

Tafsīr al-Qurṭubī

Vol. 4

Juz' 4: Juz' 4: Sūrah Āli 'Imrān 96 – 200

& Sūrat an-Nisā' 1 – 23

Tafsīr al-Qurṭubī

The General Judgments of the Qur'an
and Clarification of what it contains
of the Sunnah and *Āyahs* of Discrimination

Abū 'Abdullāh Muḥammad ibn Aḥmad ibn Abī Bakr
ibn Farḥ al-Anṣārī al-Khazrajī al-Andalusī al-Qurṭubī

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translated by
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Table of Transliterations

ء	'	ض	ḍ
ا	a	ط	ṭ
ب	b	ظ	ẓ
ت	t	ع	'
ث	th	غ	gh
ج	j	ف	f
ح	ḥ	ق	q
خ	kh	ك	k
د	d	ل	l
ذ	dh	م	m
ر	r	ن	n
ز	z	ه	h
س	s	و	w
ش	sh	ي	y
ص	ṣ		

Long vowel

ا	ā
و	ū
ي	ī
أَؤ	aw
أَيَّ	ay

Short vowel

َ	a [<i>fatḥah</i>]
ُ	u [<i>dammah</i>]
ِ	i [<i>kasrah</i>]

TRANSLATOR'S NOTE

The Arabic for the *āyats* is from the Algerian State edition of the *riwāyah* of Imam Warsh from the *qirā'ah* of Imam Nāfi' of Madina, whose recitation is one of the ten *mutawātir* recitations that are mass-transmitted from the time of the Prophet ﷺ.

There are minor omissions in the text. Some poems have been omitted which the author quotes to illustrate a point of grammatical usage or as an example of orthography or the usage of a word, often a derivative of the root of the word used in the *āyah*, but not the actual word used. Often it is difficult to convey the sense in English. Occasionally the author explores a grammatical matter or a tangential issue, and some of these may have been shortened. English grammatical terms used to translate Arabic grammatical terms do not have exactly the same meaning, sometimes rendering a precise translation of them problematic and often obscure.

The end of a *juz'* may vary by an *āyah* or two in order to preserve relevant passages.

3. SŪRAH ĀL ‘IMRĀN – THE FAMILY OF ‘IMRĀN 96 – 200

إِنَّ أَوَّلَ بَيْتٍ وُضِعَ لِلنَّاسِ لَلَّذِي بِبَكَّةَ مُبْرَكًا وَهُدًى لِلْعَالَمِينَ ﴿٩٦﴾ فِيهِ
 ءَايَاتٌ بَيِّنَاتٌ مَّقَامُ إِبْرَاهِيمَ وَمَنْ دَخَلَهُ كَانَ ءَامِنًا وَلِلَّهِ عَلَى النَّاسِ
 حُجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلًا وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ
 الْعَالَمِينَ ﴿٩٧﴾

96 The first House established for mankind was that at Bakkah, a place of blessing and a guidance for all beings. 97 In it are Clear Signs – the Maqām of Ibrāhīm. All who enter it are safe. Hajj to the House is a duty owed to Allah by all mankind – those who can find a way to do it. But if anyone disbelieves, Allah is Rich Beyond Need of any being.

It is confirmed in *Ṣaḥīḥ Muslim* that Abū Dharr said, ‘I asked the Messenger of Allah ﷺ about the first mosque established on the earth and he answered, “The *Masjid al-Ḥarām*.” I asked, “And then?” He said, “*Al-Aqṣā*.” I asked, “How long was there between them?” “Forty years,” he replied, “and then the whole earth became a mosque for you, so pray wherever you are when the time for prayer comes.”’

Mujāhid and Qatādah said, ‘There was no house before it.’ ‘Alī said, ‘There were many houses before it. What is meant is that it is the first house established for worship.’ Mujāhid said, ‘The Muslims and Jews boasted and the Jews said, “The temple of Jerusalem is better and greater than the Ka‘bah because it was the place of the emigration of Prophets and is in the Holy Land.” The Muslims said, “The Ka‘bah is better.” Allah then revealed this *āyah*.’ How the House was built has already been dealt with in *al-Baqarah*. Mujāhid said, ‘Allah created the site of this house two thousand years before He created any of the earth, and its foundations are in the seventh and lowest earth. As for *Al-Aqṣā*, Sulaymān built

it.’ An-Nasā’ī transmitted this with a sound *isnād* from ‘Abdullāh ibn ‘Amr. The Prophet ﷺ said, ‘When Sulaymān ibn Dāwūd built the temple in Jerusalem, he asked Allah for three things. He asked Allah for judgment corresponding to His judgment and he was given it. He asked Allah for a kingdom which no one after him would have and he was given that. He asked Allah, when he finished building the temple, that anyone who approached it for the sole reason of praying in it would have his errors fall from him so that he would be like he was on the day he was born, and this was granted.’ There is some equivocation between the two hadiths because there was a long period of time between Ibrāhīm and Sulaymān. Historians say that there was more than a thousand years between them. It is said that Ibrāhīm and Sulaymān were the predecessors for what others built after them.

It is related that Ādam was the first to build the House, as was already mentioned. Then it is possible that one of his sons built *al-Aqṣā* forty years later. It is also possible that the angels built it with Allah’s permission. All of this is possible, and Allah knows best. ‘Alī ibn Abī Ṭālib said, ‘Allah commanded the angels to build a house on the earth and to do *ṭawāf* of it before Ādam was created. Then Ādam built what he built of it and did *ṭawāf* of it and then the Prophets after him, and then Ibrāhīm completed its construction.’

...that at Bakkah,

Bakkah is the actual site of the House and Makkah is the rest of the town according to Mālik ibn Anas. Muḥammad ibn Shihāb said that Bakkah is the mosque and Makkah is all the Ḥaram, including the houses. Mujāhid said that Bakkah is Makkah. The *bā’* is replaced by the *mīm* as done in the word for ‘sticking’: *lāzim* for *lāzib*. Aḍ-Ḍaḥḥāk and al-Mu’arrij said that.

Then it is also said that Bakkah is derived from the word *bakk*, which means crowding and Bakkah takes its name from the fact that the people crowd together in it during *ṭawāf*. *Bakka* means ‘to throttle’ and it is said that it is called that because it crushes the necks of any tyrants if they act unjustly towards it. ‘Abdullāh ibn az-Zubayr said, ‘No tyrant has ever directed evil at it without Allah breaking his neck.’

It is said that the name Makkah comes from its lack of water, and it is said that it is because it sucks (*makka*) the marrow from the bones through the hardship involved in reaching it. The verb *makka* is used for a foal suckling from its mother. A poet said:

It suckled (*makkat*) and no milk remained inside her.

It is said that it is called that because it sucks the one who does injustice in it, in other words destroys him. It is said that it is called that because people used to whistle (*makkā*) and laugh in it as in Allah’s words: ‘*Their prayer at the House is nothing but whistling and clapping.*’ (8:35)

a place of blessing and a guidance for all beings.

Allah made it blessed by multiplying the reward of action in it. *Barakah* is abundant good. It is in the accusative for the *ḥāl* modifying what is implied by ‘established’, or an adverb of Bakkah. It is a guidance for all.

In it are Clear Signs – the Maqām of Ibrāhīm

The people of Makkah, Ibn ‘Abbās, Mujāhid and Sa‘īd ibn Jubayr read this as ‘a Clear Sign’ in the singular, meaning a Sign of *tawḥīd*, referring to the Maqām of Ibrāhīm alone. They said, ‘The mark of his feet in the Maqām is a Clear Sign.’ Mujāhid explained it as referring to the entire Ḥaram and believed that its Signs include Ṣafā and Marwah, the Corner and the Maqām. The others read it in the plural, meaning the Maqām of Ibrāhīm, the Black Stone, the Ḥaṭīm, Zamzam and all the sacred hallmarks. Abū Ja‘far an-Naḥḥās said the reading with the plural is clearer because the Signs certainly include Ṣafā and Marwah.

Another sign is that the birds do not fly over it when they are healthy and another sign is that when someone is hunting and the game enters the Ḥaram, he leaves it be. Another sign is that when there is abundant rain at the Yemeni Corner, there is plenty in Yemen, and when it is at the Syrian corner, there is plenty in Syria. When rain covers all of the House, there is plenty in all lands. Another aspect of it is that the *jamrahs*, in spite of what is added to them, remain the same size.

The word Maqām comes from the verb *qāma*, to stand, and so it is the place where one stands. The Maqām was dealt with in *al-Baqarah* along with the disagreement about it. It implies: ‘one of them is the Maqām of Ibrāhīm’, as al-Akhfash said. It is related that Muḥammad ibn Yazīd said that ‘*Maqām*’ is an appositive for ‘Signs’. A third view is that it means: ‘They are the Maqām of Ibrāhīm’ based on a known Arabic usage. [POEM] Abu-l-‘Abbās said that the word ‘*maqām*’ actually indicates the plural ‘*maqāmāt*’ because it is a verbal noun. We see in the Qur’an: ‘*Allah has sealed up their hearts and hearing*’ (92:8) where ‘hearing’ is in the singular. This is strengthened by the hadith which states: ‘Ḥajj is all the Maqām of Ibrāhīm.’

All who enter it are safe.

Qatādah said, ‘That is also one of the signs of the Ḥaram.’ An-Naḥḥās says that is a good opinion because people are swept away all around it and no tyrant reaches it. They reached Jerusalem and destroyed it but never reached the Ḥaram.’ Allah says: ‘*Do you not see what your Lord did with the Companions of the Elephant?*’ (105:1) One of the people of meanings said, ‘The form of the *āyah* is a report while its meaning is a command. It means: “Give security to whoever enters it.”’ The same usage is seen in 2:197. Along these lines, an-Nu‘mān ibn Thābit said, ‘Anyone who commits a wrong action and merits a *ḥadd* punishment and then takes refuge in the Ḥaram is safe,’ based on this *āyah*. Allah made security mandatory for those who enter it. That is related from a group of the early generations, including Ibn Abbās and others.

Ibn al-‘Arabī said, ‘There is weakness in the statements of all who say this for two reasons. One is that they do not understand that the *āyah* is about the past and does not involve the establishment of a future ruling. The second is that they do not acknowledge that its security has been violated and killing and fighting occurred after that. What Allah states cannot occur differently to that statement. So that indicates that this must have been referring to the past.’ Abū Ḥanīfah disagreed and said, ‘Anyone who seeks refuge in the Ḥaram is not given food or water nor is any business done with him nor is he spoken to until he leaves.’ His being forced to leave is not consonant with security. It is related that he said, ‘Retaliation for limbs takes place in the Ḥaram. There is also no security in this case.’ The majority of scholars say that *ḥudūd* punishments may be carried out in the Ḥaram. It is reported that the Prophet ﷺ ordered the killing of Ibn Khaṭal while he was clinging to the drapes of the Ka‘bah.

Ath-Thawrī related that Ibn ‘Abbās said, ‘If someone commits a crime that merits a *ḥadd* punishment in the Ḥaram, it is carried out on him. If he commits it outside of the Ḥaram and then seeks refuge in it, he is not spoken to nor is business carried out with him until he leaves the Ḥaram and then the *ḥadd* is carried out on him.’ This is the position of ash-Sha‘bī. This is also the argument of Kufans. Ibn ‘Abbās understands that this is what the *āyah* means. He was the scholar of the Community.

What is sound is that by saying that Allah is referring to the many blessings granted to anyone who is there, whoever they are, as Allah also says: ‘*Do they not see that We have established a safe haven while people all round them are violently dispossessed?*’ (29:67) In the Jāhiliyyah, those who entered it and sought sanctuary were safe from attack and killing as will be explained in *al-Mā‘idah*. Qatādah said, ‘In the Jāhiliyyah, whoever entered it was safe.’

This is good. It is related that an atheist said to one of the scholars, ‘Does the Qur’an not say: “*All who enter it are safe*”? We have entered it and we have done such-and-such. Is not the one who enters it safe?’ He said to him, ‘Are you not one of the Arabs? What does someone mean when he says that whoever enters his house is safe? Does he not say to those who obey him, “Leave him be. I have granted him security.” Will he leave him be?’ ‘Yes, of course,’ he replied. He said, ‘That is how it is with His words: “*All who enter it are safe*”’ Yaḥyā ibn Ja’dah said that it means he is safe from the Fire.

This is not universal because we find in *Ṣaḥīḥ Muslim* in the hadith of intercession reported by Abū Sa’īd al-Khudrī: ‘By the One Who has my soul in his hand, none of you can be more insistent in asking Allah for his rights than the believers on the Day of Rising who will ask Allah for their brothers who are in the Fire. They will say, “Our Lord, they used to fast with us, pray and perform *ḥajj*!” They will be told, “Bring out those you recognise.”’ The one who enters it is safe from the Fire by performing the practices connected with it, respecting it, acknowledging its right, and seeking to draw near to Allah Almighty.

Ja’far aṣ-Ṣādiq said, ‘Whoever enters it with purity, as the Prophets and *awliyā’* entered it, is safe from Allah’s punishment.’ This is what is meant by his words ﷻ, ‘Anyone who makes *ḥajj* to this House and does not engage in sexual activity or wrongdoing emerges from his errors like the day his mother bore him. An accepted *ḥajj* has no reward but the Garden.’ Al-Ḥasan said, ‘An accepted *ḥajj* is that he returns abstinent in this world, desiring the Next World.’ He recited:

O Ka’bah of Allah! The supplication of the one who seeks refuge
is the supplication of one calling, in need.

He has bade farewell to those he loves and his home
and come hovering between fear and hope.

If Allah generously accepts his striving,
he is saved. Otherwise he is not saved.

You are one of those whose intercession is hoped for.
Be kind to Wāfid ibn Ḥajjāj!

It is also said that it means whoever entered it in the year of the Fulfilled ‘Umrah with Muḥammad ﷺ is safe. The evidence is found in the words of the Almighty: ‘*You will enter the Masjid al-Ḥarām in safety, Allah willing.*’ (48:27)

It is said that the word ‘*man*’ (tr. as ‘all’) here refers to the non-sentient and the

āyah is about the safety of game. This is odd. We see in the Revelation: ‘Some of them (minhum) go on their bellies.’ (24:45)

Hajj to the House is a duty owed to Allah by all mankind

In the phrase ‘owed to Allah’ Allah uses the *lām* of the obligation and then reinforces it with “*alā*” which is the strongest preposition in Arabic for making something obligatory. Allah uses the most comprehensive of the expressions of obligation to stress the right it has over us and the esteem owed to it. There is no disagreement about its obligatory nature. It is one of the pillars of Islam and is only obliged once in a lifetime. Some people said that it is obliged once every five years and relate about that a hadith which they trace back to the Prophet ﷺ. The hadith is false and not sound. The consensus invalidates their position.

‘Abd ar-Razzāq related from Sufyān ath-Thawrī from al-‘Alā’ ibn al-Musayyab from his father from Abū Sa‘īd al-Khudrī that the Prophet ﷺ said, “The Lord says, “I have expanded my slave’s provision and yet he does not visit me in *iḥrām* every four years.” It is famous from al-‘Alā’ ibn al-Musayyab ibn Rāfi‘ al-Kāhili al-Kūfī from the children of hadith scholars. More than one related it from him. They include those who said ‘every five years’. Some said: from al-‘Alā’ from Yūnus ibn Khabbāb from Abū Sa‘īd. There is disagreement about all of that.

The atheists deny the *ḥajj* and say that it involves removing garments, which is contrary to modesty, running, which is contrary to gravity, and stoning the *jamrahs* for no purpose, which is contrary to logic. They say that all these actions are baseless because they do not recognise their wisdom or cause. They are ignorant of the fact that it is not necessary for the Lord to make His slave understand all that He commands him to do nor to acquaint him with the point of the actions He requires of him. It is incumbent on him to obey, and he must obey without seeking benefit nor asking about the goal. This is the meaning of what the Prophet ﷺ used to say in his *talbīyah*: ‘At Your service, truly, truly in worship and slavehood. At Your service, God of the Truth.’

The imāms related that Abū Hurayrah said, “The Messenger of Allah ﷺ addressed us and said, “People! The Ḥajj has been made obligatory for you, so perform it!” A man asked, “Every year, Messenger of Allah?” He was silent until the man had asked that three times. Then the Messenger of Allah ﷺ said, “If I had said yes, it would have become obligatory and you would not be able to do it.” Then he said, “Leave me with what I have left you. Those before you were destroyed for asking too many questions and differing from their Prophets. If I

command you to do something, do what you can of it. If I forbid you from doing something, then leave it.” (Muslim)

This hadith makes it clear that when an obligation is directed to those responsible for doing it, it is enough that they do it once and it does need to be repeated. This differs from the position of Abū Ishāq al-Isfarāyīnī. It is confirmed that his Companions said to the Prophet ﷺ, ‘Messenger of Allah, is this *hajj* of ours for just this year or for all time?’ He answered, ‘It is for all time.’ This is a text refuting those who say that it is obligatory once every five years. The *hajj* was well known among the Arabs. It was part of what they desired because of its markets, social acceptability and being part of the Ḥanīfiyyah. When Islam came, they were told to do what they knew and to hold to what they recognised. The Prophet ﷺ performed *hajj* before the obligatory *hajj*. He had stood at ‘Arafah and did not change the Law of Ibrāhīm that had been changed by Quraysh when they stood at the Mash‘ar al-Ḥarām, saying, ‘We are the people of the Ḥaram and do not leave it. We are the Ḥums.’ This was already explained in *al-Baqarah*.

One of the oddest claims that I have seen made is that the Prophet ﷺ performed *hajj* twice before the Hijrah and by that the obligation was cancelled for him because he had responded to the summons of Ibrāhīm when it was said: ‘Announce the *Hajj* to mankind.’ (22:27) Aṭ-Ṭabarī said, ‘This is unlikely. When it was announced as part of his Shari‘ah: “*Hajj to the House is a duty owed to Allah by all mankind,*” then it must also have been a duty for him according to that injunction. If it is said that it is only addressed to those who have not yet performed *hajj*, that is arbitrary and specific and there is no evidence for it. If someone claims that those who performed *hajj* in the religion of Ibrāhīm are not addressed by this, it is extremely unlikely.’

The Book and the *Sunnah* indicate that the *hajj* should be performed in a person’s own good time, not immediately. That is the final position in the school of Mālik as Ibn Khuwayzimandād mentioned, and it is the position of ash-Shāfi‘ī, Muḥammad ibn al-Ḥasan ash-Shaybānī, and Abū Yūsuf in one transmission. Some later Baghdadi Mālikīs believed that the obligation is immediate and it is not permitted to delay it when the ability to perform it exists. That is the position of Dāwūd. The sound view is the first one because Allah says in *Sūrat al-Ḥajj*: ‘Announce the *Hajj* to mankind’ (22:27) and *al-Ḥajj* is Makkan. He says: ‘*Hajj to the House is a duty owed to Allah by people.*’ This *sūrah* was revealed in the year of Uḥud in Madīnah in 3 AH and the Prophet ﷺ did not perform *hajj* until 10 AH.

As for the *Sunnah*, there is the hadith of Ḍimām ibn Tha‘laba as-Sa‘dī of the Banū Sa‘d ibn Bakr who came to the Prophet ﷺ and asked him about Islam

and he mentioned the *shahādah*, prayer, *zakāt*, fasting and *ḥajj*. Ibn ‘Abbās, Abū Hurayrah and Anas related it. There is a lot of mention of the *ḥajj* in the *Sunnah*. It is clearly obligatory. The hadith of Anas is better and more complete. There is disagreement about the date of this hadith. It is said that is 5 AH, 7 AH and 9 AH. Ibn Hishām mentioned from Abū ‘Ubaydah al-Wāqidi that it was in the year of the Ditch after the Confederates left.

Ibn ‘Abd al-Barr said, ‘Part of the evidence that the *ḥajj* can be delayed is the consensus of scholars that if someone able to go on *ḥajj* delays it for a year or two, and then performs the *ḥajj* some years after his ability to perform it exists, then he has performed the obligatory *ḥajj* in its time. All agree that he is not like someone who misses the prayer until its time has passed and makes it up after its time, or someone who misses fasting Ramaḍān due to illness or travel and then makes it up, or like someone who invalidates his *ḥajj* and then makes it up. It is agreed that if someone performs the *ḥajj* years after he is able to do so, he is not said to be “making it up”. From this we know that there is wide scope for the time of *ḥajj* and that it is not immediate.’

Abū ‘Umar said, ‘All who say that *ḥajj* can be delayed put no time limit on that except what is related from Saḥnūn who was asked about a man who had the wherewithal to make *ḥajj* and delayed it for some years while he was able to do it and whether that meant that he became *fāsiq* by delaying the *ḥajj*, causing his testimony to be rejected. He said it did not, even if that delay was up to sixty years. If it was more than sixty years, he was considered *fāsiq* and his testimony rejected.’ So he made sixty years the limit. Limits are only stipulated in the Sharī‘ah by someone who can legislate.

Ibn al-Khuwayzimandād related this from Ibn al-Qāsim. Ibn al-Qāsim and others said, ‘If he delays it for sixty years, his character is not impaired. If he delays it beyond sixty years, his character is impaired because the Prophet ﷺ said, “The lifespan of my community is between sixty and seventy. Few exceed it.” It is as if the requirement is made urgent for him in these ten years.

Abu ‘Umar said, ‘Some people, like Saḥnūn, cite as evidence the words of the Prophet ﷺ: “The lifespan of my community is between sixty and seventy. Few exceed that.” There is no proof in that because the words deal with the majority of the ages of the community, if the hadith is sound. It contains evidence for scope for this up to the age of seventy because that is still within the lifespan of the majority. It is not proper to call someone of good character and trustworthiness impious through such a weak interpretation.’ Success is by Allah.

Scholars agree that all are addressed in general. Ibn al-‘Arabī said, ‘Even if

people disagree about the application of general terms, they agree that this *āyah* applies to all people, male and female, except children, who are excluded by the consensus that they are excluded from the obligations of responsibility. The same applies to slaves who are also not included. They are excluded from it by the words: “*those who can find a way to do it.*” A slave lacks the ability because his master can prevent him from doing it by his right of ownership and Allah put the right of the master before His right out of kindness to His slaves. There is no disagreement about this either in the community as a whole or between the imams. We do not hasten to affirm what we do not actually know. The only evidence regarding it is the accepted consensus.’ Ibn al-Mundhir said that most of the people of knowledge agree, with the exception of the odd person whose disagreement is not considered, that if a child or slave has made *ḥajj* and then the child becomes an adult or the slave is freed, they still owe the *ḥajj* if they can find a way to do it.

Abū ‘Umar said, ‘Dāwūd disagreed with most of the *fuqahā’* of the cities and leaders of tradition about slaves and said that they are required to perform *ḥajj*. According to the majority of scholars, however, slaves are not among those addressed by this command. That is because they do not possess freedom of action and cannot perform *ḥajj* without their master’s permission. That is the same as slaves not being addressed by the requirement to attend Jumu‘ah in 62:9. It is the position of most scholars except for rare exceptions. Slaves are also excluded from the obligation of giving testimony in 2:282. They are not included in that. It is also possible that children are excluded from the command to perform *ḥajj* in this *āyah* even though they are included in “mankind” since the pen [recording responsibility] has been lifted from them. Women are excluded from the words: “*You who believe, when the prayer is called...*”, despite the fact that they are among those who believe, just as slaves are excluded from this. That is the position of the *fuqahā’* of the Hijaz, Iraq, Syria and the Maghrib. It is not permitted for them to deviate in the interpretation of the Book.’

If it is asked, ‘If the slave lives in the vicinity of the Masjīd al-Ḥarām and his master gives him permission, why is it not necessary for him to perform *ḥajj*?’ The answer is that this question is based on consensus and it may be that there is no reason for that. But since it is confirmed that this ruling is based on consensus, we use it as evidence for the fact that any *ḥajj* he performs while still a slave is not counted as the obligatory *ḥajj*. It is related from Ibn ‘Abbās that the Prophet ﷺ said, ‘If a child performs *ḥajj* and then reaches adulthood, he must perform another *ḥajj*. If a desert Arab performs *ḥajj* and then emigrates, he must perform another *ḥajj*. If a slave performs *ḥajj* and then is freed, he must perform another *ḥajj*.’

Ibn al-‘Arabī said, ‘Some of our scholars are careless and have said, “The *ḥajj* is not confirmed for a slave, even if his master has given permission, because originally he was an unbeliever and the *ḥajj* of an unbeliever is not counted. When he became a slave perpetually, he was not instructed to perform *ḥajj*.” This is unsound in three ways. The first is that we believe that the secondary rulings of the Sharī‘ah are also directed at unbelievers, and there is no disagreement that that is the view of Mālik. The second is that all acts of worship are obliged for him with respect to the prayer and fasting while he is a slave. If he had done them while an unbeliever, they would not be counted. The third is that unbelief is removed by Islam, so its ruling must also be removed.’ Success is by Allah.

those who can find a way to do it.

Ad-Dāraquṭnī reported that Ibn ‘Abbās said, ‘It was asked, “Messenger of Allah, should *ḥajj* be done every year?” “Rather it is one *ḥajj*,” he replied ﷺ. He was asked, “What is ‘a way’” He said, “Provision and a mount.” That is related from Anas, Ibn Mas‘ūd, Ibn ‘Umar, Jābir, ‘Ā’ishah, and ‘Amr ibn Shu‘ayb from his father from his grandfather. ‘Alī ibn Abī Ṭālib related that the Prophet ﷺ said: ‘*Ḥajj to the House is a duty owed to Allah by all mankind – those who can find a way to do it.*’ He said that he was asked about that and the Prophet ﷺ said that it meant, ‘That you have the use of a camel.’

Ibn Mājah also transmitted the hadith of Ibn ‘Umar in the *Sunan* as did Abū ‘Īsā at-Tirmidhī in the *Jāmi‘*. He said that it is a good hadith. According to the people of knowledge, the practice is that when a man has provision and transport, he must perform *ḥajj*. Things are said by the people of hadith about the memory of Ibrāhīm ibn Yazīd al-Khūzī al-Makkī. They transmitted from Wakī‘ and ad-Dāraquṭnī from Sufyān ibn Sa‘īd from Ibrāhīm ibn Yazīd from Muḥammad ibn ‘Abbād that Ibn ‘Umar said, ‘A man went to the Prophet ﷺ and asked, “Messenger of Allah, what makes *ḥajj* mandatory?” He answered, “Provision and a mount.” He asked, “Messenger of Allah, what is the state of the *ḥajj*?” He replied, “Dishevelled, ill-smelling.” Another rose and asked, “What is *ḥajj*?” He answered, “Clamour and shedding blood.” Wakī‘ said that ‘clamour’ is raising the voice with the *talbīyah* and ‘shedding blood’ is making the sacrifices.

Among those who said that provision and a mount are preconditions for the *ḥajj* were ‘Umar ibn al-Khaṭṭāb, his son ‘Abdullāh, ‘Abdullāh ibn ‘Abbās, al-Ḥasan al-Baṣrī, Sa‘īd ibn Jubayr, ‘Aṭā’ and Mujāhid. That is the position of ash-Shāfi‘ī, ath-Thawrī, Abū Ḥanīfah and his people, Aḥmad, Ishāq, ‘Abd al-‘Azīz ibn Abī Salamah, and Ibn Ḥabīb. ‘Abdūs mentioned something similar from Saḥnūn.

Ash-Shāfi‘ī says, ‘Ability has two aspects. One is that a person is physically able to do it and has enough money to achieve the *hajj*. The second is that someone is disabled in his body and unable to ride, but is able to have someone perform *hajj* on his behalf for a wage or without a wage. This will be explained. The one who is physically able is obliged by Allah’s Book to perform *hajj* by Allah’s words: “those who can find a way to do it.” The one who is financially able to do it is obliged to perform the *hajj* by the *Sunnah* on the basis of the hadith related about the Khath‘amī woman. As for the one who is able to do it himself, he is the strong person who incurs, in riding a mount, no hardship beyond his ability to bear it. If this is the case at a time when he possesses provision and a mount, he is obliged to make *hajj* himself. If he lacks provision and transport, or either one of them, then the obligation of *hajj* is cancelled for him. If someone is able to walk and has provision or the ability to earn provision on the way through their skill, such as leather work, cupping or a similar trade, it is recommended that they make *hajj* on foot, whether man or woman.’ Ash-Shāfi‘ī added, ‘The man has less of an excuse than a woman because he is stronger.’ They consider this to be recommended, not mandatory. If the only way he is able to get provision is by begging from people on the way, it is disliked for him to perform *hajj* because he becomes a burden on people.

Mālik ibn Anas said, ‘If he is both able to walk and also has provision, he must perform *hajj*. If he has no mount but is able to walk, there is some question. If he possesses the necessary provision, he is obliged to perform *hajj*. If he does not possess it, but is able to obtain what he needs on the way, there is also some question about that. For those who do not themselves work, it is not obliged, but in the case of those who earn their living by a trade or craft, it is obliged. It is the same if it is someone’s custom to beg. He must perform *hajj*.’ Mālik made it obligatory for someone able to walk, even if he does not have provision or mount. That is the position of ‘Abdullāh ibn az-Zubayr, ash-Sha‘bī and ‘Ikrimah.

Aḍ-Ḍaḥḥāk said, ‘If a person is strong, young and healthy but has no money, he should hire himself out in exchange for food or its equivalent until he completes his *hajj*.’ Muqātil said to him, ‘So Allah has obliged people to walk to the House?’ He answered, ‘If someone were to have a legacy for him in Makkah, would he then abandon it? No, he would go to it, even crawling. It is on that basis that the *hajj* is obliged for him.’

These scholars cite as evidence the words of the Almighty: ‘Announce the *hajj* to mankind. They will come to you on foot.’ (22:27) They said, ‘That is because the *hajj* is one of the physical acts of worship which are individual obligations. For that

reason neither provision nor a mount are obligatory preconditions for its being obligatory, any more than is the case with the prayer and fasting.’ They said that if the hadith of al-Khūzī about provision and a mount is sound, then we would apply it to all people, most of whom live at a great distance. The generality of the words which apply to the most usual circumstances occurs frequently in the Sharī‘ah, the words of the Arabs and their poetry.

Ibn Wahb, Ibn al-Qāsim and Ashhab reported that Mālik was asked about this *āyah* and said, ‘With respect to that people are judged according to their ability, wealth and resilience.’ Ashhab asked Mālik, ‘Is it a matter of provision and a mount?’ ‘No,’ he replied, ‘By Allah, it is only according to the ability of people. Someone may have provision and a mount and still not be able to go whereas another may be able to go on foot.’

If someone has the ability and sets out to perform the obligatory *ḥajj*, and then something stops him, such as a creditor who prevents him from going until he settles his debt, there is no disagreement about that. If someone has a family who need support, he is not obliged to perform *ḥajj* until they have sufficient to maintain them for the time he is absent, because maintenance is an immediate obligation while *ḥajj* can be done later, and so the family is put first. The Prophet ﷺ said, ‘It is enough of a wrong action for a man to let those he feeds perish.’

The same applies if someone fears his parents will perish and there are none to attend to them. There is no way for him to perform *ḥajj*. If they forbid him because of over-fondness and loneliness, however, he should not pay any attention to that. A woman can be prevented by her husband, but it is also said that he cannot prevent her. What is sound is that he can stop her from going, especially since we say that it is not necessary to perform *ḥajj* immediately.

The sea does not annul the obligation to do *ḥajj* when it is generally considered safe, as we mentioned in *al-Baqarah*, when someone knows he will not be adversely affected. If there is real probability of shipwreck or sea-sickness or inability to do the prayer, then people should not go. If there is no place to prostrate because of the crowd and narrowness of the place, Mālik said, ‘If someone cannot bow and prostrate except on their brother’s back, they should not go.’ Then he said, ‘Is someone going to embark when they are not going to be able to pray! Woe to anyone who abandons the prayer!’

The obligation of *Ḥajj* is cancelled if, on the route, there is an enemy taking lives or someone demanding money, if it is an unspecified or exorbitant amount. There is disagreement on whether the obligation is cancelled when the amount demanded is not exorbitant. Ash-Shāfi‘ī said, ‘He should not pay even a single

grain, and the obligation of *ḥajj* is cancelled.’ *Ḥajj* is obligatory for someone whose usual income is gained through begging and thinks that it is probable he will find someone to give what he needs, as we mentioned when we discussed possessing the means.

If the impediments preventing someone going on *ḥajj* are removed and he has insufficient ready funds to make *ḥajj* but possesses saleable goods, he must sell some of his goods to give himself enough money to fulfil the obligation. Ibn al-Qāsim was asked about a man who had a water-skin and nothing else. Should he sell it to enable himself to go on *ḥajj* and leave his children with nothing to live on? He said, ‘Yes, he must do that and leave his children dependent on *ṣadaqah*.’ The first position, however, is the correct one, based on the hadith: ‘It is enough of a wrong action for a man to let those he feeds perish.’ That is the view of ash-Shāfi‘ī. The apparent position of his school is that *ḥajj* is only mandatory for someone with no family or children if he has sufficient money to cover the entire journey. One of them said that the return journey is not taken into account because the fact that someone has no wife or dependants there means that it is no great hardship for him to stay in other than his homeland and so, in fact, all lands can be his homeland. The first position is more correct because a person feels alienated when parted from his homeland. Do you not see that when an unmarried man commits fornication, he is flogged and exiled from his home, whether he has family there or not.

In *al-Umm*, ash-Shāfi‘ī said, ‘If someone has a residence, a servant and can provide maintenance for his family during his absence, then he is obliged to perform *ḥajj*.’ The apparent meaning of this is that he considers the expense of *ḥajj* to be over and above that of a servant and a residence because he mentions that before maintenance of the family. It is as if he was saying that the obligation to go on *Ḥajj* only comes into force after all these have been taken into account. His people said that he is obliged to sell the house and servant and rent a house and servant for his family. If he has goods, he should trade in them and earn a sufficient profit to support his dependants during the whole of his absence. If he has to spend from the goods themselves, so that the profits from them are reduced and there is not enough to cover his costs, is he then obliged to perform *ḥajj* from the sale of the goods or not? There are two views. The first is the view of the majority, and it is sound and well known, which is that there is no disagreement that if someone has an estate whose revenue covers his needs, he must sell that estate to enable him to perform *ḥajj*, and so the same must be true of goods. Ibn Shurayḥ said, ‘That is not the case. The goods should not be sold and the

person does not perform *ḥajj* from their proceeds because the *ḥajj* is not obligatory if a person's sufficient needs are not met. This discussion is about ability both physically and in terms of wealth.'

As for someone who is ill and sickly (*ma'dūb*), '*adb* is cutting and that term is used of a sword. It is as if someone who reaches the point where they cannot stay on a mount or be firm on it is the same as someone whose limbs are severed and thus unable to do anything. Scholars disagree about the ruling governing such a person since there is a consensus that they are not obliged to travel on *ḥajj* on the basis that the *ḥajj* is only obligatory for someone who is able to do it. Someone ill or sickly does not have the ability to do it. Mālik said, 'When someone is sickly, the obligation of *ḥajj* is completely cancelled for him. No one should perform *ḥajj* on his behalf, even if he is in a position to enable them to do so, either with or without a wage. The *ḥajj* is not an obligation for him. If someone becomes chronically ill, the obligation of *ḥajj* is cancelled for him. It is not permitted for anyone to perform *ḥajj* on his behalf in any case. If he states in his will that someone should perform *ḥajj* on his behalf, that is taken from the third of the estate [allowed to be left as bequests] and it is a voluntary action.' His evidence is Allah's words: '*Man will have nothing but what he strives for.*' (53:39) He reported that he only has that for which he strives, so if someone says that he is striving on behalf of someone else, that is contrary to the literal meaning of the *āyah* and to Allah's words: '*Ḥajj to the house is a duty owed to Allah by all mankind...*' This person lacked the ability because the *ḥajj* is enjoined on those responsible for reaching the House themselves and because it is an act of worship which cannot be delegated when the ability is lacking, just as is the case with the prayer.

Muḥammad ibn al-Munkadir related from Jābir that the Messenger of Allah ﷺ said, 'By means of one *ḥajj*, Allah will admit three to the Garden: the deceased, the one who takes on *ḥajj* for him and the one who carries that out.' Abu-l-Qāsim Sulaymān ibn Aḥmad ad-Dāraquṭnī transmitted this from 'Amr ibn Ḥuṣayn as-Sadūsī from Abū Ma'shar from Muḥammad ibn al-Munkadir. The name of Abū Ma'shar was Najīḥ. They considered him to be weak.

Ash-Shāfi'ī said, 'Regarding someone who is chronically ill, very sickly or very old, who finds someone able to perform the *ḥajj* on his behalf, he possesses a certain type of ability. There are two forms of it. One is that he is able to pay someone to perform *ḥajj* on his behalf. That person performs his obligatory *ḥajj*. This is the view of 'Alī ibn Abī Ṭālib. It is related that he told a very old man who had not performed *ḥajj*, 'Equip a man to perform *ḥajj* on your behalf.' This position was taken by ath-Thawrī, Abū Ḥanīfah and his people, Ibn al-Mubārak, Aḥmad and Ishāq. The

second is that he is able to find someone to pay on his behalf and represent him in performing *hajj* on his behalf. According to ash-Shāfi‘ī, Aḥmad and Ibn Rāhawayh, *hajj* is also an obligation for such a person. Abū Ḥanīfah said that the *hajj* is not obligatory for them. Ash-Shāfi‘ī cited as evidence what Ibn ‘Abbās related about the woman of Khath‘am who asked the Prophet ﷺ, ‘Messenger of Allah, Allah has obliged His slaves to perform *hajj*. My father is a very old man who cannot remain firm on a mount. Can I perform *hajj* on his behalf?’ ‘Yes,’ he answered. That was during the Farewell Ḥajj. One variant has: ‘He cannot remain upright on a camel.’ The Prophet ﷺ said, ‘Perform *hajj* for him. Do you think that if your father owed a debt, you would not settle it for him?’ ‘Yes,’ she answered. He said, ‘It is more fitting to settle a debt owed to Allah.’ So the Prophet ﷺ said that his obligation to do *hajj* was fulfilled by his daughter voluntarily performing it and spending on it herself on his behalf. His indication that a father’s obligation to do *hajj* could be fulfilled by the voluntary action of his daughter, suggests that it is even more appropriate to for someone to fulfil their *hajj* obligation by hiring someone to do it on their behalf on the basis of their ability to pay for it from their own wealth. As for someone having to give out wealth beyond what they are able to afford, what is sound is that it is not obliged for them to do so.

Our scholars have said the aim of the hadith about the Khath‘amī woman is not to make *hajj* obligatory in that situation. Its aim is to encourage being good to parents and seeing to their best interests in this world and the Next and to accrue benefit for them naturally and in the Shari‘ah. When he saw in the woman reaction and obedience and true filial piety and eagerness to bring her father good and reward, and her sorrow at his missing the blessing of *hajj*, he responded to that in the same way that he said to another woman who said, ‘My mother made a vow to perform *hajj* but did not perform *hajj* before her death. Can I perform *hajj* on her behalf?’ ‘Perform *hajj* on her behalf. Do you think that if your mother owed a debt you would not pay it?’ ‘Yes,’ she answered. This indicates that it is about obedience and bringing good and blessings to dead people. Do you not see that he ﷺ likened the *hajj* to a debt?

The consensus is that if someone dies while owing a debt, his relative is not obliged to settle it from his money. He may do that voluntarily and thereby settle the debt for him. Part of the evidence in this hadith that it was not an obligation for her father is this woman’s explicit statement: ‘he was unable.’ *Hajj* is not obligatory for someone who is unable. This is a clear statement denying the obligation and preventing the duty. So it is not permitted for what is definitively negative at the beginning of the hadith to become affirmative by supposition at the end of it. This

is confirmed by the words: ‘it is more fitting to settle Allah’s debt.’ Taking this literally, it is not a consensus. It is, in fact, more fitting to settle a debt to a person and the consensus is that one begins with that on account of the poverty of the human being and the wealth of Allah Almighty. Ibn al-‘Arabī said that.

Abū ‘Umar ibn ‘Abd al-Barr mentioned that the hadith of the Khath‘amī woman, in the view of Mālik and his people, was specific to her. Others said that there is some disturbance in it. Ibn Wahb and Abū Muṣ‘ab said that it is specific to the right of the child. Ibn Habīb said, ‘The indulgence comes about the *hajj* on behalf of an elderly person. There is no encouragement to do it if he has not yet performed *hajj* or, for someone who has died without performing *hajj*, that his child should perform it on his behalf, even if he has not left instructions about that and, Allah willing, it satisfies it. This discussion is about those who are sickly and the like. The hadith of the Khath‘amī woman was transmitted by the imams. It refutes the statement of al-Hasan that a woman is not permitted to perform *hajj* on behalf of a man.’

Scholars agree that if someone does not have adequate provision for the journey, they are not obliged to perform *hajj*. Even if a non-relative gives them money with which to make *hajj*, there is consensus that they do not have to accept it since a favour is attached to it. If a man gives his father money, ash-Shāfi‘ī said that he must accept it because a man’s son is part of his earning and there is no favour attached to that. Mālik and Abū Ḥanīfah said that he is not obliged to accept it because it entails a lowering of respect for his parents. He can satisfy it when they have died. Allah knows best.

But if anyone disbelieves, Allah is Rich Beyond Need of any being.

Ibn ‘Abbās and others said, ‘This refers to anyone who rejects the obligatory nature of *hajj* and does not think that it is obligatory.’ Al-Ḥasan al-Baṣrī and others said, ‘Anyone who abandons the *hajj* when he is able to do it is an unbeliever.’ At-Tirmidhī related from al-Ḥārith that ‘Alī reported that the Messenger of Allah ﷺ said, ‘When someone possesses provision and a mount with which to reach the House of Allah and does not perform *hajj*, he can die a Jew or a Christian. That is because Allah says in His Book: “*Hajj to the House is a duty owed to Allah by all mankind, those who can find a way to do it.*”’ Abū ‘Īsā said, ‘This hadith, however, is *gharīb*. We only know it from this path. Its *isnād* is questionable. Hilāl ibn ‘Abdullāh is unknown and al-Ḥārith is considered to be weak.’ Something similar is related from Abū Umāmah and ‘Umar ibn al-Khaṭṭāb.

It is related from ‘Abd Khayr ibn Yazīd from ‘Alī ibn Abī Ṭālib that the Messenger of Allah ﷺ said in a *khutbah* of his, ‘O people! Allah has obliged *hajj*

on those of you who are able to find a way to it. If someone does not do it, he can die however he wishes. If he wishes, as a Jew, a Christian or a Magian, unless he is excused by reason of illness, or a tyrant. He has no portion in my intercession nor will he come to My Basin.’

Ibn ‘Abbās said that the Messenger of Allah ﷺ said, ‘If someone has enough money to enable him to perform *hajj* but he does not perform *hajj*, or property on which *zakāt* is due but he does not pay *zakāt*, he will be questioned at death and the Resurrection.’ It was said, ‘Ibn ‘Abbās, we think that this is about the unbelievers!’ He said, ‘I recite to you the Qur’an: “O you who believe! do not let your wealth or your children divert you from the remembrance of Allah. Whoever does that is lost. Give from what We have provided for you before death comes to one of you and he says, ‘My Lord, if only You would give me a little more time so that I might give *sadaqah* and be one of the righteous!’”’ (63:9-10) Al-Ḥasan ibn Šāliḥ said in his commentary, ‘and give *zakāt* and perform *hajj*.’

It is reported that a man asked the Prophet ﷺ about this *āyah* and he said, ‘Anyone who performs *hajj* not hoping for a reward, or remains behind not fearing punishment, has disbelieved in Him.’ Qatādah related that al-Ḥasan said that ‘Umar said, ‘I thought about sending some men to the cities to look into those who had wealth but did not perform *hajj* and imposing the *jizyah* on them. That is on account of Allah’s words: “But if anyone disbelieves, Allah is Rich Beyond Need of any being.”’ This is to demonstrate severity. That is why our scholars have said that the *āyah* implies that if someone dies without performing *hajj* when he was able to do so, the threat is aimed at him directly. It cannot be satisfied by someone performing *hajj* on his behalf because a *hajj* performed by someone else does not remove the obligation to do *hajj* from him and so the threat is not removed from him. Allah knows best. Sa‘īd ibn Jubayr said, ‘If my neighbour dies and possesses wealth, but has not performed *hajj*, I will not pray over him.’

قُلْ يَا أَهْلَ الْكِتَابِ لِمَ تَكْفُرُونَ بِآيَاتِ اللَّهِ وَاللَّهُ شَهِيدٌ عَلَىٰ مَا تَعْمَلُونَ ﴿٩٨﴾ قُلْ
يَا أَهْلَ الْكِتَابِ لِمَ تَصُدُّونَ عَن سَبِيلِ اللَّهِ مِن مِّن تَبِعُونَهَا عِوَجًا وَأَن تَمُرَّ
شُهُودًا وَمَا اللَّهُ بِغَفِيلٍ عَمَّا تَعْمَلُونَ ﴿٩٩﴾

98 Say, ‘People of the Book, why do you reject Allah’s Signs when Allah is witness of everything you do?’ 99 Say, ‘People of the Book, why do you bar those who believe from the Way of Allah, desiring to make it crooked, when you yourselves are witnesses to it? Allah is not unaware of what you do.’