muslims under the laws of Islam, does not publicly violate them and respect the promise and guarantee), yet harbi kafir, infidel, who lives free in the lands of Muslims and does not accept dhimmiyyah, does not respect the promise and guarantee). In fact, the Dhimmi is accepted by the people of the Holy Books. As for others people, the non-book people; the Buddhist, Hindus, Sikhs, Yazidi, and others, there is no Dhimmi accepted from them, no diya in killing them and no punishment for them, this is according to the major judgment in Islam. While according to the minor judgment in Islam and the general system protection, perhaps the situation might be different, the fair jurist could fine the murderer if the public interest stipulates.



Question:

I am a specialized surgeon, do a surgery to a bisexual and commit a mistake to be delinquent during the process of the surgery leading to death, what is the amount of the bisexual diya?

Answer: As stated in the question, if the manly features are preponderant, he is a man and the diya should be of a man, if the preponderant features are of a woman, she is a woman and the diya should be of a woman. If there are no features of both sexes, there should be a half diya, the second half will be settled with the guardian of the killed.

Question:

what is meant by the harbi kafir, infidel, there is no diya in killing him?

Answer: The people of the Holy Books in the Islamic countries, who accept the dhimmah, respect the promise and protection, live under the banner and the system of Islam and accept to pay the tribute [jazia] are considered Dhimmis whose blood and money are protected, otherwise they are considered harbi whose blood stipulates no diya according to the major judgment in Islam.

Question:

I am a doctor and read in your practical book, The Road of the Righteous, - Minhaj Al-Saleheen-, Part III, Book of Diyas, issue No. (1168). Regretfully I do not understand its terms, in particular, the word, Alarish and the word, Aqlata, who are the experienced the fair judge consults in determining the Alarish? Are they doctors in general? Or the specialized according to their specialization? Or the specialized who are believers and legislators only? Please we want from your excellence to clarify the words in simple terms because of the importance of this issue in our field as a medical staff?



Answer: The meaning of Arish in the terms of the jurisprudents designates forfeiture or fine as there is no crime without a specific amount of diya, there is an arish to it the fair jurist is to determine according to the wound in consultation with the experienced, the most entrusted, as usual the specialized doctors. As for the Aqlata, it is mentioned in case 1361.

Question:

I am a specialized she-doctor in obstetrics and gynecology sand examine a patient, my delinquency and negligence lead to hymen defloration. Should I pay the diya? What is its amount?

Answer: Yes, as stated above, you have to pay the diya equal to the virgin woman: we mean the amount of difference between the dowry of the virgin and the non-virgin.

Question:

I am a specialized doctor in pediatric surgery and deal with patients of children under the legal age of puberty. In some cases as a result of negligence and delinquency I have to pay the legal diya. Is the diya of a child under puberty equal to that in puberty? Or is the diya of the child under puberty lesser?

Answer: Yes, they are equal in amount and there is no difference between them. As similarly done with the fetus before birth on condition that the soul takes its existence in the fetus in question. Therefore the abortion of it stipulates a complete diya.

Question:

I am a specialized surgeon and do a surgery to someone insane. As a result of my negligence and my delinquency, the patient dies after the surgery, should I pay the diya for the guardian of the insane? Here are two cases:

- 1 - If the type of insanity is permanent?
- 2- If the type of insanity is temporary?



Answer: If he dies of the surgery, you have to pay a complete diya, there is no difference between permanent or temporary insanity in this regard.

Question:

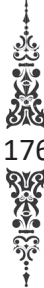
I am a Muslim and there is a surgery done to 20 years old son by a non-Muslim surgeon whose delinquency results in my son's death, as the doctor admits. Is it permissible for me to ask for a diya for the death of my son? Or it is not permissible to take the diya because the religion of the offender is not Islam? What is the solution in this as the religion of the doctor does not legitimize the diya for this kind of murder?

Answer: If the death of your child results directly in the delinquency of the doctor, you have the right to ask him for a complete diya. No difference could be regarded to whether the doctor is a Muslim or non-Muslim and no difference could be regarded to whether the diyah is legitimized in his religion or not. From this answer it is shown that the meaning of " directly " designates the one who does the harm that stipulates the diya, and what happened was not deliberately. Yet if he means to do harm that results in the death of the patient, he deserves punishment not protection, but the guardian of the deceased could accept the diya instead of the punishment. We are to take medical examples of the process of " directly responsible " in a form of medical questions:

Question:

In the surgery theatre, a medical teamwork, specialized surgeon, anesthetist, assistant doctor, assistant anesthetist and assistant nurse. Who is involved in the following cases of murder?

1. The surgeon cuts a healthy artery from the patient during the surgery, such results in the death of the patient?





Answer: 1- The directly responsible one who does cut the healthy artery of the patient directly. It is not the anesthetist nor the assistant doctor. Yes, if the patient dies of overdose of anesthesia drugs and not of surgery, the diya should be paid by the anesthetist. By the same token, if the healthy artery is cut by the assistant doctor directly, then the diya is by him as the artery cutting results in the death of the patient.

2 - The anesthetist gives a high dose of anesthesia drugs resulting in the death of the patient during the surgery?

Answer: The diya is to be paid by the anesthetist on condition that:

A – he does the anesthesia drug himself.

B- The patient dies of him not the surgery.

3-The assistant doctor cuts an artery mistakenly and under the direction of the specialized surgeon, resulting in the death of the patient, here are two cases:

A-The assistant doctor does not know that cutting this artery is wrong because he is in general lesser experienced than the specialized doctor.

B-The assistant doctor knows that cutting this artery is wrong and leads to the death of the patient, but does not inform the specialized surgeon?

Answer: In the first case, if the artery is cut as the specialized surgeon orders, so the diya should be paid by him and not by the assistant doctor who works according to the decrees of the specialized surgeon just like a machine. Yes, if he cuts the artery without any order of the specialized doctor and thinks that it is of the surgery steps, the diya should be paid by the assistant doctor. In the second case, the diya should be paid by the assistant doctor as he knows that it is wrong and could lead to the death of the patient, however he does it deliberately



and intentionally. The decision in such a case is punishment, since it is not possible to fall in the orbit of the diya.

4- Assistant anesthetist gives a high dose of anesthesia to the patient and under the direction of the anesthetist resulting in the death of the patient, here are two cases:

A-Assistant anesthetist does not know that this dose is high and leads to the death of the patient as the knowledge of the dosage and its amount are of the function of the anesthetist and not the assistant.

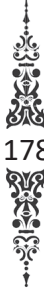
Answer: If the assistant anesthetist is ignorant of a case and gives a high dose of anesthetic drugs under the direction of the anesthesiologist and the anesthetist determines the amount of dosage, the diya should be paid by the anesthetist on the basis that the assistant is like a machine and also the patient who drinks the drug. Yes if the anesthetist does not determine the amount of the dose, orders the assistant to anesthetize and thinks that the assistant knows the amount of the dose but he increases its amount without asking the anesthetist, the diya should be paid by the assistant not by the anesthetist. The result does not derail much from traditions: the death of the patient comes under the direction of anesthetist as he determines the dosage amount and orders to give it and the assistant is unaware that the overdose leads to death.

B- Assistant anesthetist knows that this dose is high and leads to the death of the patient, but he does not inform the anesthetist and gives this dose to the patient and the patient dies.

Answer: In such a case, the diya should be paid by the assistant.

Question:

In hospital emergency wards where the patient is received and treated by a medical teamwork: specialized doctor, resident doctor, pharmacist who dispenses the medicine, nurse who provides medicines, injects intravenously and composes the fluids for patients





in the emergency wards, who is directly responsible for the following killing cases?

1-A specialized doctor prescribes a wrong medicine to a patient, then the resident doctor writes the prescription according to the instructions of the specialized doctor and the pharmacist dispenses the medicine according to the prescription of the resident doctor. As a result, the nurse gives the wrong medicine to the patient leading to his death.

Answer: As stated in the question above, the specialized doctor should pay the diya, since the direct responsible one is like a machine and works according to the systematic received orders and customarily there are no other choices as he finds himself obliged to do so. No difference, in the entire case, to whether the specialized doctor is delinquent or negligent: if he is delinquent, he is considered as a sinner and also has to pay the diya.

2-A specialized doctor prescribes a right medicine to a patient, but the resident doctor mistakes the prescription for a wrong medicine and the pharmacist dispenses the medicine according to the prescription of the resident doctor. As a result, the nurse gives the wrong medicine to the patient leading to his death.

Answer: As stated in the question above, the resident doctor should pay the diya, since he commits the mistake in writing the prescription.

3-A specialized doctor prescribes a right medicine to a patient, then the resident doctor writes the prescription well, but the pharmacist dispenses a wrong the medicine leading to the death of the patient, instead of healing him. As a result, the nurse gives the wrong medicine resulting in his death.

Answer: As stated in the question above, the pharmacist should pay the diya.



4- A specialized doctor prescribes a right medicine to a patient, then the resident doctor writes the prescription well and the pharmacist dispenses the right medicine. But the nurse commits a mistake in the way of giving the medicine resulting in his death.

Answer: As stated in the question above, the nurse should pay the diya.

Question:

In the jurisprudential books, Practical Book of Legal Rulings Elucidation, there is an iterative expression: “if the doctor is delinquent “. What is the meaning of that the doctor is delinquent in the field of medicine?

Answer: The expression means that he is excused when committing a mistake in treating a patient but he is delinquent and not excused, for instance; if a doctor examines a patient and diagnoses a disease after testing, x-ray taking and laboratory analysis, and commits a mistake in some axioms theoretically or practically, he is excused, incompetent, not delinquent.

Question:

I see a surgeon committing a mistake in the surgery resulting in the death of the patient, but the surgeon does not inform the family of the patient about what really happened. Should I inform the family of the patient or not? What is the provision I fall into its stipulation if keeping silent? What is the provision the surgeon falls into its stipulation?

Answer: The surgeon should pay the diya if the death of the patient resulting in the mistake in the surgery. As for informing the family of the patient, it is not obligatory for you and it is not permissible for the surgeon to be silent and he should visit the family of the deceased, give them the diya to forgive him. Allah best know.



Question:

Is the acquisition of BSc in medicine and general surgery; M. B. Ch. B, a practice license of the profession, issued by the Doctor Syndicate, a membership in the Doctors Union and the identity of the doctors union is considered as a sufficient reason to practise the profession of medicine or the experience and the practicing are required?

Answer: The science of medicine has a particular legal importance as the health of the society as a whole and its safety depend on it. In all the societies, If there is no medicine, a society is diseased, underdeveloped and uncivilized: sound mind in sound body. Therefore, the duty of every doctor is to practise medicine only if experienced, it is not permissible to practice medicine for those who are not well qualified.

Question:

Is the guarantee a doctor sets dropped if taking permission and discharge from the patient and never negligent in treating the patient, but there is a sheer damage for certain reasons: the lack of the sufficient medical equipments for treatment or lack of fast equipments of life saving; electric shock device or blood transfusion bags and the like that are beyond the responsibility of the doctor and his duty to provide the patient with. It is the duty of hospital administration?

Answer: The diya is dropped from the doctor in case there are permission and discharge from the patient if his death results in the surgery though the doctor is negligent in the treatment. None could permit the surgery but the doctor, though it leads to his death. Such an authority is not permanent for man on himself, therefore there is no value to the discharge of the patient to the doctor in exempting him from the diya; it is fixed if the surgery leads to his death, though the doctor takes the discharge from the patient himself. As for the damage



of an organs, it is as run previously, if the organs are from the essential ones, but if it is not from the essential organs, no diya the doctor pays though there are permission and discharge from the patient, if the doctor is not negligent in the treatment of the patient. Allah best know.

Question:

There are some nurses and some technicians working in hospitals and claiming that they have knowledge in medicine on the one hand and tend to be curious to prescribe medicines for patients on the other hand. If it happens and the patient dies as a result of one of these prescriptions of those people who are not doctors, should they be as a guarantee and pay the diya? In the knowledge that the patient knows that these people are not doctors and not qualified to prescribe the medicine to the patients?

Answer: Yes, they should pay the diya if the patient does not know that these people are not doctors and believes that they are doctors. Yet, if he knows their realities and does what they say and drinks medicine by his choice and his will, if this leads to his death, they are not of a guarantee.

Miscellaneous

Question:

When the clinical examinations are scheduled, the would-be doctors are not allowed to attend hospital two days before the time of the examination to avoid seeing the cases in the hospital. Is it permissible for a student to go to the hospital in these days to know the current cases or ask the doctors there about the current cases?

Answer: Yes, it is permissible, if it runs counter to the system, he should obey the public system.

Question:

Some patients ask a student about the reality of his condition, is it permissible for him to tell the patients the truth, in particular, in the case of dangerous diseases?

Answer: Yes, it is permissible to tell the patients on condition that it does not harm the patient, otherwise it is not.

Question:

A she- doctor, in a birth surgery, is in a dilemma about whether to save the mother or the child, whom should she save?

Answer: If she could not save them both and could save one of them, she will be free to save the mother or the child. Allah best knows.

Question:

A patient buys an ampoule, intramuscular injection, IM, from one of the pharmacies, it is tightly closed and will be expired in 2004, whose glass is not opaque. After opening it and trying to fill the syringe, no way to have the medicine for a defect. Has the buyer the right give it back to the pharmacy and restore his money, as he does not benefit from it?

Answer: Yes, it is permissible for him to give it back and take his money: the seller should give him his due.

Sex Change

Question:

Is it permissible to change sex, from male to female and vice versa, as one is psychologically inclined to the opposite sex?

Answer: In the name of the Almighty, as a surgery it is permissible, but since it requires looking and touching the intimate parts, it is forbidden and not permissible. Yes, if the person incurs much embarrassment than to be fallen in the orbit of being exposed [his intimate parts are seen] and knows that doing the surgery will remove such a case, the surgery will be permissible; it is no bad.



Hair Transplantation

Question:

I want to ask your eminence about the hair transplantation, is it possible to do it, I mean, in the eyebrow as I undergo a surgery due to a traffic accident that makes me lose a part of my eyebrow hair and wanted to improve my look in doing the hair transplantation to this area?

Answer: In the name of the Almighty. No objection to transplant hair in the head, eyebrow and other parts of the body because after transplanting the hair it becomes a part of the body as done with other patching surgeries prone to the provisions of ablution and washing. Yet if the hair does not become as natural as hair, it is not permissible as it prevents from ablution and washing on the basis that it prevents the water from reaching the skin as usual. Allah best knows.

Children Circumcision

Question:

Is it permissible for us to use electrocautery [heating] for children circumcision?

Answer: In the name of the Almighty. If there is no harm on the children according to the diagnosis of the experienced people when using the aforementioned device.

Privacy in the Surgery Theatre

Question:

A surgeon works in the surgery theatre and there is none but a she-anesthetist. Is such a privacy considered as haram, forbidden, in the knowledge that the surgery theatre is always closed?

Answer: In the Name of the Almighty, It is permissible with caution one



should not fall in haram, forbidden acts, otherwise it is not permissible.

Question:

In surgeries for women, the she-doctors tend to be obliged to uncover their hands to the elbow for sterilization, and the patients are to expose their bodies, including the intimate parts. All these acts are done in the sight of the anesthetist or his assistant, in the knowledge that there is an available she-medical cadre that could do as efficient as the he-medical one? What is the opinion of your eminence on such a case?

Answer: In the name of the Almighty, as tacked in the question, the she-anesthetist is available and efficient at her, so she should be responsible for anesthetizing the patient and it is not permissible for a he-anesthetist to do such a work and it is forbidden for him to touch the body of the patient or to look at it. Therefore, we do advise our sons, doctors, to commit to this fatwa and bring it into effect to inseminate religious awareness in our society. None but Him, the Bestower of success.

Doctor Remuneration

Question:

A doctor asks about the criterion for determining the fee of the medical examination. Is the competence regarded as a criterion or specialization, or the case runs without a criterion?

Answer: There is no a common criterion in the street, the criterion lies in the competence and specialization that should be taken into consideration. The fee is different as much as the competence and specialization of the doctors are different as found in other professions and jobs. At any rate, the right pathway is to consider fairness and justice in determining the fee Islam gives much importance to. Allah

best knows.

Question:

Is it permissible for a surgeon to ask for an amount of money according to the financial state of the patient and without compulsion for the sake of the surgery the surgeon does in the state hospital if the patient is:

1. An outpatient clinic patient
2. An inpatient, in the hospital, in the knowledge that the state does remunerate the surgeon for the surgery undertaken in the hospital and the surgeon may be called at any time for an emergent surgery?

Answer: In the name of the Almighty, if doing the surgery in the hospital is for free, it is not permissible for the surgeon to ask for a fee from the patient, since he is a state salaried employee in the hospitals. Yes, in case the patient gives him an amount of money, it is permissible to take.

Question:

I am a doctor working in a private hospital, notice that some medicines are anonymous and suspect that they are stolen from government hospitals, but I am not sure. What is the legal response? In the knowledge that the state hospitals currently do not have the facilities available in the private hospitals to undertake the cool surgeries, not-emergent surgeries, stopping these private hospitals from working will do harm much to people?

Answer: In the name of the Almighty, in the question above, there is no trace for suspension.

Birth Control

Question:

What is the opinion on the birth control?

Answer: In the name of the Almighty, it is not bad as an issue.

Use of Sonar

Question:

There is a medical device called sonar that could determine the sex of the fetus before birth, is its use for such a purpose permissible?

Answer: In the name of the Almighty, it is not bad as an issue, unless it does not stipulate something haram, forbidden; looking and touching the intimate parts.

Abortion

Question: If it is manifested after accurate examinations that the fetus inside the womb will be born as deformed. Is it permissible to abort it?

Answer: In the name of the Almighty, it is not permissible to abort it. Allah best knows.

Edifying Reading to the Medicine People

Question:

Is it legally mandatory for a doctor after graduation from the medical college to keep reading modern medical books as to be familiar with the latest developments in diagnostic and therapeutic methods, thus he could provide the Muslim patients with the best services and preserve their lives?

Answer: If he wants to practice medicine and bring it into effect, he should do it for not being negligent in doing his duties and punished legally.

Forcing a Patient to Eat

Question:

Is it right for a doctor to feed a food striker by force to save his life from death or not?



Answer: Yes, he should feed him by force if there is no way to save his life but such a way on the basis that saving the Muslim from jeopardy and death and destruction is a legal duty for everyone who is able to do.

Question:

Should it be necessary to take permission from a food strike or his guardian before giving him food by force to end his strike or not? In the knowledge that if he continues his food strike he will surely die. Or is it not our right to feed him and end his food strike?

Answer: The doctor need not take permission from a food strike or his guardian if the food striker risks his life; his saving should be by all possible means possible, even though by force.

Treatment by Taking the Haram, Forbidden

Question:

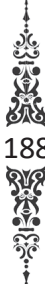
Some doctors, in particular, the non-Muslim and the impious Muslim doctors advise a patient to take alcohol as a treatment for some disease cases, what is the provision of such advices? Are these advices legally permissible or not?

Answer: If his treatment is limited to take alcohol after being diagnosed by doctors, these advices are permissible and the patient is permitted to take alcohol. If there is a another case it is not permissible, Allah best knows.

Question:

In some medicines, such as syrups, alcohol is an ingredient in composing them, what is the provision of the patient, who takes, and the doctor?

1.If they know that alcohol is found in these medicines?**Answer:** It is permissible to take medicine that contains alcohol in its composition



as it is believable to take such a medicine for the sake of the alcohol since the alcohol is much exploited [processed] in the syrup. So it is not impure[najas] as all the kinds of alcohol used in medicine and the likes are considered as pure for us, so it makes no difference whether they know or not.

2- If they are ignorant of that alcohol is found in these medicines?

Answer: The answer is tackled above.

Experiments on Animals

Question: Some scientists in the field of drugs experimenting with certain drugs on animals, in the knowledge that these drugs could lead to the death of animals or to diseases doing harm to these animals. What is the your provision on such experiments on animals to discover new medicines serving man and alleviating his suffering from diseases?

Answer: Not bad, Allah best knows.

Experiments on a Kafir, an Infidel

Question:

What is the provision on experimenting drugs on an infidel in case:

1. He knows these experiments?

Answer: Such experiments should be on animal not on a human. Allah best knows.

2- He does not know these experiments? In the knowledge that the aim of these experiments is to discover new drugs serving man and alleviating his suffering from many diseases?

Answer: The answer tackled above.

Najasa, Impurity, of Blood Components

Question:

Sheer blood components are white blood cells, red blood cells and the plasma, are they considered pure or impure? Is the separation



process of blood into these components considered impossible or not? In the knowledge that after separating, they could be given to the patient by special plastic bags if need be.

Answer: If these ingredients are from the blood components, they are najasa, impure. Allah best knows.

State Money Taking

Question:

A person takes from a hospital some medical supplies and is ignorant of the fact that it is haram, forbidden, to take them, then his ignorance grows momentum to consume them all, what is his provision?

Answer: If he is rich, he should do charity with the amount he takes from the hospital to the poor.

Question:

Some people are used to go to hospitals every day to take medicine (buying medicine by the common health card) with a low price and sell it outside the hospital with high prices. In the knowledge that such a behavior may deprive the inpatient of the opportunity to get his medicine.

- 1- What is the provision on taking for people?
- 2- What is the provision on the doctor who knows such a behaviour and dispenses the medicine to them?
- 3- What is the provision on selling?
- 4- What is the provision on the money taken from the selling?

Answer: It is not permissible to do so because these acts lead to disorder and chaos and the loss of the rights of others and thus the taken money provision stems from such a state.



Medical Tips

Question:

If a patient or any person asks a medical student for medical advice, is it permissible to give him advice? If the person is harmed by this advice, is the student considered responsible?

Answer: It is not permissible for a student to give advice if he does not know whether it is useful or harmful, and it has little or much harm. Yes, it is permissible if he knows that it has a little harm or no harm to give it.

Stem Cell Appendix

Today the stem cell research is regarded as a qualitative revolution in medical studies of the developed countries. Here, the specialists rely heavily on these research studies in treating many obstinate diseases; diabetes, cancer, Alzheimer, Parkinson, leukemia and heart defects through renovating [repairing and building] Pancreas, liver, stomach, bones, muscles, nervous system etc.. ... As it is to exploit the holistic nature of non-specialized stem cells and their ability to be formed in a desired tissue.

As the fetus grows older and older, there will be a possibility to make use of his stem cells that fall in specialized pathways making them refuse to be formed in other phases of creation pathways. Thus, for them the nexus between the formation capacity and the aging of the fetus is to be in four types: Full capacity, abundant capacity, multi-capacity and monocapacity, that is why the specialists prefer to extract these cells in the early life of the fetus at the age of (6-12 days), these cells are called as fetus stem cells. For not leading to the death of the fetus, they prefer to extract them from the blood of umbilical cord of that fetus, aborted, or from a breathing fetus. Such is called the adult stem cells and there is no harm to his life. Therefore, please let your eminence clarify the legal opinion on the cases in the following questions:



In the name of the Almighty

Before answering these questions, two basic points are presented:

Islam is an eternal global religion, not limited to a specific time, not to an epoch and not to a denomination: Islam represents two aspects of the human life:

First: Doctrine that designates faith in Allah alone without a partner

Second: Work and external behavior.

As for the first aspect, it is the absolute faith in Allah, the Absolute All-Capable the divine law grants to man on earth and inculcates in human beings as it treats the negative side of the great human problem. Here faith in infinity rejects loss and atheism, sets man in the orbit of responsibility before the Absolute All-Capable in his procession, movement and external behavior in this universe politely, moderately and straightly and protects him from the deviant behaviors and irresponsible acts. The lost one is the man who holds no faith in the Absolute, whose action, chronicle and behavior in the universe are random, and gets infuriated by the factors around him. On the contrary, the one who believes in Allah is the man who takes his acts and social, familial and individual chronicle from the law of heaven and asks for help from the Absolute All-Capable. The role of faith in Allah is the role of associating with the absolute, stability, guidance, contentment of souls and non-loss, and also it is the role of the believer to depend on Allah in every stage in his strenuous procession in life. Such a role comes to be crystallized when a believer despairs of all the relations with people and nature, in such a case he despairs of everything but the mercy of Allah, the Absolute All-Capable and the Benefactor and is to ask Him for help, the Almighty to solve his problems, as it is the only means in these difficult cases. This is on the one hand.

On the other hand, not only does Islam reject atheism and loss, but



it also rejects idolatry, polytheism and belonging to the limited such as the idol and the like. Islam is in a struggle and a constant strife with these two poles; atheism and idolatry and is a double-edged sword, first edge is to obliterate atheism and the second does idolatry. The perfection of speech lies in its context.

As for the practical aspect, it represents the external work in two types:

First type: Worshiping and forbidden acts in Islam.

Second type: Jurisprudent acts that study the divine law and represented by the holy book and the traditions.

As for the first type, the worship in Islam has an important role in educating man, improving his behavior and moderation based on the fact that the system of worship is a fixed and eternal system that is not influenced by the public life, and does not develop as time passes: the man prays, fasts, does pilgrimage and so forth in the first centuries, he does the same in the time of space and the age of science and development. In short, the worship in the civilized century, the age of the atom and the internet, is much the same in the primitive century, it is not to be affected by life and its development and its different styles, as the man who runs things with the power of the atom and walks in space prays, fasts and does pilgrimage, the man who runs things with the power of hand does the same. The system of worship is static and never changes with the process of time, never tends to be affected with the public life and never develops in line with its development, the reason lies in the fact that the worshiping is a bond between man and his Creator, it is a spiritual bond immune to be affected by time and its development and never to be changed in line with the life style and its development bit by bit. Yet the relationship between man and nature is a materialistic one affected by nature and its development century by century and era by era.



Concerning the role of avoiding forbidden acts, it is the role of integrity, the conduct cultivation, moderation, morality and humanity, because all divine forbidden acts are of vice and abomination: lying, gossiping, stealth the money of people, abusing people, injustice, violating the rights of man, his honour, money, adultery, sodomy and other evil acts.

There is no doubt that doing such abominable acts, vicious, degrades man into being animal, yet man is the best and the most exalted creature of Allah and is granted with a bless, beyond price, the mind by which man realizes good and bad deeds and knows that injustice, violation and transgression on the souls, honour, money and rights of people are of vice. It is no doubt that whoever hurts and piques someone commits a vicious deed: the freedom of expression does not stipulate infringing upon the rights of others and violating their sanctities, it is to be in the limits of humanity and reasonability, or else it will be of animals, not humans: freedom of man to express should be reasonable and limited in humanity orbit, it is blessed by the grace of the mind and the recognition of good and bad.

Moreover, the second type lies in the fact that the Shi'a scholars study profoundly and innovatively the law of Islam, the Glorious Quran and traditions, completely in its all texts to form general laws with an Islamic seal. Such laws solve problems stirred in all ages on the basis that the public life evolves in every age as there are problems and new issues and give them appropriate solutions from the Islamic law. So a problem in every age in Islam could be solved by using these general laws to cope with the innovative and recurrent issues: the Islamic religion is an eternal religion applicable to all ages age till doomsday.

Second: The role of Islam in this world is a civilized one representing the humanitarian and ethical values. The reason is that the Islamic

religion is the only religion calling for science to man and woman alike on the basis that science plays so important and fundamental a role in educating people and implementing social justice, social solidarity and equality in rights and the stability and the country and its security and has a significant role in the development of the country economically, socially, politically, technically, ethically, healthily and so forth.

It is quite clear that the development of the country also needs to establish elegant universities, specialized institutes and colleges, provide an opportunity for thinkers, the creatives and litterateurs to give them freedom to gain the high technology by all possible and available means, send a group of them abroad, facilitate all the means during their study to take hold of high ranks in medicine, economy, engineering and other high technologies and then return them to the country to serve it.

For the failure of some countries to acquire these sciences, high technologies and development, it is because of Islam, here there are two reasons:

The first: Islam is a religion imposing science on man and stressing that the society should move from ignorance to knowledge, from dark to light and from underdevelopment to development on the basis that Islam highlights social justice more profoundly, gives much heed to equality in the society, integrity, trust, honesty, hard work, denounces sloth and incorrect work, forbids fraudulence and certifies to obliterate poverty from the society: nothing could be done without science.

The Second: these governments, so called Islamic ones by name only, have Muslim citizens but in reality they are not Islamic governments as their regime is not an Islamic one; it is either Western, Eastern or mixed.

The real Islamic governments are the governments based on the



principle of religion and their system is Islamic in all the conjectures of the state. It is a government of justice and right, against racism, color and sex and stresses that all are equal in rights without prejudice in favour of race, color and race, as the Islam sets one and on the scale of human values and dignity as stated in the Glorious Quran: “

O mankind! We created you from a single [pair] of a male and a female, and made you into nations and tribes, that ye may know each other [not that ye may despise [each other]]. Verily the most honoured of you in the sight of Allah is [he who is] the most righteous of you. (Hujurat, or the Inner Apartments: 13)

The verse calls for, in its nth power, one fact that the main standard of the dignity of man piety, being straight in religion, moderation, cultivation of behavior, integrity, efficiency, honesty, purity, trust and so on. Whoever takes hold of these qualities acquires the values and principles of humanity and is distinguished from others who do not acquire whether he is black or white, a man or a woman, an Arab, a Persian, an American or a European, and so forth. As because the value of man comes, according to the perspective of Islam, acquiring these qualities: they are the qualities of man, they arte not of color, gender and race on the one hand.

On the other hand, Islam is a religion of justice, right and peace, pays much attention to justice, equality of rights in the society and social solidarity, strongly condemns abuses and infringements on the rights of others, injustice, aggression, abomination, the vicious and inhuman acts; lying, gossiping, culminating, transgressing the souls of people, their honour, their money, doing vice; all these laws are just to distinguish man from animals. Moreover, Islam gives much shrifts to the human life to preserve it and denounces the acts of killing the innocent soul as stated in the Glorious Quran:

if any one slew a person--unless it be for murder or for spreading mischief in the land- -it would be as if he slew the whole people: And if any one saved a life, it would be as if he saved the life of the whole people. Maida, or the Table Spread, 35.

Just scrutinize the above blessed ayat to fathom the Islamic religion, its attention to man, preserving his life, making the act of saving a soul come equal to saving all people and be the greatest service to mankind and making the act of killing an innocent soul come equal to killing all people. So it is the greatest crime in the world of humanity. This is the Islamic religion and its focus upon man.

What is more, Islam forbids the violation of the sanctity of the dead: dismemberment is forbidden in Islam even though in the battlefield. If a Muslim kills his enemy in the battlefield, it is not permissible to dismember the corpse, decapitating, eyes gouging and ear or hand amputating. That is why Islam disowns those who do the acts of the heinous killing, kidnapping, bomb cars and suicide bombings to kill more people in the streets, mosques and husseinyas in the most hideous way under the banner of Islam. As a matter of fact, such people deface and change the portrait of Islam too much in the West and East that do not know Islam but the Islam of the Al-Qaeda, although it is not the real Islam and runs counter to the real one, most of them believe that Islam is a religion of violence, killing and terrorism and set Islam into two parts:

the fundamentalist Islam, the Islam of the Al-Qaeda and the moderate Islam. Such a categorization stems from the fact that they have no knowledge of Islam: Islam is one religion; it is the moderate Islam and fundamentalist Islam has nothing to do in Islam.

On the third perspective, Islam pays much heed to science of medicine and makes it come equal to the science of divine religions.



That is why it is narrated that the science is of two types: the science of religions and the science of bodies; sound mind in sound body, as the Almighty say in His Glorious Quran:

“ And if any one saved a life, it would be as if he saved the life of the whole people.” Maida, or the Table Spread, 35. Such a goal is the most important one to take care of the life of man, no religion or no civil foundation does such a goal. Therefore, Islam spares nothing to cuddle the science of medicine as the science of religion, a society in the world void of medicine and development is a sick, worthless and underdeveloped one. The Islamic religion in all ages is concerned with the science and regards it as a duty for all, in particular the medicine since Islam wants the Islamic community to be the highest one on earth, yet the negligence lies in Islamic governments and comes from certain reasons: the political leaders gives much importance to the authority chair than to serving the country and its development and fear their people as they regard themselves negligent in sight of them for not giving freedom and basic services to the country: establishing universities, institutes and colleges, to them. That is why they use the coercive and tyrannical regime to deal with their people to stay on the authority chair and to mention but a few. After all, the general interest of Islam stipulates that the Muslims in general and the leaders of the country in particular do their best to acquire the advanced and developed technologies; the science of medicine in all its majors and its types according to the needs of society at present.

To recapitulate briefly, there is no a community in the in the contemporary world could do without the science of medicine appropriate to its time, or else it is a sick and underdeveloped society similar to the society in the first centuries and has no value at the present time. Hence, the rate of death, destruction and suffering



from obstinate diseases among the people of such a society are more and more than it could be found among the members of the high contemporary developed societies. Therefore, it is necessary for the Islamic community as a whole to pay serious attention to pursue the modern science and advanced technology: the science of medicine in all its kinds, its departments and its majors. As the real power of a society economical, political, social, cultural, materialistic and spiritual lies in the power of science and advanced techniques. Moreover, it is quite convenient that gaining the developed medicine requires advanced medical studies and innovative research projects: stem cell research studies, to tackle such studies, stem cell studies, in the high universities of the authenticated and developed is to save the community from the obstinate diseases such as cancer, diabetes, loss of memory, paralysis, heart diseases and the like. It is to use the stem cell studies to treat these diseases.

Then there is no doubt on the permissibility of these advanced sophisticated research studies, stem cell research studies, from the Islamic perspective, Islam pays heed to these research studies to treat these obstinate diseases and save man from death and inevitable destruction. As discussed above, Islam allots a great importance to serve man and to the extent makes the acts of saving a soul come equal to saving all people.

In concordance with such a serious endeavour of Islam to pay heed to the life of man broaching such research studies to save the society from the diseases mentioned above are mandatory, therefore there is no objection to extracting the initial cells, in the early stages of the life of a creature at the age of 6-12 days, even though it leads to the death of the creature, although it is not permissible in Islamic law to do so, the public interest is so important in Islam, to save society



from the obstinate abovementioned diseases. Consequently there is no objection also to extracting the cells from the creature even though it stipulates exposing the intimate parts, not permissible in Islam, the public interest, Islam emphasized and takes much care of, requires doing so, so there is no objection to doing such an issue according to the provision of giving priority to the public interest, not the private one, to the most important issue, not to the important one. If such a procedure, extracting stem cells, runs as successful in treating these serious abovementioned diseases, it should be done from the perspective of Islam. In light of these introductions we do broach medical questions, we are asked to answer, about the process of extracting stem cells from the fetus in the early stage, 6-12 days old age, that leads to his death and to be shattered. These questions are as follows:

First Question:

Is it permissible to implement such research as a whole on the zygote, in its first days 6-12 days old age, even though it leads to the death of this creature, a group of cells in process of propagating?

Answer: Yes, it is permissible to implement a research study on this zygote, in the early stage of its vegetative life, such a life paves the way to the life of man. There is a value from the Islamic law perspective, it cannot be destroyed. Since the supreme public interests, Islam is much concerned with, stipulate doing such scientific researches, there is no objection to extracting the mentioned stem cells mentioned from the zygote and decomposing it. Perhaps it is obligatory, if the result is absolutely fruitful.

Second Question:

When is a fetus considered to be a human being impermissible to be killed in Islam? Is it mentioned in the sacred texts that the delay of

breathing the soul into him affects the provision on such an issue? If so, what a period of time does the soul breathing occur?

This question includes three parts:

- 1- When does the fetus become a human?
- 2- Does the time of the soul breathing affect the provision on the issue?
- 3- When does the soul breathing occur? In which stage does it occur?

As for question one, the fetus becomes a human when the soul is breathed into the fetus, the soul breathing occurs, a human exists to change his life from the phase of vegetarian life to the phase of humanity. Such a movement is called as a substantial movement, if he becomes a human, his killing will be forbidden like the killing of any other person, biggest crime on the perspective of Islam as in the blessed verse:

if any one slew a person--unless it be for murder or for spreading mischief in the land- -it would be as if he slew the whole people.... Maida, or the Table Spread, 35.

The consequent acts of his killing stipulates a full diya, blood money, equating to a thousand Mithqals of gold or twelve thousands dirhams of silver, see the details of such an issue in the practical book.

Yet before being a human, his killing, though forbidden, is not as holy as killing a human and the blood money that is required here is less than of killing a human as it is found in the practical book.

Question Two:

it does not make difference in phases of the fetus and its ranks in the soul breathing on the scale of the extracting stem cells provision, which have a significant and important role in the safety of the society to save it from fatal obstinate diseases. Such a process, though leading to the decomposition of the fetus before the soul breathing, is permitted



in Islam as there are certain public interests, to treat thousands of people suffering from incurable diseases and to save them from death. Yes, these stages are different in light of the ground [realistic] and responsible legal provision as it is more forbidden to decompose a fetus in its advanced age than in its early one. Consequently, the diya of the advanced fetus in age is higher than an embryonic one.

Is there a diya on extracting of stem cells from the fetus, 6-12 days old age, led to death?

The mere answer is that there is no diya as long as it does not reach a semen drop.

To conclude, the process of extracting stem cells from the fetus is a great revolution invading the world of medicine and exploited by specialists in treating obstinate and serious diseases. It is common that Islam pays much heed to such a tremendous medical state and endeavours to bring it into effect, to expand its horizons and to apply it. If it falls short of being applied for exposing the intimate parts, it will be quite convenient to revert into the provision of giving the public interests priority over the private ones and the most important over the important.

Question Three, ostensibly and according to the fact specialists and experienced women certify that breathing the soul into the fetus occurs at the beginning of fourth month of pregnancy.

Third Question: does the sheer research practicing or a research study for the purpose of treating or an actual treatment affects deciding the issue in question?

Answer: If the process of extracting stem cells from the fetus is purely for research study without any practical effect on them and leads to decompose the fetus, there is no difference between being in the early phases or in the advanced phases. But if it is for the purpose

of treating the obstinate diseases and saving the society in the future or in the present, it will be permissible.

Fourth Question: Does the fetus result from artificial insemination affect deciding the issue?

Answer: No, it does not affect deciding the issue and there is no difference between the forming the fetus by artificial insemination or by the womb insemination. The impermissibility falls less on the former as it does not require exposing the intimate.

Fifth Question: does the growth of the fetus in the laboratory or in the womb affect deciding the issue?

Answer: The answer could be found above as it does not make difference as to whether the fetus is formed by womb insemination or by laboratory insemination.

Sixth Question: Does extracting a stem cell, a sperm or an ovum from a Muslim or non-Muslim affect deciding the issue?

Answer: No, it does not affect deciding the issue as to whether it is from a Muslim or non-Muslim.

Seventh Question: What is the provision on extracting these cells from an advanced fetus in age if the extraction does not harm to the life of the fetus, or if the damage is possible, or if the damage is certain? What is the amount of damage permitted to save the life of a patient, or to heal him from an obstinate disease?

Answer: If the extraction of these cells from an advanced fetus in age does not harm his life, it is permissible, if the possible damage does not harm but slightly, it is also permissible, if the certain damage is simple. Besides, it is permissible, if the damage is great but does not lead to the death of the fetus, it is permissible as to treat obstinate and dangerous diseases. Moreover, if the extraction is to save the life of a sick person from an obstinate disease, it is permissible to extract from a fetus before



he is given the soul to save a life of a patient, that is to say, without these stem cells, though there is a certain damage to the fetus, the patient will die. So it is permissible to extract them provided that it does not lead to his death, but if the extraction leads to his death, it is not permissible, as it is not possible to put end to a human life to save another one.

Eighth Question: There are several additional embryos left after the (IVF), In vitro fertilization, is it permissible to use them for medical research projects instead of being damaged for not implanting them in the womb?

Answer: Yes, they are permissible to be used for medical research projects instead of being damaged.

Ninth Question: What is the provision on extracting these cells from the aborted fetus in light of the considerations mentioned in the previous issues if they effect deciding the issue? Is the provision affected in case there will be a turnout of buying the aborted fetuses from illegal abortion clinics that encourage these illegal acts?

Answer:

a-It is permissible to extract cells from the fallen fetus, more permissible on the legal perspective, as it does not require exposing the intimate parts and looking at them. So there is no difference between extracting them the aborted fetus or from the fetus in the laboratory or from the womb of woman.

b-The provision is not affected by the issue, but the specialized doctors should block practicing vice and abomination in finding an alternative; expanding the laboratories in the health centers and hospitals to form the fetus and make use of stem cells in the treatment.

Tenth Question: If the cell nucleus is used by from the same ovum

holder to inseminate the ovum, does it affect deciding the issue?

Answer: This does not affect deciding the issue.

Eleventh Question: One of the inventive ways to acquire stem cells is the method of therapeutic cloning, as opposed to reproductive cloning, in which the cells are taken from the body of a patient and its nucleus is transferred to a ovum without a nucleus extracted from a woman whose permission is done, to stimulate embryonic growth without sperm insemination. Is it permissible for such a creature to grow in its early days and to extract the stem cells from it to make use of them in developing a tissue to treat the same patient?

Answer: There is no legal objection to extract stem cells from the abovementioned creature, to stop its growth and to use it in treating the same patient.

Twelfth Question: What is the legal stance for the production of the so-called, the bag of organs, which is a creature without a head and parts resulting from the acts of the fetus stem cells extraction? What is the provision on benefiting from its parts after its reproduction? Does it depend on the permission of the people from whom it derives?

Answer: The legal stance for such a process, reproducing a creature without a head and limbs, is positive under the condition that there are to be social positive impacts; treating dangerous and obstinate diseases in the society. It is quite convenient to make use of its organs to treat patients and no need to the permission of people from whom it derives.



Complementation and Application

Eminent Grand Marja:

I am writing a doctoral dissertation on the stance of the Shiite scholars on these research studies in a foreign university having no knowledge of the Islamic religion; all its fundamentals and origins. So please clarify what could be decided on the acts of induction for these issues and the general reliable provisions in dealing with their equals in the innovative cases? The two supervisors, without faith, draw the following research axes:

First Question: What is the provision on which the religious scholars generally depend in dealing with recent scientific issues and the likes? What is the mechanism to form the legal or the ethical stance on these issues?

Answer: We have theology and jurisprudence: Theology is a theoretical science to form mutual general rules according to its own conditions and used in the process of induction and deduction of practical jurisprudence issues. Moreover, jurisprudence is an applied science to bring these general rules into their own specific. The Shi'a scholars have recourse to these general rules in with all current scientific issues and other innovative scientific issues and others as these rules are the mechanism to form the jurists and to determine the legal stance on the issues, sustainable and innovative cases and so forth in all ages. Therefore we do say that there is no problem in any age finding no appropriate solutions in the Islamic law.

Second Question: The Shiite scholars especially deal with those issues, don't they?

Answer: The answer could be found in the question above.

Third Question: Should the purpose of medical research be to treat the patients exclusively? If so, is it determined by the consequences? How?



Answer: Such should not be done exclusively as there is no problem that medical research does something good on the scale of medicine to serve the society.

Fourth Question: What are the limits that medical research should not surpass? What determines such limits?

Answer: There is no limit to the medical research study theoretically. Practically accounting, there should be precision and perception to all aspects of the case for not having something negative leading to the death to lead to death of the patient or to have another disease, more difficult than the first one, or to aggravate his disease: medicine application depends practically on these limits.

Fifth Question: Taking stem cells research studies as a sample, what is the logic limiting the Shiite jurist in dealing with the issue? What are the moral principles limiting such a logic?

Answer: The logic adopted by the Shiite jurists is the logic of religion and mind. As tackled before, Islam gives importance to save the life of man and to treat obstinate diseases and others; these are the ethical principles and human ideals the logic of mind and religion dominate.

Sixth Question: How does the Shiite jurist have information about the subject? Is it enough to ask the questioner? Should he keep pace with whatever comes into fore, or be satisfied with an immediate review of the subject when a question is stirred?

Answer: The fair jurist answers according to the question, if the question concerns the provision of the issue, the jurist will do so.

Seventh Question: Does the Shiite scholar consult his colleagues in jurisdiction? What is the method of such a consultation?

Answer: Al-Mujtahid [Shiite scholar] answers the question according to his knowledgeability and deduction from the Glorious Quran and traditions and does not consult any one.



Eighth Question: How does the Shiite jurist deal with the loss of explicit text, the Glorious Quran and traditions, pertinent to the issue?

Answer: As tackled before, the fair jurist has general rules with an Islamic seal character, if there is no explicit text pertinent to the issue, he works and answers according to these rules.

Ninth Question: How does the Shiite jurist cope with the ramification of sources in terms of moral principles: what if saving a patient depends on death of a fetus?

Answer: The Shiite jurist copes with such an issue by giving priority to the most important over the important and the public interests over the private ones.

May Allah guide your steps to the straight path and solidify religion and doctrines, Alawite and Muhammadian, by you.

Your son, the researcher:

Mohammed Basim Sheikh Mohammad Hussein Al-Ansari



Glimpses at Ijtihad

By:

Eminent Sheikh. Muhammad Ishaq Al- Fayadh



**In the name of Allah, Most Merciful, Most
Compassionate
Peace be upon Mohammed and his
Immaculate Posterity**

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1- Legal Islamic Provisions

The legal Islamic provisions are of two types: first, the legal provisions are still necessary for the Muslims in general though the span of time, many centuries ago, between these provisions and the era of legislation.

Such a type of provision, essential, does not exceed approximately percent and has no dispute between jurists and mujtahids. The mere dispute among them stems from the theoretical legal provisions whose authenticity depends on sight and insight in light of the practical and theoretical research in fundamentals and jurisprudence sciences.

The opinion of all the responsible, mujtahids and adherents, on the type in question is much the same. No mujtahid has recourse to another mujtahids, there is nothing to have jurisprudence and deduction; Ijtihad is to deduct the legal provision from its evidence and to identify of the practical opinion on the law by virtue of subordination. It is settled that the practical opinion for all the responsible on the law is declared, no need to the acts of insight and application.

Since the meant type takes so little a part of the total legal Islamic provisions that never cope with the great problems of human life in all the walks; his spiritual and materialistic relationships with others,. Thus the human rights could be kept in their individual and social fields intact.

The other type, theoretical, depends on the acts of Ijtihad and deduction to be proven. It is quite common that to reach the degree of Ijtihad is not available to everyone as it takes time and efforts to submit a lot of studies to form mutual common rules and general theories to be practiced for many years.

The reason lies in the fact the acts of Ijtihad is from the legislative texts; the Glorious Quran and the traditions, whose study depends on many points, Islamic, in terms of theoretical and practical research, though studying a collection of sciences in preparation for it.

2- Most Important Points

First point:

As a matter of fact, a mujtahid depends in verifying the reliability a legal text except for the Quranic ones and definite traditions on the acts the narrators and authors transfer in a particular framework. It is necessary to note that though the mujtahid tries his best to check the authenticity of the narrator and his fidelity in transferring, he will absolutely not make sure of the authenticity of the text and its conformity with reality for certain reasons:

FIRST: He does not know the authenticity and the fidelity of the narrator in transferring directly, but it is reached to him in a framework of historical transference from human books.

Second: Though reliable and loyal to the acts of transferring, the narrator is susceptible to error, suspicion and transferring of what is not real, thus the Ijtihad perspective is to be changed accordingly from its objectivity.

Third: The legal texts arrive to him not directly, after taking so long time in circulating.

The result in light of these three reasons comes as the mujtahid in a framework of Ijtihad and the determination of the practical functions of the Islamic law, though he spares no time and efforts in scrutinizing a text, he does not make sure of the authenticity, issuances, sources of the texts in question and their conformity with reality every now and then, what do think of every time?

Second point: As a matter of fact a mujtahid depends in investigating the conformity of the evidences of the legislative texts and employing them in their specific framework on the common understanding their usual procedures of the utterances classification on the basis of the occasion of the provision, the issue and the supportability to form

mutual rules from them according to their common conditions.

Third point: As a matter of fact a mujtahid depends in investigating the conformity of the evidences of the legislative texts with the common understanding of the Islamic law realities on a reasonable provision from the time of legislation. That is to say, the reasonable people pay attention to a speech uttered by whoever is cognizant of reality and sincerity without protection or something else.

In conclusion, these three points a mujtahid, ambitious to gain the degree of Ijtihad, should study objectively, make efforts with them, form general theories and mutual rules and study several other sciences in advance in preparation for them.

3- Discrepancy between the Era of Legislation and the Era of Ijtihad

The more the discrepancy between the era of legislation and the era of Ijtihad expands, the more the legal texts confront doubts and illusions in all aspects and fields. Thus, the acts of ijthad in contemporary time are difficult and complex and fraught with doubts, illusions and dangers. Consequently a mujtahid should confront these doubts, illusions and dangers and bridge the gap in the ijthad. Nothing could be done unless he adopts general theories from fundamentalism and mutual rules under the limitation of the general rules.

If the rules specified in fundamentals are not of a definite nature, these doubts and illusions, the texts have, are confronted definitely.

Consequently the mujtahid confronts such a stance on the scale of ijthad, though he is not thoroughly sure of the process and its conformity with reality.

Next Question:

As the mujtahid is not thoroughly sure of the legislative texts, how is he permitted to depend on these texts on the scale of ijthad and deduction of the legal provisions, though Islam does not permit dealing with suspicion and regarding it in legislation?

Answer:

From the very inception. the Islamic religion permits dealing with the process of ijthad and determining the practical function of the legal texts, though such a process does not move from suspicion to certainty in all its levels of entity, from the beginning to the state that it grows complicated.

As the one, from Muslims, who lives in the era of the Prophet Muhammad (Peace be upon him and his posterity) is not able to hear the legal provisions from the Prophet directly or from people whom he

does not doubt their honesty in particular women and those who are far from Medina.

So, it is definite that all the legal provisions are heard from the prophet and transmitted by certain people who transpire the speeches and provisions.

Therefore, the understanding of the legal provisions depends on narratives that are transmitted to them, sometimes sound definitely true on the scale of source, evidence and reference, though the narrator might be mistaken in transmitting and sometimes do not sound true on the scale of these standards as the mujtahid thinks that the transmitter might commit a mistake in transpiring or in hearing though he is definitely honest and does not lie.

In such a case, the perception of the legal provision of the texts absolutely needs a general rule such as an evidence or a common proof to these texts or something else. Such perception could not do without applying the general rule, though the application depends on the principles, and without recognition and attention to the state, the limits and importance of these rules and their role in deduction and ijthihad.

It is quite tacit and known that this is the beginning point of ijthihad and deduction in their merest sense. Then it grows momentum era by era until they are crystallized in the reign of Al-Imam Al-Baqr and Al-Imam Al-Sadq, the honest, among a group of narrators where the seed of fundamentalist thinking sprouts.

As it is quite evident in some replies of the imam Al-Sadiq to these narrators in the statement of Youniss Ibn Abdurrahman and some other ones: “ entrusted to imbue from him the brick foundations of my religion “. Such fathoms the seed of the fundamentalist thinking in his main principles and tends to be the evidence of the information veracity: if Youniss Ibn Abdurrahman is entrusted, deduction of the legal provision could be of avail.

It is to say that the one who scrutinizes the narratives takes hold, from the questioned stirred the, of the seed of the fundamentalist thinking in the mindset of these narrators and their principles.

Then and then, the seed takes development and augments in the reign of the occultation, disappearance, in light of the development, the evolution and expansion of the faqah mind in all the walks of life until it is separated from faqih to be an independent scientific study and named as the science of fundamentals for being theoretical, yet the faqih is practical, such a name is quite late. As a seed, it comes to the fore since the faqih rises and there is no way to separate the horizon of the faqih from the fundamentals in any level of its being: they are mingled, the deduction emanates from the nexus between the theoretical science and the applied one.

To conclude, the process of ijthihad and the determination of practical functions in the religion, from the legislative texts, is a modernized process in the occultation time, but it is found in the reign of legislation: its existence in that time is primitive, simple, undeveloped and uncomplicated. Yet, the process of ijthihad in the reign of legislation is distinguished from that of ijthihad in the reign of occultation by two points:

First: The process of ijthihad in the reign of legislation is a simple one, uncomplicated one, in such a time there is no need to be of ijthihad: studying a plethora of sciences in advance, as found nowadays, preparing materials to the issue in question and having a study on the legislative texts in different fields to bridge the gabs that rise to surface as the faqih is far from the reign of legislation, to cope with doubts and illusions the legal texts confront as much as possible and to justify their reliability though really having doubts and illusions and no way to obliterate them.

Second: the ijthihad in the reign of legislation is closer to the reality of

Islamic legislation than the one of in the primitive eras that is steeped in doubts and illusions about the veracity of the legislative texts that come from one-narrator method, alahad, many centuries ago, yet it is not steeped in these doubts and illusions in the reign of illusions.

Definitely yes, they have one mutual point: they permit the Islamic law to fathom the reality of the Islamic legislation through the mentioned process explicitly that is no more than supposition.

Consequently, we should separate this supposition from the one that Islam does not permit dealing with and relying one in the legislation.

For more clarification, the supposition Islam permits dealing with to fathom its legislation is particularly with a specific seal that could be explained in a limited extent in the science of fundamentals; it is the supposition that emanates from the legislative texts pertinent to the legal provisions according its mentioned limited conditions.

There is no difference of the permissibility between the reign of legislation and the primitive eras in dealing with the supposition: the span of time between then do not matter.

4- Al-Ikhbarians and the Issue of Ijtihad

Many of Al-Ikhbarians raise an objection to the process of ijthad and its school and denounce such a school, that is to say, the science of fundamentals, without perception and attention to the reality of the science of fundamentals science and the importance of its essential role in jurisprudence, faqih. It is the basis of jurisprudential processes in all the walks of life.

Their objection stems from two points:

First: they misinterpret the word “Ijtihad” and say that the Ijtihad means the personal thinking for a jurist of an issue if there is no text for it. Such a personal thinking is based on mental considerations and supposition events leading to accept it as a ijthad judgment with a legal seal.

Such is highly common among people in the nation, when not finding a text about the issue in question, they have recourse to their minds, thoughts, in terms of supposition events, mental considerations and moral measures and set these personal thoughts and opinions dependent on these supposing mental considerations as a source of a source of the legal provision.

For such an illegal interpretation, this group of people criticize the school of Ijtihad and its adherents and this school was founded in opposition to that of Ahalalbayt (Peace be upon them), therefore, there are many narratives for Ahalalbayt vilifying such a school.

The second point: the fundamentals science is the science that happens in the age of occultation, is taken from the public who are the origin of it, and is not found throughout the history of jurisprudence,



the age of legislation and the time of Imams (Peace be upon them). Thus the adherents of imams (Peace be upon them) run literally in pace with the legislative texts without the science of jurisprudence and the application of general rules.

If such is the way to determine the practical stance of man on the Islamic law in the time of the Imams (Peace be upon them) it is not permissible to infringe this method and to have another one, ijthihad method that is not existed at that time to explore its content.

If it could not be proved that the street has allowed the method of ijthihad and deduction, there will be no need for fundamentals science. The real necessity of jurisprudence emanates from the real need of ijthihad and deduction to it.

Let us ponder over these two points:

First: As for the interpretation of ijthihad according to fundamentalists, it is an interpretation mistake and has no objective grounds, they do not believe in ijthihad by explanation in any time of the contemporary history of ijthihad.

At the very inception, Ijthihad for them, as a source, in comparison with the legal texts is not a source of legal provisions, how? They denounce the ijthihad throughout ages according to the authenticated narratives of the immaculate imams (Peace be upon them) found to criticize the ijthihad on the mentioned scale and to vilify whoever deduct the legal provision in this way.

For them Ijthihad is to deduct the legal provision from the evidence and set the practical position to the Islamic law: it designates implementing mutual general limited rules, as settled legally in the



fundamentals thoroughly, in their specific sources.

It is known that Ijtihad in this sense has become in our present time axiomatic, or rather it is so in all ages from the rise of jurisprudence. None, even an Ikhbarian, could deny and denounce the ijtihad as it is necessary that the legal texts are not arbitrary in all the aspects even for them, Ikhbarians.

As a corollary, to perceive the legal provision of these texts in the jurisprudence matters, they need apply a general rule as the evidence of the trusted news, the evidence of the common appearance and so forth.

No perception to the legal provision in a context and an event could be without having recourse to the general rules and their application, though it does not pay attention to the state of these rules, their limits and the importance of its role.

This is the process of ijtihad and deduction: Ijtihad is to perceive the legal provision from its evidence by applying the general rule on it and the Ikhbarians could not deny the Ijtihad in such a way as denying it runs equal to denying the jurisprudence thoroughly.

Hence, there is no doubt that the seed of the fundamentalist thinking lurks in the mind horizons of the Ikhbarians; their denial of the fundamentals comes from their denial of it as an independent and scientific study separate from the jurisprudential research studies.

To conclude, the public is not the origin of fundamentalist thinking, since such a thinking exists throughout ages. Yes, they are the origin in forming the fundamentals in an independent scientific study.

Second: we do know that the process of ijtihad and deduction was



not historically late from the era of existence; it is existed in that era, merely its existence was primitive, uncomplicated and undeveloped.

Then, if we assume that the process of *ijtihad* is later than the era of existence and not existed in that era, but it is found and grows prominent in the era of occultation, such an assumption might show the following problem: the process of *ijtihad* and deduction occurs in the era of occultation and not exists in the era of existence on the one hand and does not manifest the reality of the Islamic law only on the scale of supposition on the other hand. Thought being so, how to depend on such a supposition process? Despite the fact that Islam prevents dealing with supposition and depending on a word without knowledge?

Problem Solved in two ways:

First Way: The attitude of man in the sight of Allah, as a worshiper responsible for obeying His provisos and supported by his innate mind to compromise between his behavior, his acts in all the spiritual, materialistic, individual and social aspects of life and the divine legal provisions, rotates around three steps:

First Step: man pays much attention to his conduct in the sight of Allah and obeys Him on the scale of the legal provisions with peremptory and necessary seal.

Second Step: Taking hold of the precaution method in all the walks of life.

Third Step: Taking hold of the *ijtihad* method and determining the practical functions in light of the Islamic laws.

After all we do say:

For the first step, man, as a worshiper and bound to erect all his



conducts and behaviours in all the walks of life on the scale of the divine legal provisions, is to take such a step into consideration. In the knowledge that it is quite sufficient in a field of life.

It is obvious that man is free with his actions and social and individual behavior except in this little field. It is axiomatic that such a harmony, the interest of the street and the dominance of mind are to erect all his actions and behaviors in all the walks of life on the one hand, and the fact is that such a is eternal and bound to solve all the problems of man throughout ages on the other hand.

Therefore, as we do refer previously that this group of the Islamic provisions, though few, does not solve the great individual social problems of man, while the Islamic religion is the only system solving complicated problems in all the walks of life on the basis that it provides man with psychological energies, virtuous endowments and sublime ethics to solve these complicated problems. It connects the conscious motives, the natural inclinations, the personal attitudes and the great interests of man: the social justice Islam pays much attention is the sole way to settle the contradictions between the conscious motives of the personal interests and the qualitative motives of the qualitative and provides man with the energies of the religion instincts and its motives. Thus the public interests of society appear according to natural tendencies and conscious motives: it means that the Islamic religion solves the great problem of man on earth.

For such a precaution the responsible man should not be limited to do the duty according these steps.

Second Step: Though it itself is a serious step, it could not be taken

into consideration for two precautions:

First: Every individual as responsible could not take this step into consideration in all the walks of life and relations with others. If taking it into consideration, he should know its resources and it is of avail to everyone.

Second: This step, though stipulating that the responsible one should be engaged with religion more than usual, might result in something contradictory as detailed in the fundamental science.

Third Step: the process of ijtiḥad and deduction is that the mujtahid establishes an evidence for each event to determine the practical stance of man on the Islamic law as he adheres to it. Such is called the process of ijtiḥad and deduction, Jurisprudence is the science that sets this process and determines the stance of man on the Islamic law on the scale of facts and events man experiences. The more the problems continues in life, the more facts and events grow momentum. Here the jurist should determine the practical stance of man on these problems.

For such a reason, jurisprudence science develops and expands as the events and facts deepen and the problems come into the fore.

So the science of jurisprudence takes hold of determining the practical stance of every person responsible for the Islamic law by virtue of his adherence to it in all the walks of his conduct on the one hand.

On the other hand, the state of this process in every event stipulates applying the general rules on it. No way there is to deduct and to do ijtiḥad without resorting finally to its application on it. The authenticated news in each source and is to be an evidence of determining the practical stance and delimiting it in light of the Islamic law if its evidence is proven as a general rule, or else it is never to be

an evidence to deduct and determine the function.

Fundamentals science is to determine the general rules in the limited extent on the scale of the theoretical research. The jurisprudence is to establish the evidence in each source and event and to determine the practical stance on the Islamic law on the scale of the applied research.

That is why, fundamentalist research is a theoretical one to determine the general limited theories and jurisprudential research is an applied one. Thus, the process of *ijtihād* and deduction is bound to the science of fundamentals as a protégé. As the applied science is bound to the theoretical one. It is no to assume that the science of jurisprudence could be detached from the science of fundamentals at its mere phases of existence: from the very inception to the last.

We conclude, after all, that the *ijtihād* and the dedication in this sense are to establish an evidence to determine the practical stance on the Islamic law. Such is beyond doubt and axiomatic and no way to rethink of, after knowing that the legal provisions are not clear enough to do without an evidence, so it is insane to consider such an issue illegal and such a matter runs equal to neglect the Islamic law and freeze it thoroughly.

It is quite common that such a matter comes counter to mind and Islamic law and does not run in conformity with the eviternity of such a law as it is the sole way to solve problems and contradictions in all the walks of life throughout ages.

The result is that this process is a necessary one process stemming from the necessity of the fact than man adheres the Islamic law and bears its responsibility.

Then the Ikhbarians could not deny the ijtiḥad in the merest sense as its denial runs equal to deny jurisprudence as a whole. I know that the jurisprudence is the same process in every event and case. To assume that they do not deny the science of jurisprudence, We know that the nexus between the jurisprudence and the fundamentalist general rules is spontaneous on the basis that it is the general system in the process, that is why it is impossible to assume that it is stripped of such a general system throughout ages.

Two questions to stir:

First: As Islam allows a person to deduct his legal provision and determine his practical stance on the law. Is he allowed to deduct the provision of others, to determine his practical stance on them and to pass judgement?

Second: Does Islam allow the process of ijtiḥad and deduction for every age and every individual, or is it allowed only to some individuals or some ages?

Answer (First Point): there is no doubt that Islam allows to deduct the provision of others, to determine their practical function in light of the Islamic law and to pass judgement. The veracity of such a judgement, ordinary and not mujtahid, comes from the mind and someone is bound to erect all his actions and behavior in all the walks of life in light of the edicts and opinions of the mujtahid, such is called scientifically emulation process “ taqlid “.

Such a process is as necessary in Islam as the process of ijtiḥad that stems from the necessity of three mere parties:

First: Every individual, in concordance with the worshipping law

emulation, as a creature of Allah the Almighty is bound by the mind to his legal provisions and applying his conduct in all the individual and social walks of life in light of the Islamic law.

Second: Everyone responsible could not do ijthad, deduction and determine his practical stance on every event in light of the Islamic law.

Third: One could not be recommended in any event man passes as he depends on diagnosing his resources and obliterating his obstacles and that is of avail to anyone, in particular in the doubts of judgments unless he is a mujtahid or guided by him, a mujtahid.

Ultimately the process of emulation is much the same the process of ijthad is unquestionable and axiomatic. Such axiomatic state emanates from that of man who emulates the religion, preventing these two processes runs equal to preventing the acts of religion emulation. Consequently, there is no sense for the dispute in the street over whether the permissibility to these processes is gained or not, it is just like the dispute over the axioms, that has no sense.

Besides, the emulation, more to the point, is a necessary element in Islam to determine the practical stance on the Islamic law and runs equal to disposition and naivety: the ignorant has recourse to the knowledgeable to determine his practical stances. OF such a peremptory way the wise take hold and this way is found throughout the time of legislation without prohibition.

Thus far we reach this conclusion, ijthad and emulation, as limited as possible, are essential elements in Islam. Each person by virtue of religion adherence is bound to deal with one of these two elements specifically to determine his practical stance on the Islamic law to

preserve the Islamic legislation and positive effects and to dominate the repercussions, negative effects, pertinent to abandoning them.

Second Point: Islam allows to do the process of *ijtihad* in every age and it is necessary for every person as the Islamic law is eternal on the one hand. Moreover, the *ijtihad* is the only way to solve the complicated problems of life in every age on the other hand.

As the religion emulation for man stipulates certain kinds of behaviour in the third, the legal texts that reach us are not clear enough to do without the evidence and make effort to them in the fourth and it is necessary not to discriminate between ages and people in the fifth.

Yoking all these points recall the necessity of an *ijtihad* intellectual wave with an Islamic seal throughout ages to expand the mind horizons and hold the torchlight of the Glorious Quran and traditions in all ages. Without such an *ijtihad* intellectual wave in Islam, developing and deepening age by age as life expands and deepens in all the individual and social walks, the genuinity of Muslims is not to be crystallized in thinking and legislating prominently from the Glorious Quran and traditions throughout ages in the reign of occultation.

If such an intellectual wave, so called scientifically “ *ijtihad* “, proceeds throughout ages, the torchlight of the Glorious Quran and traditions is to be extinguished and the growing life problems are to linger unsolved decisively.

Therefore, the science of jurisprudence evolves, expands and deepens gradually according to the development, the expansion and the depth of the public life in all the aspects. Moreover, it certifies the thinking genuinity and the prominent independent legislative personality of the Muslims.

So there should be a group in each age sparing no effort to reach this rank, ijtiḥād, and bearing the brunt of its difficulties and hardships, otherwise, the problems are to keep growing without appropriate solutions in light of the Islamic law.

Second Way:

The fact of ijtiḥād is the process of implementing the mutual rules and general theories, the mujtahid adopts from fundamentals, on its simplest items and specific elements in the possible limited extent and in concordance to its conditions. That is why they are evident legal provisions.

These provisions are, with an Islamic seal, the fruit of mujtahids, so they might be in conformity with the ground legal provisions or run counter to them. In both cases they should be done. As the mujtahid proves the evidence of these rules and general theories sealed decisively with a fundamentalist character in light of the Islamic law in the fundamentals science.

We do not mean, of course, the conformity of these rules and theories with the reality of the Islamic legislation, but we do mean that the mujtahid decides its evidence leading to settle the ground issue if being correct and to excuse if mistaken. Besides we do not mean by deciding the evidence as direct; the mujtahid might decide directly or ultimately through a law that everything belongs to others should terminate at something in question.

Since non-emotional decision is one of the traits and the general rules void of self-evidence whose veracity comes from others, and should terminate at what the self-evidence stipulates: it is the

emotional decision, even though at the end or in sequence.

So far, we could conclude:

The process of *ijtihad*, though being of opinion, is definitely protected in all aspects. So the function of the *mujtahid* depends on the protected decision as similarly done with the *muqalid*, adherent, as he believes entirely in the edict of the *mujtahid* and its protected state in all aspects.

More to the point, the responsible, adherent, could not deal with it on the basis of the opinion nor could he depend on it in all aspects, it is not permissible in light of mind; one should be bound to deciding faithfully, and nor to cancel the possibility of punishment, in time the meaning of Quranic texts and traditions prohibit dealing with the opinion as evident, such is not to be an expression of the general dominant legal provision.

5- Jurisprudence and Fundamentals:

Correlative Concomitance throughout Ages

The science of fundamentals is set to practice forming general theories and determining mutual rules as possible as it could be according to the their general conditions; for applied jurisprudence thinking.

Yet the science of jurisprudence is set to practice the method of applying these general theories and mutual rules to special issues and elements different from one to another.

That is why the science of jurisprudence is concomitantly related with the science of fundamentals from its beginning until it grows, develops and expands according to the development and the expansion of the jurisprudence research as new troubles happen in life.

It is concluded: the legal provision perception of the legislative texts in every issue demands attention and precision. It is known that such perception, so called, the jurisprudential thinking could not do without the fundamentalist thinking; without using the fundamental general rules, though the practitioner is not sometimes cognizant of the state of rules, limits and importance of its role.

For such concomitance between jurisprudence and fundamentals there is a correlation: the more the jurisprudential research expands and deepens, as the everyday life troubles expands and new issues float into being, the more the fundamentalist research and general theories expand, develop and deepen. Here the expansion of the jurisprudence, qualitatively and quantitatively, prods the fundamentalist research and general further

into finding appropriate solutions to the new troubles in the public life.

The result: the more the applied jurisprudential research expands and develops in line with the development of life in various fields, the more the fundamentalist research expansion is demanded.

Accordingly, the more the fundamentalist researcher is precise and deep in the fundamental thinking and forming the general theories and mutual rules, the more precise and the deeper he is to be in the way to apply them to the specific issues according to their general conditions. To be clearer, the concomitance and interaction between these two acts stipulate that once the level of the fundamentalist thinking grows precise and deep, the level of the applied jurisprudential thinking gains the extent: precision and depth.

It is inconceivable that the level of fundamental thinking reaches so great an extent on the scale of precision and depth, and the level of the applied jurisprudence remains under that extent.

If you want to say: the more objective the general theories of fundamentalism with structures as precise and deep as possible are to be, more complex and ambiguous they are to be: they demand, in applying, more precision and more attention.

This is the meaning of the concomitance and the interaction between the fundamental intellect and the jurisprudential one, and these two exchanging intellects are at one level in the mind of man in their full stages of existence. The precision in the general theories of fundamental is reflected in the jurisprudence in terms of application.

Such never means that that the process of applying the general theories to the private issues and elements does not require any

thinking and scientific effort, the scientific spared effort in studying the general theories on the scale of the scientific research and forming the mutual rules as possible as it could be could do without applying these general theories to their specific sources. It is quite evident that the mujtahid needs, in studying the general theories of fundamentals and forming the limited mutual rules, thinking and sparing continuous scientific effort over years and, in applying these theories and mutual rules to the specific elements, studying the acts of application and their practice, concomitant evidences, common sighs, pivotal incidents of every issue according to the state of the issue in question and its source. We do mean, the theoretical fundamental mentality pertains to the applied jurisprudential mentality at all stages. The more precise and the deeper the fundamental mentality grows. the more the jurisprudential mentality reflects such a state and requires mere precision and more depth in applying.

As a counterpart, the science of medicine, searches for the general theories and forming mutual rules on the scale of the theoretical. To apply the general rules to a patient, the doctor examines the his case and his internal and external problems that might be related to his disease. While applying the doctor encounters continuously new problems and other factors and could not treat the patient whose disease stems from the abovementioned problems and the factors unless he studies them according to the general theories that are no applicable to the patient in reference to the state of his disease.

As a corollary, these new problems and other factors prod the public medical theories further into finding a remedy for these new problems

and cases.

In the aggregate, the general medical theories expand and deepen continuously age after age. It is quite axiomatic that the more precise, the deeper, the more attentive and more perceivable these theories are expanded and deepened, the more essential studying the case of the patients is required in application. Whenever the medical theories are simple and primitive, studying the state of the patients demands the same level of simplicity in application. That is why, it was quite sufficient for the doctor in former times to examine, in application, the tongue of the patient or his pulse or the like.

6- Dispute of Mujtahids over Fatwas [Edicts]

Such a dispute takes two stages:

First: it falls in forming the general theories the mutual rules of jurisprudential thinking.

Second: it falls in applying these rules and general theories to their small entities and their own resources.

The dispute of the first stage stems from the results of the thoughts used in forming these rules and general theories and adjusting them to the permissible limits according to their general conditions. So the result of thinking about the evidence of the legislative texts differ, as a matter of fact, in space and limitations quantitatively and in their way according to the difference of their general conditions.

Moreover, the importance of these texts evidence lies in the pivotal and common events and in applying these evidences to the objective reality and their level and universal and precise extent.

7- Mistakes in Ijtihad Provisions

It is quite reasonable that anyone who practices the process of ijtihad and deduction has a set of mistakes and violations of the reality of Islamic law. So we should separate the Islamic provisions in the reality of Islamic law from the legal provisions, which are the mere results of the mujtahids opinions and theories. The difference between mujtahids falls this set of the legal provisions sealed with ijtihad as they might run in line with the realistic legislation or run counter to it, not only in the Islamic provisions sealed with the realistic legislation.

In other words, the legal Islamic provisions, objectively, are not the result of the human view and his contradicted ideas, they are divine provisions the prophet(Pray and Peace be upon him and on his Posterity), the most benevolent, brings into effect and stable, on firm bases, objective norms and unchangeable as the thoughts, opinions and ages change with time.

Yet the provisions that are the result of the opinions of mujtahids and their viewpoints, as a matter of fact, differ as the opinions and viewpoints do. Perhaps it runs in line with the reality of the Islamic legislation or runs counter to it. Since the realistic Islamic provisions are of mujtahids opinions here or there. The distribution of these opinions varies according to the total number of the chapters and issues.

In sum, the issues found in the jurisprudential encyclopedias and practical books are of three types:

First: issues available in the chapters of dealings and some chapters of worshipping, therefore the degree of dispute found between the mujtahids in the issues of these chapters is less than the degree of the dispute found between them in most of the issues of the worshipping chapters.

The reasons lie in two matters:

One of them is that the issues of these chapters are mostly rational,



the approach of the rationalist and the common sense determine their limits, capacious and narrow, and delimit the practical stances, except that there is a specific text made by the Islamic law and sealed as different.

So the process of *ijtihad* need not more precise and deeper theoretical introductions.

The other matter refers to the texts that deal with a number of these issues in the chapters in focus and some chapters of worshipping are clear in their various extents and resist the acts of doubt and illusion in a way not leading to a dispute between the mujtahids as can be seen in the texts of inheritance or the like.

It is quite convenient that the percentage of the mistakes the mujtahids commit to found the Islamic legislation, the issues of these chapters, are lesser than that of the mistakes they commit to found the Islamic legislation of the worshipping issues on the basis of the numbers of the fatwas.

Second: seldom have the famous issues between the mujtahids a dispute over these issues on the basis that their legislative sources are clear and mostly have no doubt and illusion.

In point of fact, the proportion of the Islamic provisions distribution between the opinions of the mujtahids on the total of these issues is of a compromising character between them and tends to be more than of that between their opinions in the total of the controversial issues with a controversial character in light of maintaining such a proportion.

Third: as for the controversial issues, they are either with contradictory texts, or of vague theoretical issues, in both cases the *ijtihad* process of them depends mainly on the theoretical introductions, more intuitive and more accurate, that is why the dispute over these issues falls between the mujtahids throughout ages.



It is obvious that the distribution proportion of the realistic provisions between the opinions of the mujtahids in the total number of these controversial issues is lesser than that of their opinions on the consensual issues in concordance with the number of fatwas, edicts, and opinions.

It has been shown that the realistic provisions are distributed to the total number of opinions and fatwas the mujtahids do from the time of the ijthad process to the moment. More briefly, the distribution proportion varies according to the difference of the chapters and issues.

The distribution proportion of the realistic provisions according to the total number of the opinions of each mujtahid in each time, as a matter of fact, is varying. That is why it is improbable for the proportion to be much the same to all the opinion.

To conclude, the essential line of demarcation between, the Islamic provisions, the provisions with an ijthad character and the provisions with a realistic character never leaves a shadow of a doubt and suspicion on the difference between the mujtahids in the ijthad opinions.

What is said about doubting such a dispute and how it could be justified, though the Islamic religion is one in all its full legislation found in the Glorious Quran and the traditions, stem from the misconception about the meaning of the ijthad process and deduction. Here the dispute is not over the realistic Islamic provisions, but it falls in the ijthad provisions resulting from the ideas of the mujtahids in light of the Islamic orbit and these ideas might be in conformity with the realistic provisions or might not.

As tackled previously, the ijthad, however correct its extent is, does not have the conformity with the reality of the Islamic provisions, nevertheless it goes with an Islamic character. It is known that the ijthad of the legislative texts of the Glorious Quran and the traditions under the permissible legal limits; it is not impossible to have an Islamic



character. Definitely yes, the Islamic character diverges from the Islamic character of the legislation reality in a point that it is apparent in the former and it is realistic in the latter, that is why the dispute occurs in the former, not the latter.

Consequently, it is quite evident that not only is the ijthad the result of the ideas of the mujtahid scholar and isolated from the Islamic legislation, thoroughly isolated in an entity in line with that of legislation, but also it has a threshold in the Islamic legislation; the apparent Islamic legislation. You could decide after we do say that the ijthad is an essential element in Islam and in every time. So it itself stipulates the dispute between the mujtahids and it could not be presumed that ijthad in jurisprudential issues and the acts of considering these issues and passing judgments on them without a dispute. Similarly could be done with all the theoretical sciences; philosophy, medicine, engineering and so on.

8- Results of these Research Studies

There are several points:

First: the process of ijthad and deduction is existed throughout ages. The mere point is that such a process was simple and uncomplicated, the one who practices it is not cognizant of the state of the fundamentalist rule and its limits and the importance of its role in the process.

Second: The process of ijthad in the time of occultation grows complex and difficult process and confronts doubts and illusions from various fields stemming from the separation between this time and the time of legislation. As you know that acquiring the degree of a mujtahid is impossible unless there is a precise study on the completion of the legislative texts and their practicing throughout ages though having certain studies on other sciences in advance.





Third: Ijtihad and adherence [emulation] are essential elements in Islam and necessary to determine the practical attitudes of man to the Islamic, by virtue of the necessity of the adherence to it, throughout ages.

Fourth: The science of the fundamentals is not a modernized one later than the science of jurisprudence, but it is existed since its rise and yoked to it as the theoretical science done to applied one. Thus, there is no way to separate the jurisprudence from the fundamentals throughout ages and in full the: the late, here, is the study of the fundamentalist thinking in a separate way from that of the applied jurisprudence research; such a study is called the science of the fundamentals: the seed is existed from the time the jurisprudence.

Fifth: The dispute of the mujtahids over the fatwas emanates from the difference between them in two stages:

First: determining the common theories and the mutual rules in the fundamentals.

Second: applying these common theories and the mutual rules to their own elements in jurisprudence, and I elucidate the origins of this difference.

Sixth: The ratio of the realistic provisions distribution to the total number of the opinions mujtahids is as different as the chapters and the issues, as it varies according to the difference of the mujtahids. There is no one ration to all of them.

This is exactly what we state in this concern [letter] with the help and guidance of the Almighty Allah, the Granter of Success and Succour, we do thank Him, celebrate His name and appreciate Him for everything.

