MONTHLY AHKAM | JANUARY 2020 - 11 /Jan/ 2020

Cronyism

question1| If someone is hired in virtue of his special relations with and ties to people in positions of power—that is, on account of favoritism rather than merit—is the salary that he receives a legitimate income?

answer| If the hired person possesses the necessary skills and expertise for the position for which he is hired, if the rules and regulations governing personnel hiring are complied with, and if the income he receives is consistent with the pertinent rules and regulations and is based on the person's capability in carrying out the duties and tasks expected of him, the income he receives is legitimate.

Pregnancy Using Donated Eggs

question2| In cases in which the wife is infertile, is it permissible to use the egg donated by another woman to fertilize it using the sperm from the wife's husband outside the womb and then insert the resultant embryo in the wife's uterus? If permissible, which of the two women is the baby's true mother: the woman who bears the child or the woman who contributes the egg?

answer| The assisted pregnancy described in the question is *per se* permissible provided it does not involve any impermissible acts, such as impermissible looking or touching. From the perspective of Islamic law and in point of the pertinent canonic precepts, the child is in point of blood relations identified with his or her biological parents—the man who provides the sperm and the woman who provides the egg. Deeming the baby to be related by blood to the woman in whose womb the fetus develops is problematic, and therefore in matters of kinship (*nasab*) concerning the woman who bears the child, caution must be exercised, unless the woman bearing the child breastfeeds the baby, observing the pertinent rules and requirements, in which case the baby becomes related by virtue of "milk kinship" (*riḍā'*) to the woman who gives birth to the baby and to her relatives.

Expenses Incurred Immediately after End of Religious Fiscal Year

question3| When our religious fiscal year (*al-sannah al-khumsīyyah*) comes to an end, if we postpone submitting our *khums* by a few days, are we allowed to use the income earned in the recently ended fiscal year (which is the income that is subject to *khums*) to pay for our expenses in the intervening few days prior to submitting our *khums*?

answer| Using the income earned during the religious fiscal year that has now come to an end (that is, income that is subject to the religious tax of *khums* and from which one-fifth must be deducted to pay for the *khums* that is due) to pay for one's expenses within 2-3 days after the end of the religious fiscal year is permissible.

Lending Gold

question4| Is it permissible to lend an amount of gold (say, 2 pounds) to someone for a certain duration, at the end of which the gold is returned in full, and in return receive a monthly fee from the borrower?

answer| Such a lending contract (*ijārah*) is valid only if (1) the gold in question remains intact (i.e. it is not sold) and (2) the borrower avails himself or herself of the benefits of the gold, such as wearing it in the form of jewelry at weddings or other ceremonies. Otherwise, lending gold in return for a fee is impermissible.

Raising Hands When Saying *Takbīrat al-Iḥrām*

question5| Is it obligatory to raise our hands up to where they are parallel with our face when saying the commencing *takbīr* of a canonic prayer?

answer| When uttering the *takbīrat al-iḥrām* (the commencing *takbīr* of a canonic prayer),* it is canonically commendable (*mustaḥabb*) to raise the hands up to where they are parallel with the worshipper's ears, with the palms facing the direction of the *qiblah*. The recommended procedure is to start raising the hands, with the fingers closed, as one begins to say the *takbīr*, and as one finishes saying the *takbīr*, the hands should be at the highest point, where they are parallel with one's ears.

*** *Takbīr* is the name for the common Islamic formula *allāhu akbar* ("God is greater"). Thus, *takbīr* in effect means saying "God is greater." (Of course, in the canonic prayer and in performing canonically prescribed devotions, the Arabic must be pronounced, the utterance of the English translation being ineffective and invalid.)**

Discretionary Area of Mecca and Medina

question6| What is the precise area in Mecca and Medina in which pilgrims are allowed to exercise discretion in performing their four-segment canonic prayers?* Is this precept restricted to Masjid al-Ḥarām and Masjid al-Nabī, or does it apply to the entire area of the two cities? Also, given that the present-day cities of Mecca and Medina are much larger than what they used to be, how does this precept apply to those parts of the two cities that did not exist in the early period of Islam?

answer| The precept relating to the pilgrims' discretion (*takhyīr*) in performing their four-segment canonic prayers in full or in their curtailed form applies to the entire area of the two cities of Mecca and Medina, the entire area of the present-day cities, not only the old parts of the cities; it is not restricted to Masjid al-Ḥarām and Masjid al-Nabī. Yet, limiting the exercise of this discretion to the two holy mosques in question would be in keeping with advisory caution (*iḥtīyāṭ mustaḥabb*).

*** Discretion, or *takhyīr*, in the context at hand refers to the worshipper's choice in deciding whether to perform the four-segment canonic prayers in full or in their curtailed form.**

Discretion in Performing Canonic Prayers in the Mosque of Kūfah

7. Did you know…

The discretionary choice of which the pilgrims visiting the historic Mosque of Kūfah partake—whereby they may perform the four-segment canonic prayers in full or in the curtailed form (the latter form being that which is commonly required of travelers)—is restricted to the mosque itself, and thus, as a matter of mandatory caution (*iḥtīyāṭ wājib*), it does not extend to the city of Kūfah.

Fasting in Areas in Which Pilgrims May Exercise Discretion in Performance of Canonic Prayers

question8| In such places as Masjid al-Ḥarām, Masjid al-Nabī, and the Mosque of Kūfah, where pilgrims are permitted to choose between performing the four-segment canonic prayers in full and performing them in the curtailed form, is there a similar permission to exercise discretion with regard to fasting?

answer| The precept pertinent to the four places where pilgrims are permitted to exercise discretion in performing their four-segment canonic prayers (Mecca, Medina, the tomb of Imām Ḥusayn, and the Mosque of Kūfah) only concerns the performance of the canonic prayers. Thus, the fasting of the month of Ramadan is invalid for a traveler visiting these four holy sites.

Differentiation in Performance of Two Four-Segment Canonic Prayers

question9| In the four sites where pilgrims can exercise discretion in the performance of the four-segment canonic prayers, would it be correct if, for instance, we perform the Noon Prayer in full and the Afternoon Prayer as two segments?

answer| Differentiating between various four-segment canonic prayers in the aforementioned manner is unproblematic.

Changing One's Intention from Full Form to Curtailed Form while Prayer Is Underway

question10| In the four areas in which pilgrims are permitted to exercise discretion in performing their four-segment canonic prayers, would it be valid if we commence a four-segment canonic prayer with the intention to perform it in its curtailed form (as two segments) but then change our mind and decide to perform it in its full form (as four segments)?

answer| The change of intention described in the foregoing question is permissible, and as such the canonic prayer in the course of which this change of intention occurs remains valid.

Commencing Canonic Prayer with Indeterminate Intention and Deciding to Perform Canonic Prayer in Full or in Curtailed Form while Prayer Is Underway

question11| In the four areas in which pilgrims are permitted to exercise discretion in performing their four-segment canonic prayers, what is the rule if we commence a four-segment canonic prayer without determining whether we will perform it in full or in its curtailed form, and by end of the second segment, e.g. after the completion of the attestation (*tashahhud*), we decide to finish the prayer as two segments, in which case we will have to say the final salutations (*taslīm*) of the prayer in that very position, or alternatively decide to continue the prayer to perform the full four-segment form, in which case we must stand up in order to carry on with the third and fourth segments? Would such a prayer be correct?

answer| Yes, the canonic prayer in question would be correct.