The Muḥrīm would not stop chanting the call until he enters Makkah; and performs the circumambulation and the jogging between Ṣafā and Marwā. Thereafter he resumes the talbiyyah until he gets to worship—ground of 'Arafa.

There are four kinds of Ḥārij. The best of them is the Ṣafla—exclusive Ḥārij. This is when the pilgrim enters into inviolate state for the Ḥajj alone. Then after-hajj rites, it is traditional (sunna) for him to enter the inviolate state for lesser Ḥajj—Umrah.

The Ḥārij of a male involves both his face and his head, thus he is prohibited from covering both with whatever amounts to direct cover such as turban, rag or any of such things that can be of benefit to him, from heat or cold. It is forbidden for him to wear a ring. The Ḥārij of a female involves only her face and her hands. She is allowed to hang a cloth over her face for the purpose of veiling it from arousing passion but she is not to affix the cloth to her face with a pin or a similar item. It is forbidden for a Muḥrīm to apply scent that can stick to the body or the cloth such as musk or ambergris. One is also forbidden from anointing his/her hair, clipping nails, cutting of hair and having sexual cohabitation or its preliminaries.

Ḥajj becomes void if sexual cohabitation occurs before staying at the 'Arafa' or after it but before performing the circumambulation of 'Ṭaḥa' and throwing of pebbles at the Jamrat al-'Aqabah, be it on the day of sacrifice or before it.

2.

The circumambulation. It has obligatory conditions, prophetic traditional practices and meritorious practices.

The obligatory conditions are six.

i. Freedom from impurity and filth

ii. Covering of nudity

iii. One should keep the House (Ka'bah) to one's left.

iv. Doing the circumambulation for seven full rounds in the mosque.

v. Keeping the whole body out of the Ka'bah.
vi. Performance of 2 rak'ahs of prayer at the end of the circumambulation.

The prophetic traditions on it are five:

1. Doing it on foot
2. Kissing the Black Stone with the mouth during the first round, if the pilgrim is able to and
3. Touching the “Angle of Yaman” of the Ka'bah during the first round.
5. Trotting for men in the first three rounds of the (initial) Circumambulation of Arrival. Trotting is more than walking and it is not running.

Its meritorious acts are many. Among which are: avoidance of extensive reading of the Qur'an; avoidance of much talk, and recitation of poem.

Another meritorious act is abstention from drinking water except (when absolutely necessary) for quenching of thirst. Non-resident of Makkah should perform more circumambulations; for doing so is much better in his/her own case than performing supererogatory canonical prayer. One who sits in the mosque is expected to face the Ka'bah. It is reprehensible to recite and to chant the talbiyyah in the mosque.

3. Jogging, between Safa and Marwah for seven rounds. The pilgrim starts from Safa and ends at Marwah. The going is counted as a round while the return-trip is also another round. The jogging is not valid except it is preceded by circumambulation. It is not stipulated that the said preceding circumambulation should be necessarily be an obligatory circumambulation. All the condition for canonical prayer, except facing the Qiblah, are also conditions for the jogging. Desirable as well are stay at Safa and Marwah and supplication there. The stay or supplication has no time limit.

Care should be taken concerning what some people do by running between Safah and Marwah. The male pilgrim, while not the female; is expected to trot in between the two green slopes. If one trots throughout the jogging it is still valid though the person commits an error, the same
applies to one who does not trot at all throughout.
4. Staying at 'Arafat for at least an hour before the eve of
the Day of Sacrifice. To be on a mount for the stay is pref-
ferred; except if there are difficulties for the animal. Stand-
ing is better than sitting. One should not sit unless there are
some necessities. To stand on the 'Arafat, with the Imam in
the afternoon is obligatory. Leaving it shall necessitate a
sacrifice (if done without a cogent reason).

'UMRAH

Lesser hajj ('Umrah) is a prophetic tradition that shall
be performed once in a life-time.

All the principles of hajj except standing on 'Arafat, are
its own principles. It has two physical boundaries which is the
same as the posts for hajj except for one who is in Makkah,
who would have to enter the state of 'Ihram at a territory
called Hill - (opposite the Haram at Makkah). It is better
for him to enter the state of 'Ihram at Jziranah. The second
boundary is that of time. That is all days of the year. The
method of its 'Ihram, such as the desirability of bath and
cleanliness, what to be worn, what is prohibited for him
as dress, scent and similar things are as exactly as in hajj. It
is reprehensible to do it more than once in a single year. It
becomes void with the occurrence of sexual cohabitation
and other similar actions before the completion of its
principles.

CONCLUSION

When a pilgrim leaves Makkah, let his intention and
resolve be to pay a visit to the Prophet (on whom there are
blessing and peace of Allah) for visiting him (S.A.W.) is a
unanimous prophetic tradition, as well as a desirable merito-
rious act. When a visitor aims at visiting the Prophet, let it be

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exclusively for the visit, for the Prophet is a lea-ier and not a follower. It is desirable for the visitor to stop at the outskirt of Madinah, perform purification, apply scent and put on his most beautiful dress. Then when he enters the mosque, he starts with canonical prayer (ṣalātu taḥiyatu ʿl- maṣjid), if it is a time when it is proper to observe prayer. If not, he would start by visiting the tomb of the noble prophet, Muhammad (S.A.W.) He would not stick to the tomb. He backs the Qiblah and faces the noble tomb and says:  

On Prophet, may peace, mercy and benediction of Allah be unto you.

Then he moves towards his right by about the length of an arm and says:

Peace be unto you oh Abu Bakr As–Siddiq
He moves again by about an arm—length and says:

Peace be unto you, father of Ḥafṣ, ʿUmar; al–Fārūq. He thereafter offers the salutation whenever he enters or goes out of the mosque.
CHAPTER SEVEN
SACRIFICE, NAMING RITES AND THE SLAUGHTERING OF ANIMALS

As for a type of sacrifice of animal known as al-
'udhiyah, it is the slaughtering of animals for the purpose of seeking closeness to Allah on the day of 'Idh'i-kabir — the Great Festival 150 — and the two days after it. It is a Prophetic tradition which is done by a free Muslim who is capable of doing it whether he/she is old or young, male or female, resident or traveller while he is not a pilgrim at Munna. It is done on behalf of himself and or on whom he has responsibility to maintain, such as his children, and his poor parents. It is done after the Imam has slaughtered his own animal, on the days of sacrifice. The sacrifice of a person who slaughters his beast before then, is not valid.

Those who do not have an Imam shall give allowance of time that is considered enough for the Imam nearest to them to have performed his prayer and offered his sacrifice. On whether the said Imam is the spiritual leader or the political leader, there are two opinions. The sacrifice of whoever sacrifices his/her animal before the sacrifice day or after the dawn—break but before sunrise on the day of sacrifice is not valid. The least sufficient animal for the festival — sacrifice is as follows: a lamb or a goat that is a year old. For cattle it is a thaniyy — one calf on its fourth year; for camels, it is a thaniyy — camel — one which has completed its fifth and is in its sixth year.

For festival — sacrifice and hajj penance sacrifice, the following should be avoided:

(i) One eyed animal. That is the one whose eye has lost sight.
(ii) An animal with pronounced illness.
(iii) One with pronounced lameness.
(iv) The emaciated i.e. one without any fat. It is said that it is one whose bone has no marrow.
(v) One with slit ear except when the slit is slight; that is,
not more than a third.

(vi) Similarly, one whose ear is cut off, is not acceptable, except the cut is insignificant.

(vii) One that has lost a greater part of its tail.\[151\]

(viii) One with broken horn, if the wound has not healed up; if it has healed, then it is acceptable.

Slaughtering a beast on the 7th day of a child—birth is desirable. Its conditions are identical with those of festival sacrifice.

Slaughtering is the complete cutting of the gullet and the two jugular veins. Anything short of that is unacceptable. Slaughtering by a woman is acceptable.

If the one carrying out the slaughtering of the animal lifts his hand in the process, after cutting only part of the gullet and the jugular veins, and thereafter returns the knife and completes the slaughter, the flesh of the animal so slaughtered shall not be eaten.

If, on the other hand, the slaughterer deliberately continues to apply the knife until he completely severed the head from the beast, he has committed a reprehensible act, though the flesh of the animal so slaughtered shall be eaten.

If the slaughterer begins the slaughtering from the nape or from only the outlay the animal shall not be eaten.

The acceptable method of slaughtering is to lay the beast on its left side, facing the Qiblah, and the slaughterer says:

In the name of Allah, Allah is the Greatest.\[152\]

He combines the invocation of Allah's name with Takbir. When saying the Basmalah he would not complete it up to "Ar—Rahim," and he would not offer any salutation to the Prophet (S.A.W.). If he stops at saying Bismillah, it is sufficient even if he forgets to say it out of forgetfulness, it is still unanimously acceptable. Ibnul-Qaisim opined that even if the omission is deliberate, it is still acceptable but according to Mudawwanah - school of thought (the most basic book on Islamic Law) it is not acceptable.

If he does not make the beast face the Qiblah, even if deliberate, it is still admissible. Allah knows best.
CHAPTER EIGHT
MARRIAGE AND DIVORCE

Matrimony.

AN—NIKAH — (Marriage) literally means entering of a thing into another thing. In Islamic Law, the term, (nikāh) — is contract and it is a metaphor for sexual cohabitation. Imam Malik is reported to have said “Marriage is a desirable act.” There is a divergence of opinions on its status in this generation. Some people believe that to leave marriage and engage in acts of worship, for fear of lack of means of meeting his obligations towards wife, is more meritorious (than going into marriage when one is incapable of meeting the obligations). Some people opined that to marry, under such circumstances, is still preferred, and he would strive for a lawful means, if he is able to, and if not, he would have recourse to means that are neither expressly allowed nor forbidden—doubtful means. Sexual cohabitation is not acceptable in the Islamic law, except through two means marriage contract or possession; for the statement of the Almighty Allah that “Those who guide their sexual organs except to their spouses and what their right hands possess”453.

The first — Marriage contract — has four constituents:

1. Marriage guardian. Marriage contract is not valid without it. Certain conditions are to be satisfied by a would be guardian. These include religious compatibility (on the part of the guardian and the ward). An unbeliever cannot give a Muslim lady out in marriage; neither can a Muslim give out an unbelieving lady out in marriage, except when the prospective bride is his (Muslim’s) bondswoman or his manumitted ward; these he can give out in marriage.

Another condition is freedom. Therefore a bondman, a conditionally freed, a semi autonomous bondsman, or a partially freed person would have marriage contracted by him nullified even if consummation had taken place. Sexual cohabitation would make her earn the dower.
According to some jurists, the conditions include that he must not himself be a ward, and that he must be a just person. The popular view is that viciousness does not strip one of the right to be a marriage guardian; rather it impairs the perfection of a marriage contract but it does not hinder the validity of the marriage. A fool but impudent person may contract marriage of his own daughter with the permission of his own guardian. Other conditions are maturity, consciousness, masculinity. A contract by a woman on herself or on other is not acceptable.

She should delegate to a man her own marriage contract, that of her bonded—serf and also that of her freedmaid and those under her patronage.

2. Dower, Marriage contract is not valid without it. It is a minimum of a quarter of a dinar of gold or three dirhams of silver. Or an amount of money that is equivalent of any of the two. It is an obligation due to Allah and to the woman. The obligation towards Allah is three dirhams and anything above that is the right of the woman. Even if she agrees, with dispensing with the whole dower, marriage contract based on such agreement is not valid, she may forgo anything above a quarter of a dinar. Dower has no maximum limit.

3. Witnessing. It is a condition for a valid consummation and not a condition for marriage contract.

4. Legally qualified spouses. This is the woman who should be free from legal inhibitions which render her forbidden in marriage and the man.

In the case of the man, there are conditions for validity and conditions for its confirmation. The conditions for its validity are four: Islam, discretion, consciousness, (or sanity) manliness. For a hermaphrodite shall not marry and shall not be married.

The confirmatory conditions are five:

(i) Freedom from bondage. The marriage of a bondsman, without the consent of his master, shall not be confirmed.
(ii) Maturity. If a kid marries without the consent of his father or his testamentary executor, if the guardian confirms it, it is acceptable but if he rejects it after consummation the woman shall earn a quarter of a dinar.

(iii) Management of one's own affair – Independence. If an imprudent marries without the permission of his guardian, the guardian shall confirm it, if it is appropriate, but if he rejects it only after consummation, then the woman shall earn a quarter of a dinar.

(iv) Sound health. The marriage by a sick man or woman is not valid. It would be nullified, even if consummation had already taken place.

(v) Compatibility of spouses. Marriage equality or compatibility is a right of the woman and the marriage guardians. If the woman agrees with the marriage guardians to waive it except the question of Islam it is proper.

(vi) The formula. It is a pronouncement with which marriage is contracted. The formula expected from the marriage guardian is such as "I have contracted the marriage" or "I have given her out in marriage" and the groom would say something like "I accept" or "I am pleased with it."

A Muslim-man shall not request marriage from a lady who had received an earlier request for marriage from another Muslim, nor make a bid over his bid. Marriage on the basis of exchange is prohibited. That is a vulva for a vulva such as when one man gives out his daughter in marriage to another man, in consideration of the other man's daughter who he takes in marriage without any dower. Also unlawful is temporary marriage, that is, marriage that would subsist for a specified time (not for life).

Such temporary marriage shall be annulled whether before or after consummation without any divorce. She would be entitled to dower which women of equal status with her normally take; unless a particular amount had been specified. In that case she shall be entitled to the specified amount. The punishment for adultery shall be waved for him,
and the offspring of the marriage shall be his and she should observe full 'iddah (waiting term).

Marriage cannot be properly contracted with a woman during her 'iddah — waiting term — period, be the 'iddah that of death or that of divorce. The prohibition of marriage becomes everlasting if sexual cohabitation takes place during the 'iddah period or even if it takes place after it (but when the marriage contract had taken place during the 'iddah period).

Explicit courtship is forbidden during 'iddah but allowed are complimentary utterances which imply the desire, such as his saying "I am attracted to you".

Both a free-person and a bondsman can marry concurrently a maximum of four free Muslim women or four free scriptural women. For a bondsman he has the right to marry concurrently a maximum of four Muslim bondswoman. A free man can also do like the bondsman, if he fears committing fornication, and does not have the means i.e. money to marry or maintain a free-woman.

POLYGNY

A man who marries two or more wives, be they free persons, or bondswomen, Muslims or women of the scripture, it is obligatory on him to deal equitably with them. If he does not act equitably with them, he is a transgressor and disobedient to Allah and His prophet. Neither is he fit for Imamship nor should his witness be acceptable. Whoever contests its being mandatory is an apostate, who would be expected to repent within three days, if he does not then, he is an unbeliever.

The said equity is applicable to maintenance and clothing, according to the status of each of them. The noble, according to the standard of women of her status, and a lowly woman, according to her status. There should also be equality in night sharing. The man shall not go into the apartment of a wife, for his needs in a day that is not her turn, rather he would make his request from outside her room.
sharing of nights shall be a day and night at a time, the sharing shall not be on a two-day rotation except with the consent of the wives.

TWO USEFUL HINTS

1. A man shall not cohabit with his wife or his bondswoman in a room while there is another person there, whether the person is young or old, awake or asleep.

2. It is reprehensible to have the spouses together on a single mat (or bed). It is said that it is even prohibited. There is divergence of opinions on sleeping together with a collection of bondswomen. Some opined that it is legal, while others opined that it is not. As far as sharing of a bed is concerned it is said to be reprehensible, but as regards sexual cohabitation with any one of them while another or others are present, the law is unanimous about its illegality. This brings us to the end of what I intended to compile on issues related to marriage.

DIVORCE

Repudiation or Divorce

The word "at-talaq" — repudiation or divorce is taken from the statement "I release the camel". And it is released when you free it from the cord or shackle. Any woman with a husband is under a covenant with her husband. When he repudiates her, she has been released from his covenant. "At-Talaq" literally means a break and departure. In usage it is the breaking of marriage bonds between a couple. This authority to so break the bond, has been vested on the husbands and not the wives by the Almighty — Allah. The break are of two types: The approved that is orthodox repudiation and the reprehensible, which is heretical repudiation. The latter is three repudiations in one pronouncement. Orthodox repudiation has conditions. That if the repudiated women is capable
of menstruating, she should not be menstruating or having post-natal bleeding at the time of the pronunciation of the repudiation. She should be in a period of cleanliness in between two distinct occasions of menstruation within which he had not cohabited with her. He should pronounce the divorce once in the period.

If a man tells his wife: “You are divorced.” That is one pronunciation of divorce, unless he intends it to be more than once pronunciation of divorce.

Khul — Release — is an irrevocable dissolution. It cannot be reversed, even if he did not mention repudiation. Once she has given him something on the basis of which he releases her.

The constituents of repudiation are four:

1. The proponent of the repudiation. It is conditional that he should be a Muslim, who is responsible. The repudiation pronounced by an unbeliever is discountenanced. Also disregarded is the repudiation pronounced by a child-husband, someone who is not in his senses, due to insanity, swoon or similar feats. It is said in Jawahir that concerning one intoxicated by liquor or spirit, there are two views. The statement of the author of Jawahir “with liquor or spirit” is to exclude the situation when a person takes milk or eats lawful food or medicine then it intoxicates him. If such a person pronounces repudiation under such circumstances, according to the unanimous opinion of jurists, such repudiation is not binding on him.

2. Another constituent is the object of repudiation. That is the wife. The condition is that the husband, prior to the repudiation, possessed marital authority over the woman.

3. Another constituent is intention. One whose tongue pronounced repudiation without actually intending it, that pronouncement does not confer repudiation on him. The repudiation pronounced by one coerced to pronounce it is not effective.
4. The pronunciation or an action that amounts to it. The pronunciation is of two kinds: manifest pronunciation and indirect pronunciation as well as what amounts to either of them both.

The manifest pronunciation is that which contains the word — "at-talāq" — "repudiation" —, no matter how it is put. Such as you are repudiated or you are a repudiated one. Such repudiation thus becomes effective and it does not require any intention and the repudiation amounts to one repudiation only except when he intends it (as shown by action and circumstances) to be for more than one.

The indirect pronunciation is of two kinds: The clear and the imputed. The clear one are such as "You are free" or "You are acquitted" it is like manifest pronunciation in the sense that the claim of the man that he did not intend divorce shall not avail.

In the case of the imputed pronunciation such as "Be gone" or "Go away", the claim of the husband that it was not an intent of repudiation and concerning the number of divorce that it was intended to convey, shall be upheld. If he claims that he intends repudiation by it, the popular view among jurists is that it is taken as repudiation.

What amounts to the pronunciation is of various kinds. Among them are understood indicators. An indication from a dumb is considered as repudiation. Understood indicator includes written repudiation from one who is capable of speaking.

If he puts the repudiation in writing and he intends it to mean repudiation, then what he wrote shall be binding on him. If he writes it without any determination to repudiate, he can recall it provided the letter has not got to the woman; but if it has got to the woman, it becomes binding.

But in the case of one who had absolutely resolved within his mind to repudiate and he wrote the letter which has not got to the woman, there are two reports. (One is that repudiation is binding; the other is that it can be recalled by him).
It is prohibited for a man to marry a woman in order to make her lawful for one who had irrevocably repudiated her. Such practice does not make her lawful for the first husband. The marriage shall be aborted whether or not consummation has taken place. If the termination of marriage is after consummation had taken place, she is entitled to the specified dower. A woman whom a man has repudiated by a triple repudiation shall not thereafter, whether through ownership or marriage, be lawful for him until she had been married to, and divorced by another man.

**REVOCABLE REPUDIATION**

It is said in the Risālah that: He who repudiates his wife may take back his wife who still menstruates in as much as she has not entered her third menstrual circle. For a free woman or second menstrual circle for a bondswoman. A commentator said: “The husband possesses the right of revocation in any repudiation that is not yet up to three, provided it is not accompanied with a ransom, that is, once the separation is not through Mubara’ah, mutual separation or on account of ransom.

He has the power of revocation provided the period of retreat ‘iddah – has not expired, for marriage bond between a couple does not cease to subsist without triple repudiation in the case of a free woman as long as it is not accompanied by ransom and the ‘iddah has not expired.

The revocation may be through both intention and utterance, or intention alone. If he resolves within himself that he has revoked the repudiation, the revocation, between him and Almighty Allah, remains valid. If a person pronounces the revocation without the actual intention, while the revocation is valid, it is a matter between him and Allah; the Almighty.

Sexual cohabitation without the intention of revocation is not a revocation. Sexual cohabitation without the intent of revocation, is illegal. 

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On the issue of the need for the presence of witnesses for the revocation, there are two views: that it is obligatory and that it is only desirable.

CHAPTER NINE

COMMERCIAL TRANSACTION

A commercial transaction has three constituents.

1. A statement that amounts to consent, such as the statement of the seller that “I sold it to you” and the purchaser saying “I bought it”; or an action (from either party) such as acceptance of offer by payment and delivery.

2. The parties, i.e. the seller and the purchaser. It is a condition for the validity of the sale that each of the parties must be in full possession of his/her faculties. Sale or purchase by a person not in his full senses is not validly contracted, be the lack of full control of one’s faculties due to youthfulness, madness, or drunkenness and similar things. A commercial transaction cannot be effected except by one with his full capacity.

3. The object. This means the price and the priced. Concerning both of them, there are five conditions to be satisfied.
   (i) Ritually clean. The sale of a ritually unclean object such as excreta, or a filthy thing that cannot be purified such as rancid oil is not valid.
   (ii) To be of lawful utility. The sale of an animal that is illegal for consumption such as horse, mule or donkey is not valid, if it is in a critical condition that may lead to death.
   (iii) Not being generally unlawful while at the possession of the seller. It is not proper to sell dog (except for hunting and security).