

THE BOOK OF FASTING FROM GIFT FOR THE SEEKER

كتاب الصيام من اتحاف الطالب

By Shaykh Abu Bakr al-Mulla Al-Ahsai



WITH EXPLANATORY NOTES BASED ON THE AUTHORS COMMENTARY 'MINHAJ AL-RAGHIB',
AND THE FOOTNOTES BASED ON THE MARGINALIA OF SHAYKH YAHYA AL-MULLA AL-AHSAI

● Note: Draft Under Revision ●



A Note To The Reader

Please find below a draft chapter from a larger work which is currently being translated (Insha-Allah). In view of the impending start of the month of Ramadan in a few days time it was felt that those who may have an interest in learning the laws of fasting in greater detail should be able to access this beneficial text. The chapter below is taken from the work entitled 'Gift for the Seeker' [Arabic: Ithaf al-Talib]

•Author

The book was authored by Allamah Shaykh Abu Bakr bin Muhammad bin Umar al-Mulla: One of the greatest scholars of his time, he was born in al-Ahsa which is located in present day Saudi Arabia, and passed away in Makka in 1270. He was a prolific author who wrote many works on topics such as Tawhid, Hadith, Fiqh and the Arabic language.

•About The Presentation Of The Book of Fasting

The original text of the book is in **bold**. Notes have been taken to explain the text from the authors own commentary entitled 'Minhaj al-Raghib', they are not in bold.. The footnotes have been taken from a descendant of the author, Shaykh Yahya al-Mulla from his edition of the work published in 1423/2002.

The Text Without Commentary

Book of Fasting

Fasting is compulsory such as the fast of Ramadan, imperative such as a vow optional such as other than them, disliked such as the fast of the two Eids and days of tashriq.

That for Which it is Not Necessary to Specify the Intention :

The current fast of Ramadan, specific vow and optional is correct/valid with an intention from the night up till before midday and with a general intention. It is a condition for the rest that it be from the night [ie. before dawn] and it be specified

Sighting The New Moon

The one who sights the new moon of Ramadan or the new moon of Fitr, and his testimony is rejected fasts.

Chapter That Which Invalidates the Fast

The fast is not invalidated by :

1. Eating, drinking, or marital relations forgetfully
2. A wet dream,
3. Ejaculates due to looking
4. Applies oil or antimony
5. Cupping
6. Kissing
7. Swallows dust or a flea enters his throat
8. Oil is poured in the urinary tract
9. Water in the ear
10. Tastes something with the mouth,
11. Overcome by vomiting and it returns accidentally.

That Which Invalidates The Fast Without Expiation :

1. If he breaks the fast accidentally then continues eating or cohabiting
2. Applies medication via the rear passageway or via the nose
3. Drips oil in to the ear

4. Swallows a stone
5. Does not intend in Ramadan,
6. Rain enters his throat
7. Ejaculates which is self induced or due to kissing
8. Invalidates other than the Ramadan
9. Has a pre-dawn meal thinking that it is not yet dawn.

In these circumstances makes up the invalidated fast only.

The last [person mentioned must] refrain for rest the rest of the day

1. Likewise a traveller who [becomes a] resident
2. Menstruating woman who purifies
3. A child who reached maturity
4. A disbeliever who embraces Islam

All of them make up except for the last two.

That Which Invalidates the Fast And Expiation is Necessary With a Makeup Fast:

1. It is invalidated if he has marital relations in any of the two private openings deliberately.
2. Eats, or drinks food deliberately.
3. Consumes medication deliberately

He makes up and expiates like the expiation of al-Zihar.

That Which is Disliked For the Fasting Person And That Which Is Not:

It is disliked to taste something, chew gum, kissing and physical contact (mubasharah) if not safe about the possibility of leading on to intercourse, not applying antimony, nor using the toothstick.

It is desirable to take a pre dawn meal, delaying it, and hastening to open the fast.

Section : The Reasons Permitting One Not to Fast

The following are not required to fast although a makeup fast is necessary :

The traveller, pregnant woman, suckling woman if she fears for herself or her child, or an ill person fears an increase may not fast. And they make up that which they can.

An terminally old person does not fast and gives fidya

An optional fast is necessary to make-up once started, and is not broken without reason. If he vows to fast a month consecutively which is not specified, and does not fast a day he restarts. In the case of a specified month. In the case of a vow for a specific month if he interrupts the month by a day or more he continues and completes the month.

Chapter on Seclusion (Itikaf)

It is to reside with an intention in a congregational masjid. It is imperative due to a vow, and an emphasized sunnah in the last ten days of Ramadan. It is desirable in other than the last ten days. The condition of fasting is for the vowed only. The least amount for the optional is a moment. He does not leave from the place of Itikaf except for answering human needs and the Friday prayer.

He eats, drinks and sleeps in the masjid. It is invalidated by: marital relations and ejaculation by kissing. Vowing Itikaf during the days consecutively necessarily also renders the nights necessary.

Text With Explanatory Notes

The Book Of Fasting

•[Definition of Fasting]

It is during the day refraining from those things which invalidate the fast accompanied with an intention from those who are to fast.

• [Types of Fast]

And **It is:** -Of four types, the first being:

1. **Obligatory (Fard) such as the fast** -in the month of **Ramadan**, -Whether a current performance or a make up fast upon a person who fulfils the following four requirements: i) Islam ii) Sanity iii) Adulthood iv) Knowledge of it being compulsory for the one who has embraced Islam in Dar al-Harb.

• [Conditions for the Validity of its Current Performance]

For its current performance three things are conditions: i)The intention ii) Absence of menstruation (haid) and post birth bleeding (nifas), iii) Absence of anything which invalidates the fast

• [Its Rulings]

Its ruling is: The fulfilling of a duty one is responsible for, and reward in the next world. Also from this (i.e. obligatory/Fard) category are the fasts of expiation (kaffarah) such as those of for expiation of al-Zihar, killing and an oath. The second is:

2. **Compulsory (Wajib) such as a vow¹**- It is of two categories: specific and non specific. And it is said: it is obligatory (fard) like the fasts of expiation (kaffarat), and from this category is the make up fast that which a person may have invalidated whilst performing the optional fast, and also the fast of a vowed Itikaf. The third is:
3. **Optional (nafI) such as other than them**, - This includes the recommended (sunnah) such as the fast of Ashurah along with the 9th. Desirable (mandub) such as the 'white' days, Arafah, Monday and Thursday, 6t of Shawwal, and every fast which the sacred law has mentioned a reward for such as the fast of Dawud (upon Him be peace). The fourth is:
4. **Disliked (Makruh)** -It is of two types: Makruh Tanzihi and Makruh Tahrimi. As for the Makruh Tahrimi it is: **such as the fast of the two Eids** -Fitr and al-Adha **and days of tashriq** - Which are three. Makruh Tanzihi is such as the fast of the day of Ashura alone without also fasting on the 9th or 11th. Likewise singling out Friday (Jumah) for fasting². Likewise singling

¹ The author commented on this saying: This is if it was general such as his saying: "O Allah such and such a fast is (incumbent) upon me", or suspended with a condition that he wishes to occur such as his saying: "If Allah cures my illness then such and such a fast is (incumbent) upon me". As for if he suspends it with a condition that he does not wish to occur such as his saying: "If I speak to Zayd then such and such (is incumbent) upon me". He has a choice between fulfilling it or making an expiation for an oath.

² The more correct position is it not being disliked to single it out for fasting as was stated in al-Dur al-Mukhtar, rather it is desirable (Mustahab) to fast on it by itself just as it is desirable to fast on Mondays and Thursdays as

out for fasting: Saturday, the day of Nayruz³ and al-Mahrajan, except if any of these days coincides with a person's habit.

It is also disliked to perform the fasts of silence⁴, Joining (Wisal) and of a lifetime. As for the day of doubt (Shak) it is the 30th of Shaban. Any kind of fasting is disliked on it, however if it coincides with a person's habit then it is not disliked. It is also disliked to fast a day or two from the end of Shaban, it is more than this amount then it is not disliked.

Note: A woman does should not offer an optional fast without the permission of her husband, and he has the right to make her break her fast.

• [That for Which it is Not Necessary to Specify the Intention and That Which It Is Necessary]

The current fast of Ramadan, specific vow -Whose time has been specified, such as saying O Allah I will fast this coming Thursday **and** -The current **optional** -Meaning non obligatory **is correct/valid with an intention** -Which is specific **from the night** -This is superior. It is not valid/correct before nor during the setting of the sun of the previous day. Every day of Ramadan requires an intention. The reality of intention is: The aim and resolve with the heart to fast the next day, all Muslim's have this resolve during the nights of the month of Ramadan. Articulating with the tongue is not a condition. **up till before midday**, -According to the most correct view⁵ Midday is: from the break of dawn until the time of Dahwa al-Kubra. **and** -It is also correct for a current Ramadan, specified vow and optional **with a general intention**. -Meaning with an intention of fasting without further qualifying specific details. All of these which have been mentioned are also correct with the intention of an optional fast and that of another compulsory fast except if this occurs from a person

mentioned in al-Bahr al-Raiq. Similar is mentioned in al-Muhit with the reasoning that these days are of virtue, and there is not in their fasting a resemblance to non Muslims. In al-Ashbah and Nur al-Idah it is that singling it out for fasting is disliked is the view of some. See Hashiyah Ibn Abidin (2/375). It is clear that it being disliked to fast it alone is interpreted due to this day entailing certain duties, so perhaps if the person fasts he may become weakened from performing them.

³ The origin of the word Nayruz is Nawruz, however the word has been slightly altered when it came into Arabic usage, it is a day in spring. Al-Mahrajan is the Arabic for Mahrakan which is a day in Autumn. These both days are days of celebration of the Persians, the reason for its being disliked to fast on them is that it would entail the honouring of days that we have been forbidden from honouring. See Maraqi al-Falah along with the Hashiyah (p.388).

⁴ The fast of silence is: to fast without speaking a word. The fast of Joining (wisal) is: to not break the fast after the setting of the sun thereby 'joining' the fast by refraining to eat and carrying on fasting the next day. The fast of the lifetime (dihr) is: to fast the whole of one's life, it is disliked because it results in weakening a person, and after a lengthy period the continuous fasting becomes a habit and normal for the person, therefore not resulting in the desired aim of the act of worship. See Maraqi al-Falah with the Hashiyah (p.388).

⁵ The evidence for the permissibility of fasting in Ramadan with an intention made during the day is that which is reported by al-Bukhari from Salamah bin al-Akwa that he said: "The Prophet (Allah bless Him and give Him peace) ordered a man from Aslam to inform the people that whoever ate must fast the remainder of the day, and whoever did not eat let him fast because this is the day of Ashura". (Al-Bukhari 1/268). The day of Ashura was obligatory (fard) to fast before Ramadan had been made obligatory as alluded to in authentic narrations, as people would not be forbidden from eating except on a day which was obligatory to fast.

As for the hadith of Hafsa: "Whoever does not carry the intention at night for fasting, will have no fast", reported by al-Nasai, al-Tirmidhi and Abu Dawud. It is possible to reconcile both narrations by interpreting the hadith of Salamah bin al-Akwa as applying to a specified compulsory fast, and the hadith of Hafsa to other than it. See Ilaa al-Sunan (9/98-99).

who is ill or travelling in Ramadan. In such a case what they intended their fast to be will be the case such as an optional or another compulsory fast according to what the majority of scholars state.

• [That Which it is a Condition to Intend From the Night and Specify]

It is a condition for the rest -Of the types of fast which have not been mentioned such as the make up of Ramadan, the make up of what has been invalidated from the optional, the fast of expiation (kaffarat) and general vow. **that it be from the night and it be specified** -Meaning that the fast be specified, the condition being that he knows in his heart which fast he intends to undertake. It is also a condition that the intention be continuous, such that if a person makes an intention during the night, then changes their mind during the night they will not be regarded as fasting in these types of fasts.

• [Sighting The New Moon]

The one who sights the new moon of Ramadan or the new moon of Fitr, -By himself alone and his testimony is rejected -Meaning it is rejected by the Qadi **Fasts** -And it is compulsory (wajib) for him to fast⁶, and it is said it is desirable. If the one who has sighted the moon in either of these two times does not fast they make it up and there is no expiation for it, even if the non fasting is before the Qadi's rejection according to the correct view. As for after its acceptance by the Qadi then expiation becomes necessary according to the correct view.

Subsidiary point: If the sky is cloudy or dusty, then the report of an upright⁷ or a mastoor⁸ person even if a slave or female is accepted for Ramadan. The wording of testimony nor claim is a condition. However it is a condition for Fitr that a testimony be given with the specific wording. If the people are in a place without a ruler, they fast according to the word of a trustworthy person, and end fasting (fitr) based on the report of two upright individuals due to necessity. If the sky is clear then it is necessary in order to establish the testimony of a large group for Ramadan and Fitr such that one is certain from their report. The exact number is deferred to the discretion of the Imam without the specifying of a particular number according to the madhab.⁹

If the new moon is sighted in another distant land all of the people are obliged to follow it according to the Zahir position of the madhab upon which fatwa is given.¹⁰

⁶ Due to His (the Exalted) saying: 'Whosoever amongst you witnesses the month, then fast it'. The Qadi's rejection is by not accepting the testimony of the witnesses.

⁷ Upright: It is defined as one who does not commit a major sin, nor is persistent in a minor sin, nor does that which is not from noble character traits. Adalah is an ability/quality which enables the one who possesses it to adhere to taqwa and muruah. See Maraqi al-Falah (p.395).

⁸ Mastoor: It is a person whose condition is unknown, such that the signs of corruption (fisq) nor uprightness are apparent in relation to them. See Maraqi al-Falah (p.395).

⁹ It is also reported from Abu Hanifah (Allah have mercy on him) that it is sufficient with two witnesses, this view was preferred in al-Bahr (2/288-289) where the author said: "This narration should be acted upon in our times..."

¹⁰ It is alluded to in the generality of His (Allah bless Him and give Him peace) command: 'Upon seeing the moon, begin your fast and upon seeing the moon, end your fast' reported by al-Bukhari (1909), the beginning of the fasting month was linked to the sighting of the moon in a general sense, which implies that it can be anywhere in the world. This is the basis for those who hold the view of international sighting and do not view distance between countries as a factor. However other scholars mention that the evidence seems stronger to regard local sighting as being the correct view, just as there are local timings for prayer for each area, there should be local sighting. The argue that the reason is the witnessing of the new month, if it occurs for a group

Chapter: That Which Invalidates¹¹ the Fast -And necessitates expiation (kaffarah), and that which invalidates it and does not require expiation **and that Which Does Not Invalidate it** -And what is disliked during it and what is recommended for the fasting person

• [That Which Does Not Invalidate the Fast]

As for that which does not invalidate the fast, then it is: **If he** -The fasting person

- 1) **Eats, or drinks, or has marital relations forgetfully**, - Meaning not remembering that they are fasting¹² in the obligatory (fard) and optional (nafli) before the intention and after it does not invalidate the fast according to the correct opinion.
- 2) **Has a wet dream**, -Meaning the fasting person whilst asleep
- 3) **Ejaculates due to looking**, -Or by thinking
- 4) **Applies oil**, -With oil and other than it, the fast is not invalidated, even if a person was to take a bath and felt the coolness of the water inside their body **or antimony**, -Even if the taste of the antimony is present in the throat, or the colour of it in the spittle according to the more correct opinion. This is also the case if it is scented.
- 5) **Is cupped**, - The fast is not invalidated
- 6) **Kisses**, -And does not ejaculate
- 7) **Dust** -Even fine particles from someone grinding **or a flea** -Or smoke without the persons own doing¹³ **enters his throat**, -Meaning that of a fasting person

of people it does not necessitate it for others in different lands, just as if the sun sets in an area, the Maghrib prayer will only be obligatory for them as opposed to others where the sun has not set.

The author of al-Tajrid and others from the scholars held the view of local sighting due to the hadith of Kuraib: "We saw the new moon in al-Shaam on the night of Friday, I then came to Madinah. Ibn Abbas said to me: When did you sight the new moon? I said: Friday He said: did you see it as well. I said: Yes, I saw it too and many others saw it and we all kept fast and so did Muawiya. Ibn Abbas said: But we saw the moon on Saturday night, therefore, we will keep thirty days fast according to that unless we sight the moon on the 29th. I said: You don't think the moonsighting of Muawiya and his fasting is enough for you. Ibn Abbas replied: No, this is how the Messenger of Allah (Allah bless Him and give Him peace) taught us". Reported by Muslim (1078) Abu Dawud (2332) al-Tirmidhi (693) and al-Nasai (4/131). See Fath Bab al-Inayah (1/567)

¹¹ In Arabic the term fasid has been used, which in acts of worship is the same as the term batil. In other chapters of fiqh other than worship fasid and batil are not identical. See Hashiyah al-Tahtawi ala Maraqqi al-Falah (p.397).

¹² In the two Sahih's and other than them from Abu Hurayrah (Allah be pleased with him) that the Prophet (Allah bless Him and give Him peace) said: "Whoever forgets he is fasting, and eats or drinks is to complete his fast, as it was Allah who fed him and gave him something to drink". Reported by al-Bukhari (1993) and Muslim (1183). That author commented on it saying: "The words 'will not hold anyone of this nation responsible for what is done in error, forgetfulness or under coercion' has been interpreted by Imam al-Shafi absolutely in the issues of fiqh, for if a person forgetfully or mistakenly does anything which would invalidate the fast there fast is still intact, and there is no makeup. Our Hanafi Imams held the view of differentiating between the forgetful person and one makes a mistake, they necessitate a makeup for the mistaken person and coerced and not the forgetful one".

¹³ Such as if a person is fasting and next to them is someone smoking, such that the smoke is inhaled passively via the nose and throat. The author commented on the scenario of this happening without the fasting person doing it that: "In it is an indication that who deliberately inhales smoke via his throat in whichever form the inhalation was, the fast is invalidated. This is whether the smoke was anbar, oud or other than them both.

- 8) **Pours oil in the urinary tract**, -Or pours water, as for if it is poured in a woman's urinary tract then there is agreement that it invalidates the fast. **or** -Pours **water in the ear**, -Does not result in the invalidating of the fast according to the chosen view, this applies even if a person was to clean out the ear with a stick and then re enter it again a number of times into the ear with the dirt on the stick
- 9) **Tastes something with the mouth**, -Even though it is disliked
- 10) **Is overcome by vomiting** -Even if it is a mouthful it does not invalidate **and** -Likewise it does not invalidate if **it returns accidentally**: -Meaning that which he vomited naturally (ie. Not deliberately), even if it reaches the mouth according to the correct opinion. This is the view of Imam Muhammad bin Hasan al-Shaybani. If a person deliberately made themselves vomit and it was less than a mouthful it does not invalidate according to Abu Yusuf, however Imam Muhammad said that it does invalidate. Likewise is the case of if a person eats that which is between their teeth which is less than the size of a chickpea, or chewed something the size of a seed from outside of the mouth until it disappears¹⁴ and no taste was present in the throat. **The fast is not invalidated** -This applies to all the legal issues which have been mentioned since the start of this subsection.

• [That Which Invalidates The Fast Without Expiation]

-As for that which invalidates it without expiation¹⁵

- 1) **If he breaks the fast accidentally**, -Such as a person rinses their mouth and some water is swallowed
- 2) **Applies medication via the rear passageway or via the nose**, -This includes the scenario of washing the private parts (istinja) and the water reaching inside the body

Such that if a person burns bukhur and waves it to himself and smells its smoke aware that he is fasting invalidates his fast due to the ability of avoiding the entry of an invalidator to the inner body and head cavity. This is something which many people are unaware of, so take note. And do not be mistaken that it is like the smelling of vinegar and musk due to the clear difference between applying the fragrance of musk and its like and between the smoke particles which enter inside the body deliberately." Maraqi al-Falah (p.399)

¹⁴ Meaning that a person chews it to a point that no trace of it is present, this is different to the case of when a person were to swallow which would result in the fast being invalidated. In such a case there are two opinions which have been declared correct about the necessity of expiation (kaffarah).

¹⁵ The general rule for those things which invalidate the fast and do/do not require expiation is: Everything which is not an item of food nor takes the place of food, or provides sustenance, but is accompanied by a shariah legislated excuse or is a deficient food item, which the fasting person enters inside his body cavity or head: must make up without expiation. Also any physical activity which does not involve full intercourse taking place with the private parts of a human results in a makeup without expiation. So for example:

-That which is not a food item: such as paper, if swallowed by a fasting person it would necessitate a make up and not an expiation

-A shariah legislated excuse: is such as the beginning of the menstrual cycle. So if a woman ate or drank during the fast all the while remembering that she was fasting, and then during that same day her menstrual cycle begins, expiation is not compulsory upon her, however she must make up the fast.

-A deficient food item: Such as dough, which if eaten necessitates a makeup but not expiation. This is because people generally do not consume it and invalidating the fast by eating it is not regarded as consuming a full/proper food item.

- Physical activity which does not involve full intercourse taking place with the private parts of a human: This includes any kind of seminal emission which is self induced or results from kissing or touching, it necessitates a makeup only. See Hashiyah al-Tahtawi ala Maraqi al-Falah (p.405) and Hashiyah Ibn Abidin (2/410).

- 3) **Drips oil in the ear**, - As opposed to water as has been previously mentioned
- 4) **Swallows a stone**, -And its like which humans do not consume or would regard as filthy and not worthy of consumption
- 5) **Does not intend in Ramadan**, -Whether in all of it or some of it, without the intention of fasting or not fasting even if he is not eating. Likewise the case of a person waking up without the intention of fasting and then eats deliberately or eats forgetfully and thinks that they have invalidated their fast and then eats deliberately.
- 6) **Rain enters his throat**, -Or snow by itself as opposed to dust as has been mentioned
- 7) **Ejaculates which is self induced** -With the hand **or due to kissing**, -Or by touching
- 8) **Invalidates** -A fast **other than the** -Current performance of **Ramadan**,
- 9) **Has a pre dawn meal** -Or has marital relations **thinking the time** -In which he has eaten, even with some doubt **is night whilst it is day** -However if none of this becomes apparent to the person a makeup is not compulsory for them. Likewise if a person breaks their fast thinking that the sun has set whilst it has not must make up the fast without expiation. Doubt is not sufficient for the non application of expiation according to one of the opinions (al-riwayatain) as opposed to doubt in the break of dawn based on the original state (al-asl)¹⁶ in every place. If a person reaches the conclusion¹⁷ that the sun has not set but yet still decides to break their fast, they must give expiation whether it becomes clear later that he ate before sunset or not. All of the above **makes up** -In the situations mentioned above **only**. -Without expiation

• [Upon Whom is it Compulsory To Refrain During the Day]

- 1) **The last** -Who is the person taking a pre dawn meal thinking it is night whilst it is day, likewise the person who breaks their fast thinking it is sunset **refrain** -It is compulsory for them to do so for **the rest of the day**,
- 2) **Likewise a traveller who becomes a resident**, -Likewise an ill person who is healed, an insane person who regains sanity and a person who breaks their fast whether it is due to coercion or accidentally.
- 3) **Menstruating woman** -Or a woman experiencing post birth bleeding **who purifies**, -After the break of dawn
- 4) **A child who reached maturity**,
- 5) **A disbeliever who embraces Islam, all of them make up** -That which they have missed **except for the last two**. -Meaning the child who reaches maturity and disbeliever who embraces Islam.

¹⁶ The author (Allah have mercy on him) said commenting on this: "Based on the original state (al-asl) in every place- meaning because the original state (al-asl) is the remaining of the night if a person takes a pre-dawn meal thinking it is night. And the remaining of the day is the person breaks their fast thinking the sun has set."

¹⁷ The author (Allah have mercy on him) said commenting on this: "Meaning because the original state is the remaining of the night and the reaching of a conclusion is akin to certainty". Maraqi al-Falah (p.408).

Note: A child is ordered to fast if he has the strength to do so. And is physically reprimanded at the age of ten, like the case of the prayer according to the more correct opinion, as mentioned in al-Dur al-Mukhtar.¹⁸

• [That Which Invalidates the Fast And Expiation is Necessary for With Making It Up]

It is invalidated -And necessitates expiation (kaffarah) in the following scenarios: **if he** -Meaning a responsible person, performing a current fast in Ramadan

1. **Has marital relations** -Such that the head of the male private part is entered **in any of the two passageways**, -Even if emission does not take place, upon the one doing, and the one to whom it is done
2. **Eats, or drinks food**¹⁹, -Which is customarily consumed. It is that which a natural appetite desires to be eaten and fulfils the hunger of the stomach. It has also been said that it is that whose benefit returns to the body. The result of this difference of definition is: Such that if a person chews a morsel of food, then takes it out of the mouth, then swallows it: according to the second view expiation (kaffarah) will be compulsory, and according to the first view it will not, and this is the more correct view, as mentioned in Maraqi al-Falah²⁰. **or medication**, -The principle being the reaching of anything which benefits the body

Deliberately-This refers to all of the above in this section **makes up** -In all of the scenarios above **and expiates like the expiation of al-Zihar**²¹.

¹⁸ Al-Dur al-Mukhtar (2/409)

¹⁹ The basis for this is that which is reported by the six Imams and others that the Prophet (Allah bless Him and give Him peace) ordered a person who had marital relations deliberately during the day in Ramadan to offer the expiation like that of al-Zihar as mentioned in Surah al-Mujadilah. The scenario of eating and drinking deliberately taking the same ruling of expiation is because they are equivalent in terms of deliberately invalidating the fast and the obtaining of pleasure and fulfilling desire. As for that which is reported by al-Darqutni from Abu Mashar, from Muhammad bin Kab al-Qurzi, from Abu Hurayrah that a man ate in Ramadan, and the Prophet (Allah bless Him and give Him peace) ordered him to free a slave or to fast two months, or feed 60 poor people. Except that it has been weakened by the presence of the narrator Abu Mashar. See Fath Bab al-Inayah (1/568).

²⁰ Maraqi al-Falah (p.402), the author also cites from Maraqi al-Falah that smoking whilst fasting also requires a make up and expiation.

²¹ In the shariah 'al-Zihar' is defined as a man saying to his wife : 'You are to me like the back of my mother'. See Anees al-Fuqaha p.162. By a man saying this it is unlawful for him to have marital relations and that which precedes it such as touching and kissing with his wife until he gives expiation (kaffarah) for his 'Zihar'. This is due to His (the Exalted) words: "And those who make unlawful to them (their wives) (by *Al-Zihar*) and wish to free themselves from what they uttered, (the penalty) in that case (is) the freeing of a slave before they touch each other. That is an admonition to you (so that you may not return to such an ill thing). And Allah is All-Aware of what you do. And he who finds not (the money for freeing a slave) must fast two successive months before they both touch each other. And for him who is unable to do so, he should feed sixty of *Miskin* (poor). That is in order that you may have perfect Faith in Allah and His Messenger. These are the limits set by Allah. And for disbelievers, there is a painful torment". See Sharh al-Kanz of al-Aini (2/169)

• [Expiation (Kaffarah)]

It is:

1. The freeing of a slave who is free of defect such as being able to walk, speak, see and is sane, even if it be a non Muslim. If a person is unable to do this due to not being in possession of a slave or the price of purchasing one and then freeing it then:
2. They fast two consecutive months in both of which there is not the day of Eid nor the days of Tashriq.
3. If unable to fast then due to illness or old age they feed 60 poor people, giving them two meals (lunch and supper) such that they would be satiated/full.
4. Or gives each poor person half a Saa' or wheat, or flour, or a Saa' of dates or barley or the value of one of these things.

• [That Which is Disliked For the Fasting Person and That Which Is Not]

It is disliked -For a fasting person even if they are fasting optionally

- 1) **To taste something**²², -And likewise chew it except for a reason such as a woman who cannot find anyone to chew the food for her child, such as a woman who cannot fast due to her menstrual cycle. In such a situation there is no harm in her chewing it out of care for her child. The scholars have differed over if the person fears being charged excessively for food items which can be tasted.²³ A woman may taste food with the tip of her tongue to check its taste if her husband is of a bad temperament/character. If however he is of a good character then she is not permitted to do so.
- 2) **Chew gum**, -None of which reaches inside the body by means of the saliva
- 3) **Kissing and physical contact (mubasharah)**²⁴-Whether it is fahishah or otherwise **if not sure**, -in both of them regarding himself whether he will ejaculate or engage in marital relations according to the Zahir al-Riwayah. If he feels safe from such a thing happening then there is no harm.²⁵

Not antimony, -Nor cupping which does not weaken the fasting person. **nor the toothstick**. -Even if it be at the end of the day²⁶ nor if it is moist due to being wetted with water²⁷ nor is rinsing the

²² It is disliked because of that which it contains of increasing the possibility of the invalidation/spoiling of the fast. There is no difference whether the fast is obligatory or optional (Maraqī al-Falah p.407) It is apparent that the Karahah in these matters is Tanzihī (Hashiyah Ibn Abidin 2/416)

²³ The author of the Dur al-Mukhtar said (with the Hashiyah 2/416): "There are two opinions regarding it being disliked to taste at the time of buying. In al-Nahr it is said that it was disliked if he found an alternative means (to tasting to check the quality of the food). The second opinion is that if he did not find an alternative means and feared being charged excessively." Thus it being disliked was conditioned by if he finds an alternative to his tasting meaning whether he fears being charged excessively or not, and if he finds no alternative and fears being charged excessively then it is not disliked.

²⁴ Ibn Abidin said in his Hashiyah (2/417) that in al-Siraj it is stated that kissing is 'fahishah' if it involves the kissing of the lips which is disliked in an absolute sense.

²⁵ Ibn Abidin said in his Hashiyah (2/417) that according to Imam Muhammad bin Hasan al-Shaybani it is disliked in an absolute sense, and this is also a narration from Hasan. It is said: This is the correct opinion.

²⁶ Rather it is a sunnah just as it is at the beginning of the day. Maraqī al-Falah (p.411)

mouth and nose disliked outside of performing wudu, nor having a bath, nor wrapping up in a cloth wetted in order to cool down according to the Fatwa position.

• [That Which Is Desirable For The Fasting Person]

It is desirable –For the fasting person to do the following three things, to:

- 1) **Take a pre dawn meal**, -Sahur is the name of the food which is eaten at the time before dawn due to the words of the Prophet (Allah bless him and give him peace) “Partake in the pre dawn meal for in it is blessing”²⁸. And it is desirable
- 2) **Delaying it**, -Meaning the sahur till the end part of the night
- 3) **Hastening to open it** –Except on other than a cloudy day, the reason being that on a cloudy day one takes care not to spoil the fast by opening it early. The hastening of the ending of the fast is desirable as long as the stars have not become evident (ishtibak) due to the words of the Prophet (Allah bless him and give him peace) “People will continue to be upon good as long as they hasten to break their fast and delay the pre dawn meal (suhur)”²⁹. It is also desirable to break the fast with dates due to his (Upon him blessings and peace) words: “If one of you breaks his fast then he should do so on dates, if he does not find/have this then with water for it is pure”³⁰

Note: From the etiquettes (adab) of the fasting person are: To guard their tongue and body parts from any kind of disobedience to the sacred law. The eye is guarded from glancing at the unlawful, the ear is guarded from hearing that which Allah (Most High) has made unlawful. The tongue from backbiting, talebearing, lying and speaking about that which does not concern one. Likewise he guards all of his body parts from all that is abominable in the sight of Allah (Most High), for fasting is not completed except by this. He (Allah bless him and give him peace) said: “He who does not leave false speech (qawl al-zur) and acted by it, then Allah has no need for him to leave his food and drink”.³¹

•Section [The Reasons Permitting Not Fasting]

-It is permitted for the following to not fast:

1. **The traveller**, -Who began his journey before the break of dawn to not fast³². His fasting is superior if it does not harm him, and his travelling companions on the whole are fasting. If they are not fasting then it is preferable not to fast to be in conformity with the group.

²⁷ Because there is not in it the amount of water which would remain in the mouth after rinsing the mouth in wudu. However some of the scholars said it was desirable to spit after with rinsing of the mouth, even if it be once.

²⁸ Al-Bukhari (1823) Muslim (1095) al-Tirmidhi (708) al-Nasai (4/140) Ibn Majah (1692)

²⁹ Al-Bukhari (1957) Muslim (1098) al-Tirmidhi (2953) Ahmad (5/147) with a similar wording

³⁰ Al-Tirmidhi (695) Abu Dawud (2355) with a similar wording

³¹ Al-Bukhari (1903)

³² Travelling does not permit a person to break the fast, but rather it permits a person to not have to start the fast. Thus if a person travels after dawn (Fajr) and had intended to fast before this it is not permitted him for him to not fast. In al-Bahr the author said: “And likewise if the traveller at night intended to fast and in the morning did not retract his intention before dawn, then began fasting, it is not permitted for him to break his fast on that day. If however he happened to break his fast then there is no expiation (kaffarah) upon him.” Ibn Abidin added in his Hashiyah (2/431) that there was also no expiation (kaffarah) if the person made the intention during the day.

2. **Pregnant woman**
3. **Suckling/Breastfeeding woman if she fears**-Based on reasonable surety/preponderant view whether by experience or the advice of an upright expert Muslim doctor, whether the fear is **for herself or her child**,-Whether it is death or illness.
4. **An ill person who fears an increase**-Of his illness or slowing down of recovery, likewise a healthy person fearing illness if they fast

May not fast. And they make up that which they can.-Of its makeup without the payment of fidyah nor making them up consecutively³³. If a second Ramadan comes around he prioritises the current performance of the Ramadan fast as opposed to the make up, and there is no fidyah for the delay in doing so. If they do not make them up it is necessary for them to bequest for fidyah to be paid in accordance with the amount of time they were resident, healthy and there was no excuse. If they do not bequest and an inheritor pays the fidyah then it is permitted, but if they fast on their behalf it is not permitted.

• [The Fidyah Of A Terminally Old Person]

A terminally old person³⁴- Meaning a person of advanced age unable to fast **does not fast and gives fidyah**-It being compulsory to do so for every day like the fitrah with the condition of the continuing of the inability of the terminally old person lasting till their death. Likewise is the case of the person who vows to fast perpetually but then is unable to due to being busied with work etc does not fast and gives fidyah. If unable to give fidyah he asks forgiveness from Allah (Glorified and Exalted is He).

[The Ruling of Completing An Optional Fast]

An optional fast is necessary once started,-Meaning it is compulsory to complete an optional fast if it is broken, even it be due to starting the menstrual cycle according to the most correct opinion. It is compulsory to make them up except if a person was to fast on the two Eids and the days of Tashriq **and is not broken without reason**.-According to the correct opinion, it is said it is permitted with the condition that it be his intention to make it up. Hosting and being a guest is regarded as a

Note: Ibn Abidin said in his Hashiyah (2/432): If the traveller intends residence in a city for less than half a month is it permitted for him to not fast during this period, just as it is permitted for him to shorten the prayer. I was asked regarding it, but I have not seen it mentioned explicitly, I have however seen in al-Bada'i and other than it: If a traveller intends to enter his city or another city intending residence in it, it is disliked for him to not fast on that day even if he was a traveller at the beginning part of it because he has gathered that which prohibits not fasting, which is residence, and that which permits or is dispensation for it which is travelling (both of them) in one day. Thus the preference is given to the prohibiting out of precaution, even if he is reasonably certain that he will not be able to enter the city until sunset. In such as case there is no harm in not fasting on it. End

Thus his conditioning it with the intention of residence is understood to mean that without such an intention it is permitted for a person to not fast during the day he enters the city even if it be at the beginning of the day due to the absence of a prohibiting factor which is residence (as defined in the Shariah), and likewise the second day for example. The upshot is that the principles of permissibility apply as long as there is any explicit juristic statement which states otherwise.

³³ The author (Allah have mercy on him) said adding to this: "Meaning it is not a condition that there be consecutiveness in making up due to the generality/absoluteness of the proof text. However it is desirable that it be consecutive and not delayed from the period of ability to do so out of hastening towards good acts and absolving of responsibility"

³⁴ The Arabic term is 'Fani' and a terminally old person is named as such because of two reasons. The first: The end of their strength and its disappearance. Second: That the person is on the verge of death. Maraqi al-Falah (p.415)

valid excuse to break the optional fast as long as it is after the zawal, not after it. Except that if his not breaking after the zawal will be a troubling of one of the persons parents only, not others. **If he vows to fast a month consecutively which is not specified, and does not fast a day**-Even if it be from the days on which it is prohibited to fast to **he restarts**,-Meaning he begins his consecutive fast, whereas he does **not in the case of a vow for a specific month**

Note: If a person vows to perform an act of worship it is necessary to fulfil it if three conditions are found in it. First: That from its type be that which is compulsory. Second: That it be directly intended and not for something else. Third: That it not already be compulsory upon a person before their making the vow. Thus based on the three conditions outlined wudu would not become compulsory because it is not intended for itself but rather for other than it which is the prayer. Likewise a vow for the visiting of a sick person does not become necessary because its type of activity is not compulsory

Chapter on Seclusion (Itikaf)

It is to reside with an intention-Meaning with the intention of Itikaf **in a congregational masjid**³⁵,- Which is defined as that which has an Imam and caller to prayer (Muadhin) in which the five daily prayers are performed.

• [The Place Of A Womans Seclusion (Itikaf)]

A woman makes itikaf in the prayer area of her home, which is the place she has specified for prayer, and she is prohibited from attending the masjid.

• [The Pillar of Seclusion (Itikaf) and Its Conditions]

To reside in the masjid is the pillar (rukun) and its two conditions are that it be in the masjid and that there be the intention from a Muslim, intelligent, in a state of purity from major defilement (janabah), menstruation, post childbirth bleeding (nifas).

• [The Types of Seclusion (Itikaf)]

It is-Of three types, the first is:

1. **Compulsory (Wajib) due to a vow**,-With his tongue whether dependant on another event or not, the second being:
2. **An emphasized sunnah (Sunnah Muakkadah) in the last ten days of Ramadan**-Due to his (Allah bless him and give him peace) performing Itikaf in the last ten days of Ramadan until he passed away, and the third:
3. **And desirable (Mustahab) in other than it**.-From different times meaning non emphasized (ghair muakkadah).

• [Conditions For The Correctness Of The Vowed Fast]

³⁵ Meaning in a specific manner, with him fasting, reciting the Quran, remembering Allah or praying.

The condition of fasting-For the correctness of the Itikaf **is for the vowed only**.-And is not a condition in the optional (nafl), so if a person was to vow to perform itikaf for a night it would not be valid, even if he intended to fast with it, because the night is not the legislated time for fasting. If on the other hand he was to intend it during the day it would be valid.

• [The Minimum Duration Of An Optional Fast]

The least amount of the optional is a moment.-It occurs with the mere residing along with an intention, even if the one intending is walking through according to the Fatwa position. If he started an optional Itikaf and then cut it short it is not necessary to make it up.

• [A Person In Seclusion (Mutakif) Exiting From the Masjid]

He does not exit from it-Meaning the place of seclusion, thereby including the woman performing seclusion in the place of her prayer in her home. If he exits the place for a moment³⁶ without a reason it is invalidated and he makes it up. This is in regards to the compulsory, as for the optional (nafl) then a person may exit **except for human needs**,-Such as in order to relieve oneself, having a bath (ghusl) if a person experiences a wet dream, or in order to bathe for the two Eids **and the Friday prayer**.-From the time of Zawal. As for a person who is far away exits allowing enough time for offering it with its sunnah. The four or six units (rakat) after it are recommended (sunnah), and if a person was to stay longer than this it would not invalidate the itikaf but it would be slightly disliked.

Note: If at the time of vowing he conditioned that he would exit to visit the sick, or offer the funeral prayer or attend a gathering of knowledge it is permitted as mentioned in Dur al-Mukhtar.³⁷

• [That Which One In Itikaf Can Do]

His eating,-Meaning the person in Itikaf **drinking and sleeping**-Likewise his transacting for that which he requires for himself and his family **are in it**.-Meaning the masjid, such that if he was to exit it for these things it would invalidate his Itikaf. It is disliked to gather merchandise in the masjid and carry out transactions in it for the other than the one performing Itikaf absolutely. Likewise the eating and drinking in it except for the stranger

• [That Which Invalidates The Seclusion (Itikaf)]

It is invalidated by: marital relations,-Even if ejaculation does not take place, even if outside the masjid whether during the day or night, deliberately or forgetfully according to the more correct opinion. **ejaculation by kissing**.-Or touching, if he does not ejaculate then the Itikaf is not invalidated even though all are unlawful. Likewise it is not invalidated if ejaculation takes place due to thinking or looking. **The nights become necessary by vowing Itikaf during the consecutive days**.

³⁶ This is according to Imam Abu Hanifah (Allah be pleased with him) which is based on analogy. His two students however said: It does not invalidate until the person it is more than half of the day which is based on the principle of Istihsan because there is a need to exit for small periods.

³⁷ Dur al-Mukhtar (2/448) with the Hashiyah