

*L
E
S
S
O
N
6*



سفينة النجاة

في الفقه الشافعي

The Sunan of Hajj:

These are recommended for a person on Hajj to do.

1. الإِفْرَاد (Al-Ifrād) To do Hajj alone in one Ihrām
2. التَّالِيَةِ Talbiyah

It starts from when you enter Ihrām until the 10th day of Dhul-Hijjah when you stone the big Jamarah.

It means to respond to the call of Allah.

It is Sunnah for the man to say it out loud and for the woman it is Sunnah for them to say it quietly.

3. طَوَافُ الْفُؤُومِ (Tawāf-ul-Qudūm)

This is the Tawāf you do when you first enter into Makkah.

This is Sunnah especially for the one doing الإِفْرَاد (Al-Ifrād). As for the one doing Hajj التَّمَتُّع (At-Tammatu') or الْقِرَانَ (Al-Qirān) then his Tawāf for Umrah counts as this Tawāf.

4. الْمَبِيتُ بِمُزْدَلِفَةَ Staying at Muzdalifah

On the 9th day of Dhul-Hijjah after Maghrib the Prophet ﷺ walked to Muzadalifah and slept there and prayed Fajr there and then left to Mina.

The correct opinion is that this is Wājib.

What is obligatory is to do it the majority of the night.

The Prophet ﷺ allowed the weak and unable and the women to leave halfway through the night.

لَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَبْتَغُوا فَضْلًا مِنْ رَبِّكُمْ فَإِذَا أَقَضْتُمْ مِنْ عَرَقاتٍ فَادْكُرُوا اللَّهَ عِنْدَ الْمَشْعَرِ الْحَرَامِ وَاذْكُرُوهُ كَمَا هَدَاكُمْ وَإِنْ كُنْتُمْ مِنْ قَبْلِهِ لَمِنَ الضَّالِّينَ

There is no blame upon you for seeking bounty from your Lord [during Hajj]. But when you depart from 'Arafat, remember Allah at al-Mash'ar al-Haram. And remember Him, as He has guided you, for indeed, you were before that among those astray. [2:198]

In this verse al-Mash'ar al-Haram is referring to Muzdalifah.

You pray Maghrib and isha combined then sleep the night.

5. رَكَعَتَا الطَّوَافِ (2 Rak'ah of Tawāf)

It is Sunnah to pray 2 Rak'ah after Tawāf.

According to the Ahnāf it is obligatory but the majority say it is Sunnah.

In the first Rak'ah it is Sunnah to read Surah Kafirūn and in the second Rak'ah it is Sunnah to read Surah Ikhlās.

It can be done anywhere but it is Sunnah to do it behind مَقَامِ إِبْرَاهِيمَ (Maqām Ibrāhīm).

6. طَوَافُ الْوَدَاعِ (Tawāf-ul-Wadā')

This is the Tawāf the person does before leaving.

7. يَتَجَرَّدُ عَنِ الْإِحْرَامِ To remove clothes for Ihrām.

The correct opinion is that it is obligatory.

This means that a person takes off their clothes just before they go into Ihrām but what is correct is that this is obligatory.

8. يَلْبَسُ إِزَارًا وَرِدَاءَ Wearing an Izār and Ridā

This is specific to men.

It is Sunnah for a man to wear a lower and upper garment which are white.

وَعَنْ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الْبَسُوا مِنْ ثِيَابِكُمُ الْبَيَاضَ فَإِنَّهَا مِنْ خَيْرِ ثِيَابِكُمْ وَكَفَّنُوا فِيهَا مَوْتَاكُمْ وَمِنْ خَيْرِ أَكْحَالِكُمْ الْإِثْمِدُ فَإِنَّهُ يُنْبِتُ الشَّعْرَ وَيجلوا البصر». رَوَاهُ أَبُو دَاوُدَ وَالتِّرْمِذِيُّ

Ibn 'Abbas reported God's messenger as saying, "Wear your white garments, for they are among your best garments, and shroud your dead in them. Among the best types of collyrium you use is antimony (ithmid) for it makes the hair sprout and clears the vision." (Abu Dawud)

The prohibitions in the state of Ihrām:

1. لُبْسُ المَخِيْطِ To wear sown made to fit clothing

It is not correct to say stitched clothing, what is meant is clothing meant to fit body parts.

This is specific for the man.

As for women they can wear any clothing except that she cannot wear the Niqāb meaning a specific clothing made for the face with the holes for the eyes.

2. تَعْطِيَّةُ الرَّأْسِ Covering the head

This is specific for the man.

A man is not allowed to directly cover his head with a turban or hat or such.

As for something above his head like a roof or umbrella then this is not a problem.

3. تَعْطِيَّةُ الوَجْهِ Covering the face

Some scholars say that woman are not allowed to cover their face except when their are non-Mahrams.

What is correct is that the woman is not allowed to wear the Niqāb which is what is specifically made for the face and not that she cannot still cover her face with a cloth over her head.

4. تَرْجِيْلُ الشَّعْرِ Combing the hair

Some scholars mention it is not allowed.

They say because the person should be coming to Allah in a state of humbleness and humility.

The correct opinion is that you are allowed to comb the hair.

If you know it will remove hair then it is not allowed.

5. حَلَقُ الشَّعْرِ Cutting hair.

It is not allowed to cut hair off any part of the body.

6. Cutting nails

The only time it is allowed is if it is hanging and harming you.

7. الطُّيْب Perfume and dye

Perfume is not allowed. This is referring to that which can be worn or eaten like Saffron.

The Arabs would put a yellow dye for beautification. Dye is also not allowed.

8. قَتْلُ الصَّيْدِ Hunting

It is not allowed to go hunting in the state of Ihrām.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرْمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمَّدًا فَجَزَاءٌ مِثْلُ مَا قَتَلَ مِنَ النَّعْمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِّنْكُمْ هَدِيًّا بَالِغِ الْكَعْبَةِ أَوْ كَفَّارَةٌ طَعَامُ مَسَاكِينَ أَوْ عَدْلٌ ذَلِكَ صِيَامًا لِيَذُوقَ وَبَالَ أَمْرِهِ عَفَا اللَّهُ عَمَّا سَلَفَ وَمَنْ عَادَ فَيَنْتَقِمِ اللَّهُ مِنْهُ وَاللَّهُ عَزِيزٌ ذُو انْتِقَامٍ

O you who have believed, do not kill game while you are in the state of ihram. And whoever of you kills it intentionally - the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering [to Allah] delivered to the Ka'bah, or an expiation: the feeding of needy people or the equivalent of that in fasting, that he may taste the consequence of his deed. Allah has pardoned what is past; but whoever returns [to violation], then Allah will take retribution from him. And Allah is Exalted in Might and Owner of Retribution. [5:95]

9. عَقْدُ النِّكَاحِ The contract of Nikāh

The contract of Nikah is not allowed to be made during Ihrām.

10. الْوَطْءُ Sexual Intercourse

11. مُبَاشَرَةٌ بِشَهْوَةٍ Touching with desire

It is not allowed for a man to touch his wife with desire.

Anyone who does one of these things must pay فِدْيَةٌ (Fidya) except for the Nikāh contract, there is no penalty but the marriage is invalid.

Nothing nullifies the Hajj except for sexual intercourse through the front passage. However the person must still complete the Hajj.

This is when a person misses the day of Arafah.

If he misses it then he must leave and must perform Umrah as he has missed Hajj.

They must also slaughter an animal and repeat the Hajj again.

Whoever leaves off any other pillar of Hajj they must complete that pillar for their Hajj to be complete even if it is years later otherwise the Hajj is not valid.

The Penalties:

1. A person leaves off an obligation:

They must slaughter a sheep in Makkah for the poor people there.

If they cannot then they must fast 10 days, 3 days in the days of Hajj and 7 when they return to their family.

Scholars differed what the days of Hajj means. Some said it is when a person is in Ihrām whilst doing Hajj so the 8th, 9th, 11th, 12th, 13th.

Others said it is any of the days of Dhul-Hijjah.

Principle: The كَفَّارَات in the Shariah are two types. Those in order meaning you can only do the next one if you cannot do the first. The second type is that which there are options which you can choose from any of them.

2. فِدْيَةُ الْأَدَى

This is to do something you are not allowed to do in *Ihrām* which are luxuries.

For example cutting the hair or perfume.

The penalty has options the person can choose from.

وَأْتُمُوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ وَلَا تَحْلِقُوا رُءُوسَكُمْ حَتَّى يَبْلُغَ الْهَدْيُ مَحَلَّهُ فَمَنْ كَانَ مِنْكُمْ مَرِيضًا أَوْ بِهِ آدَى مِنْ رَأْسِهِ فَفِدْيَةٌ مِنْ صِيَامٍ أَوْ صَدَقَةٍ أَوْ نُسُكٍ فَإِذَا أَمِنْتُمْ فَمَنْ تَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَمْ يَجِدْ فَصِيَامٌ ثَلَاثَةَ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةً إِذَا رَجَعْتُمْ تِلْكَ عَشْرَةٌ كَامِلَةٌ ذَلِكَ لِمَنْ لَمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ شَدِيدُ الْعِقَابِ

And complete the Hajj and 'umrah for Allah. But if you are prevented, then [offer] what can be obtained with ease of sacrificial animals. And do not shave your heads until the sacrificial animal has reached its place of slaughter. And whoever among you is ill or has an ailment of the head [making shaving necessary must offer] a ransom of fasting [three days] or charity or sacrifice. And when you are secure, then whoever performs 'umrah [during the Hajj months] followed by Hajj [offers] what can be obtained with ease of sacrificial animals. And whoever cannot find [or afford such an animal] - then a fast of three days during Hajj and of seven when you have returned [home]. Those are ten complete [days]. This is for those whose family is not in the area of al-

Masjid al-Haram. And fear Allah and know that Allah is severe in penalty. [2:196]

You either slaughter a sheep in Makkah or fast 3 days or you give food which is 3 صَاع (Sā') to 6 poor people.

3. الإحصار (Al-Ihsār)

This is a penalty a person must give if they went into Ihrām then he was prevented from doing his Hajj or Umrah.

The person must leave the Ihrām and slaughter a sheep.

4. Slaughtering an animal

The person in Ihrām is not allowed to hunt or slaughter an animal.

In those days they would be travelling long distances and they would hunt on their journey to eat so it was a test for them.

يَا أَيُّهَا الَّذِينَ آمَنُوا لِيَبْلُوَنَّكُمْ اللَّهُ بِشَيْءٍ مِّنَ الصَّيِّدِ تَنَالُهُ أَيْدِيكُمْ وَرِمَاحُكُمْ لِيَعْلَمَ اللَّهُ مَنْ يَخَافُهُ بِالْغَيْبِ فَمَنْ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ

O you who have believed, Allah will surely test you through something of the game that your hands and spears [can] reach, that Allah may make evident those who fear Him unseen. And whoever transgresses after that - for him is a painful punishment. [5:94]

A person who slaughters an animal the penalty is either:

- If the animal has a similar animal to it then you pay that animal that it is similar to.

In the Shariah the only animals which are paid are sheep, cow or camel. We know which animals are similar from the Sunnah and the Sahabah.

For example an ostrich is like a camel, a gazelle is like a cow and a pigeon is like a sheep.

- If there is nothing similar then the animal that was hunted is valued and with that value, food is bought and given to the poor.

If he cannot pay the value of the animal, he must fast a day for every 1 Mudd of food of that value.

So if the value is equal to 500 Mudd, he must fast 500 days.

It does not have to be consecutively.

5. Sexual Intercourse

The penalty for the one who has sexual intercourse whilst in Ihrām is to slaughter a camel.

If they cannot afford a camel, then a cow.

If they cannot afford a cow then they must slaughter 7 sheep.

If he cannot then he must value a camel and get food in its value to give to charity.

If he cannot then he must fast a day for every 1 Mudd of food he could have bought from the value of that animal.

This is the most severe penalty.

If a person has intercourse in Ihrām during the days of hajj then they must pay this penalty, his Hajj or Umrah is invalid, he must still complete the Hajj or Umrah and he must repent to Allah because he has committed a major sin.

All of this is upon the man and not upon the woman.

All of the feeding and slaughtering must be done in Makkah meaning the boundaries of the Haram.

As for fasting then it can be done anywhere.

It is not allowed for a person to hunt in Makkah whether in Ihrām or not because the Prophet ﷺ said:

عَنِ ابْنِ عَبَّاسٍ - رَضِيَ اللهُ عَنْهُمَا - قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَوْمَ فَتْحِ مَكَّةَ " إِنَّ هَذَا الْبَلَدَ حَرَّمَهُ اللهُ، لَا يُعْضَدُ شَوْكُهُ، وَلَا يُنْفَرُ صَيْدُهُ، وَلَا يُلْتَقِطُ لُقَطَتُهُ إِلَّا مَنْ عَرَفَهَا " .

Narrated Ibn `Abbas: On the Day of the Conquest of Mecca, Allah's Messenger (ﷺ) said, "Allah has made this town a sanctuary. Its thorny bushes should not be cut, its game should not be chased, and its fallen things should not be picked up except by one who would announce it publicly."

Allah has made it a sacred place.

فِيهِ آيَاتٌ بَيِّنَاتٌ مَّقَامُ إِبْرَاهِيمَ وَمَنْ دَخَلَهُ كَانَ آمِنًا وَبَلَّغْنَا عَلَى النَّاسِ حُجُّ الْبَيْتِ مَنْ
اسْتَطَاعَ إِلَيْهِ سَبِيلًا وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ

In it are clear signs [such as] the standing place of Abraham. And whoever enters it shall be safe. And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves - then indeed, Allah is free from need of the worlds. [3:97]

It is also not allowed to cut the trees of Makkah. This is referring to the trees that are planted naturally and grow naturally.

Also in Makkah if you find money then you are not allowed to take it, you must announce it or leave it.