

Introduction To Usūl al-Fiqh Sheikh Abdul Hameed ibn Badees

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1- What is Usul al-Fiqh

عِلْمُ الْأُصُولِ: مَعْرِفَةُ الْقَوَاعِدِ الَّتِي يُعْرَفُ بِهَا كَيْفَ تُسْتَفَادُ أَحْكَامُ الْأَفْعَالِ مِنْ أدِلَّةِ الْأَحْكَامِ فَلنُحْصِرَ الْكَلَامَ فِي خَمْسَةِ أَبْوَابٍ.

Usul al-Fiqh is knowledge of the foundational principles used to ascertain the rulings of acts from the sources of Islamic law.

I will present this in five chapters.

2- Actions & Accountability

مِنْ مُفْتَضَى عُبُودِيَّةِ الْعَبْدِ لِرَبِّهِ أَنْ يَكُونَ مُطِيعًا لَهُ فِي جَمِيعِ أَعْمَالِهِ مِمَّا يَفْعَلُهُ بِجَوَارِحِهِ الظَّاهِرَةِ أَوْ بِجَوَارِحِهِ الْبَاطِنَةِ، وَذَلِكَ بِأَنْ يَجْرِيَ عَلَى مُفْتَضَى طَلَبِ اللَّهِ وَإِذْنِهِ فَيَفْعَلُ مَا طَلِبَ مِنْهُ فَعَلُهُ، وَيَتْرَكَ مَا طَلِبَ مِنْهُ تَرْكُهُ، وَيَخْتَارُ فِيمَا أُذِنَ لَهُ فِي فِعْلِهِ وَتَرْكِهِ، إِذْ كُلُّ فِعْلٍ مِنْ أَعْمَالِهِ لَا بُدَّ أَنْ يَكُونَ مَطْلُوبَ الْفِعْلِ أَوْ مَطْلُوبَ التَّرْكِ أَوْ مَأْذُونًا فِي فِعْلِهِ وَتَرْكِهِ.

In the context of a servant's devotion to their Lord, it is essential for the servant to be obedient to their Lord in all of their actions, whether these actions are manifested through their outward physical faculties or their inner spiritual faculties. This obedience is characterized by adhering to the commands of God and His permissions. The servant performs what is requested of them and refrains from what is required to be avoided. They also have the discretion to choose in matters where they are granted permission to perform or abstain from certain actions. It is important to note that every action undertaken by the servant must fall into one of three categories: either it is a commanded action, a prohibited action, or it is an action for which permission has been granted.

3 - Guidance & Rulings

كُلُّ فِعْلٍ مِنْ أَعْمَالِ الْمُكَلَّفِ الظَّاهِرَةِ وَالْبَاطِنَةِ لِأَبَدٍ أَنْ يَكُونَ قَدْ تَعَلَّقَ بِهِ حُكْمٌ مِنْ أَحْكَامِ اللَّهِ تَعَالَى لِأَنَّ الْإِنْسَانَ لَمْ يُخْلَقْ عَبَثًا وَلَمْ يُنْرَكَ سُدًى، وَحُكْمُ اللَّهِ تَعَالَى هُوَ طَلْبُهُ أَوْ إِذْنُهُ أَوْ وَضْعُهُ

Every action performed by an accountable person, whether outwardly visible or inwardly, must be subject to a rule from the commandments of Allah. This is because humans are not created without purpose or left without guidance. Allah's command can either be an explicit request from Him, His permission, or His established norms.

4 - Command, Requests & Permissions

وَالطَّلَبُ إِمَّا لِلْفِعْلِ وَإِمَّا لِلتَّرْكِ، وَهُوَ فِي كِلَيْهِمَا إِمَّا عَلَى سَبِيلِ النَّحْتِيمِ وَإِمَّا عَلَى سَبِيلِ التَّرْجِيحِ. فَمَا كَانَ طَلْبًا لِلْفِعْلِ عَلَى سَبِيلِ النَّحْتِيمِ فَهُوَ الْإِجَابُ. وَمَا كَانَ طَلْبًا لِلْفِعْلِ عَلَى سَبِيلِ التَّرْجِيحِ فَهُوَ النَّدْبُ أَوْ الْإِسْتِحْبَابُ. وَمَا كَانَ طَلْبًا لِلتَّرْكِ عَلَى سَبِيلِ التَّحْرِيمِ فَهُوَ الْحَظْرُ وَالتَّحْرِيمُ. وَمَا كَانَ طَلْبًا عَلَى سَبِيلِ التَّرْجِيحِ فَهُوَ الْكَرَاهِيَّةُ. وَإِذْنُهُ فِي الْفِعْلِ وَالتَّرْكِ هُوَ الْإِبَاحَةُ، وَإِنَّمَا سُمِّيَ الطَّلَبُ وَالْإِذْنَ حُكْمًا،

Requests (طلب) can be made either for actions or for abstaining from actions, and in both cases, they can be either on the basis of precaution (تحتيم) or preference (ترجیح). When a request is made for an action based on precaution, it is considered affirmation (الإيجاب). If the request for an action is based on preference, it falls into the category of recommendation (الندب) or desirability (الاستحباب). Similarly, when there is a request for abstaining from an action based on prohibition (تحريم), it is regarded as prohibition (الحظر) and avoidance (التحريم). If the request for abstaining from an action is based on preference, it is considered disliking (الكرهية). Permission (إذن) from Allah for both performing and abstaining from actions is known as permissibility (الإباحة). It's worth noting that these requests (طلب) and permissions (إذن) are collectively referred to as rulings (حكم).

5 - Rulings & Prescriptives

وَالْحُكْمُ إِثْبَاتُ شَيْءٍ لِسَيِّءٍ أَوْ نَفْيُهُ عَنْهُ لِأَنَّ الْإِجَابَ إِذَا تَعَلَّقَ بِالْفِعْلِ ثَبَّتَ لَهُ هَذَا الْوَصْفُ وَهُوَ الْوُجُوبُ، فَيُقَالُ فِيهِ وَاجِبٌ وَلِأَنَّ الْإِسْتِحْبَابَ وَالتَّحْرِيمَ إِذَا تَعَلَّقَ بِالْفِعْلِ ثَبَّتَ لَهُ هَذَا الْوَصْفُ وَهُوَ الْإِسْتِحْبَابِيُّهُ وَالتَّحْرِيمِيُّهُ فَيُقَالُ فِيهِ: مُسْتَحَبٌّ وَمَنْدُوبٌ وَلِأَنَّ التَّحْرِيمَ وَالْحَظْرَ إِذَا تَعَلَّقَ بِالْفِعْلِ ثَبَّتَ لَهُ هَذَا الْوَصْفُ وَهُوَ الْحَرْمَةُ وَالْمَحْظُورِيُّهُ، فَيُقَالُ فِيهِ: حَرَامٌ وَمَحْظُورٌ وَلِأَنَّ الْكَرَاهِيَّةَ إِذَا تَعَلَّقَ بِالْفِعْلِ ثَبَّتَ لَهُ هَذَا الْوَصْفُ وَهُوَ الْمَكْرُوهِيَّةُ فَيُقَالُ فِيهِ: مَكْرُوهٌ. وَلِأَنَّ الْإِذْنَ وَالْإِبَاحَةَ إِذَا تَعَلَّقَ بِالْفِعْلِ ثَبَّتَ لَهُ هَذَا الْوَصْفُ وَهُوَ الْمَأْذُونِيُّهُ وَالْإِبَاحَةُ فَيُقَالُ فِيهِ: مَأْذُونٌ فِيهِ وَمُبَاحٌ

A ruling (linguistically) is the affirmation of something or its negation. Islamically, the detailed definitions of rulings are as follows:

1. When a definitive command relates to an action and the qualities of that command are present in the action, it is designated as obligated.
2. When a recommended or encouraged command relates to an action, and the qualities of that recommendation are present in the action, it is designated as recommended.
3. When a definitive command to refrain relates to an action, and the qualities of that command to refrain are present in the action, it is designated as forbidden.
4. When a discouraged command relates to an action, and the qualities of discouragement are present in that action, it is designated disliked
5. When the absence of a command relates to an action, and the qualities of permission and permissibility are present in that action, it is designated as permissible.

5 - Prescriptive Rulings

وَتُسَمَّى هَذِهِ الْأَحْكَامُ الْخَمْسَةَ أَحْكَامًا تَكْلِيفِيَّةً لِمَا فِي تَحْصِيلِ الْمَطْلُوبِ مِنَ الْكُلْفَةِ

These five rulings are known as rulings of responsibility (Ar. Taklifi) due to the burden that comes with their request.

The next type of ruling is constitutive. They are those rulings related to conditions, causes and preventions. Scholars called them constitutive rulings because of their casual relationship to worshippers.

6 - Constitutive Rulings

وَأَمَّا وَضَعُهُ تَعَالَى فَهُوَ جَعَلَهُ سَبَبًا يُلْزَمُ مِنْ وُجُودِهِ الْوُجُودُ، وَمِنْ عَدَمِهِ الْعَدَمُ لِذَاتِهِ، كَدْخُولِ الْوَقْتِ لِوُجُوبِ الصَّلَاةِ وَصِحَّتِهَا. أَوْ شَرْطًا يُلْزَمُ مِنْ عَدَمِهِ الْعَدَمُ ، وَلَا يُلْزَمُ مِنْ وُجُودِهِ وَجُودٌ وَلَا عَدَمٌ لِذَاتِهِ، كَالْوَضُوءِ لِصِحَّتِهَا. أَوْ مَانِعًا يُلْزَمُ مِنْ وُجُودِهِ الْعَدَمُ، وَلَا يُلْزَمُ مِنْ عَدَمِهِ وَجُودٌ وَلَا عَدَمٌ لِذَاتِهِ، كَالْحَيْضِ لِوُجُوبِهَا وَصِحَّتِهَا. وَإِنَّمَا سُمِّيَ هَذَا الْوَضْعُ حُكْمًا لِأَنَّ مَا وَضَعَهُ اللَّهُ سَبَبًا تَبَيَّنَتْ لَهُ السَّبَبِيَّةُ. وَمَا وَضَعَهُ شَرْطًا تَبَيَّنَتْ لَهُ الشَّرْطِيَّةُ. وَمَا وَضَعَهُ مَانِعًا تَبَيَّنَتْ لَهُ الْمَانِعِيَّةُ. وَتُسَمَّى هَذِهِ الْأَحْكَامُ الثَّلَاثَةَ وَضْعِيَّةً نِسْبَةً لِلْوَضْعِ وَالْجَعْلِ. فَفَهْمٌ تَفْرِيْقًا مَا بَيْنَهُمَا

Constitutive rulings are Allah's ﷻ making something a cause; its presence necessitates the presence of an act, while its absence, necessitates the absence of the act. An example is the time of a prayer. It indicates the obligation and soundness of that prayer, as its end indicates that the time of that prayer is over, along with the sin of the one who delayed it without a shari'ah excuse.

Constitutives also include conditions Allah has made; their absence necessitates the absence of an act, but their presence does not necessitate an act's existence or nonexistence, like ablution for prayer's validity.

Finally constitutives are things Allah has designated as preventatives; their presence necessitates an act's nonexistence, while their absence, does not necessitate the act's existence or nonexistence. An example is menstruation. It prevents the obligation and validity of prayer.

Causes, conditions and hinderances are called constitutive rulings because whatever Allah ﷻ designates a cause becomes causal, as a condition becomes conditional, and as a hindrance becomes preventative. Hence these rulings are called “wadi” in relation to Allah placing them as indicators for rulings. Understand well the differences between the constitutive rulings and the prescriptive rulings!

7 - Differences Between Talklif & Wadi

مِمَّا يَفْتَرِقَانِ فِيهِ أَنَّ الْحُكْمَ التَّكْلِيفِيَّ مُتَعَلِّقَهُ فِعْلُ الْمُكَلَّفِ مِنْ حَيْثُ طَلَبِهِ وَالْإِذْنُ فِيهِ. وَإِنَّ الْحُكْمَ الْوَضْعِيَّ مُتَعَلِّقَهُ الْأَشْيَاءَ الَّتِي تُجَعَلُ شُرُوطًا وَأَسْبَابًا وَمَوَانِعَ، سِوَاءَ كَانَتْ مِنْ فِعْلِ الْمُكَلَّفِ كَالْوَضُوءِ شَرْطًا فِي الصَّلَاةِ، أَوْ لَمْ تَكُنْ كَدُخُولِ الْوَقْتِ سَبَبًا فِي وُجُوبِهَا، وَأَنَّ مُتَعَلِّقَ الْحُكْمِ التَّكْلِيفِيَّ يُطَالَبُ الْمُكَلَّفُ بِتَحْصِيلِهِ لِأَنَّهُ فَعَلُهُ. وَأَنَّ مُتَعَلِّقَ الْحُكْمِ الْوَضْعِيَّ لَا يُطَالَبُ الْمُكَلَّفُ بِتَحْصِيلِهِ إِذَا لَمْ يَكُنْ مِنْ فِعْلِهِ كَدُخُولِ الْوَقْتِ وَمُرُورِ الْحَوْلِ، وَيُطَالَبُ بِتَحْصِيلِهِ إِذَا كَانَ مِنْ فِعْلِهِ كَالطَّهَارَةِ وَاسْتِقْبَالِ الْقِبْلَةِ، وَيَكُونُ الْفِعْلُ حِينَئِذٍ مُتَعَلِّقًا لِلْحُكْمَيْنِ بِاعْتِبَارَيْنِ مُخْتَلَفَيْنِ

What differentiates them is that the prescriptive judgment is concerned with the actions of the obligated individual in terms of asking and permitting. Whereas, the constitutive judgment relates to things that are made conditions, causes, and obstacles, whether they are from the actions of the obligated individual, like ablution being a condition for prayer, or not, like the entering of time being a cause for its obligation. The subject of the prescriptive judgment is required of the obligated individual to achieve because it is their action. And the subject of the constitutive judgment is not required of the obligated individual to achieve if it is not from their action, like the entering of time and the passing of a year, but is required if it is from their action, like cleanliness and facing the Qibla, and the action then becomes the subject of both judgments with two different considerations.

8 - Shariah Rulings & Revelation

كُلُّ حُكْمٍ مِنْ أَحْكَامِ اللَّهِ تَعَالَى فَهُوَ مُسْتَفَادٌ مِّنَ الْخُطَابَاتِ الْمَوْجَّهَةِ إِلَيْنَا. وَمَا تَضَمَّنَ مِنْهَا حُكْمًا تَكْلِيفِيًّا فَهُوَ خِطَابٌ تَكْلِيفِيٌّ. وَمَا تَضَمَّنَ حُكْمًا وَضْعِيًّا فَهُوَ خِطَابٌ وَضْعِيٌّ، وَقَدْ يَتَضَمَّنُ الْخِطَابُ الْحُكْمَيْنِ مَعًا

Every decree from Allah ﷻ is derived from his proclamation to us (revelation). What contains a prescriptive ruling is a prescriptive proclamation, what contains a constitutive ruling is a constitutive proclamation, and, as I noted above, a proclamation may contain both rulings together.

Here are some examples to help you identify in the Qur'an and the Sunna, prescriptives, constitutives and when both are present together.

7. Examples of Taklifi & Wadi Rulings

Here are some examples of taklifi and wadi rulings:

أَمْتَلُهُ ذَلِكَ: فَمِنْ قَوْلِهِ تَعَالَى:

قوله تعالى: {أَقِيمُوا الصَّلَاةَ} ومنه عرفنا الحكم الذي هو الإيجاب للصلاة.
قوله تعالى: {وَلَا تَقْرُبُوا الزِّنَا} ومنه عرفنا الحكم الذي هو التحريم للزنا.
قوله صلى الله عليه وسلم في العامد للصلاة أنه: «تُكْتَبُ لَهُ بِكُلِّ خُطْوَةٍ حَسَنَةٌ وَتُمْحَى عَنْهُ بِالْأُخْرَى سَيِّئَةٌ» ومنه عرفنا الحكم الذي هو استحباب كثرة الخطى إلى المساجد.
قوله تعالى: {وَلَا يَأْتَلِ أُولُو الْفَضْلِ مِنْكُمْ وَالسَّعَةِ أَنْ يُؤْتُوا أُولِي الْقُرْبَى وَالْمَسَاكِينَ وَالْمُهَاجِرِينَ فِي سَبِيلِ اللَّهِ} ومنه عرفنا الحكم الذي هو كراهة الحلف على الامتناع من الصدقة.
قوله تعالى: {فَإِذَا قُضِيَتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ} ومنه عرفنا الحكم الذي هو الإذن في الانتشار.
قوله تعالى: {أَقِمِ الصَّلَاةَ لِذُلُوكِ الشَّمْسِ} ومنه عرفنا الحكم الذي هو وضعه تعالى دخول الوقت سبباً لإقامة الصلاة.
قوله صلى الله عليه وسلم: «لَا يَقْبَلُ اللَّهُ صَلَاةَ أَحَدِكُمْ إِذَا أَحْدَثَ حَتَّى يَتَوَضَّأَ» ومنه عرفنا الحكم الذي هو وضعه تعالى الوضوء شرطاً في الصلاة.
قوله صلى الله عليه وسلم: «أَلَيْسَ إِذَا حَاضَتِ الْمَرْأَةُ لَمْ تُصَلِّ وَلَمْ تَصُمْ» ومنه عرفنا الحكم الذي هو وضعه تعالى الحيض مانعاً من الصلاة والصوم.
قوله تعالى: {يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا قُمْتُمْ إِلَى الصَّلَاةِ فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ} الآية، عَرَفْنَا الْحُكْمَ الَّذِي هُوَ إِجَابُ الْوَضُوءِ، وَعَرَفْنَا الْحُكْمَ الَّذِي هُوَ وَضْعُهُ تَعَالَى وَضُوءٌ شَرْطاً فِي الصَّلَاةِ فَاشْتَمَلَ هَذَا الْخِطَابُ عَلَى الْحُكْمِ التَّكْلِيفِيِّ وَالْوَضْعِيِّ مَعًا تَثْمِينًا وَتَقْسِيمًا.

1. From the verse “أَقِيمُوا الصَّلَاةَ” (Establish prayer), we understand the ruling that prayer is obligatory.
2. From the verse “وَلَا تَقْرُبُوا الزِّنَا” (Do not approach adultery), we understand the ruling that adultery is prohibited.
3. From the Prophet’s saying about the person going to pray, “تُكْتَبُ لَهُ بِكُلِّ خُطْوَةٍ حَسَنَةٌ وَتُمْحَى عَنْهُ” (For each step, a good deed is written and a bad deed is erased), we understand the ruling that encourages taking more steps to the mosques.
4. From the verse “أُولِي الْقُرْبَى وَالْمَسَاكِينَ وَالْمُهَاجِرِينَ فِي سَبِيلِ اللَّهِ وَلَا يَأْتَلِ أُولُو الْفَضْلِ مِنْكُمْ وَالسَّعَةِ أَنْ يُؤْتُوا” (Those of virtue and affluence among you should not swear not to give to relatives and the needy and those who emigrated for the cause of Allah), we understand the ruling that disapproves of swearing to refrain from giving charity.
5. From the verse “فَإِذَا قُضِيَتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ” (When the prayer is concluded, disperse within the land), we understand the ruling that permits dispersal after prayer.
6. From the verse “أَقِمِ الصَّلَاةَ لِذُلُوكِ الشَّمْسِ” (Establish prayer at the decline of the sun), we understand the ruling that the time of the declining sun is a cause for establishing prayer.

7. From the Prophet's saying "لَا يَقْبَلُ اللَّهُ صَلَاةَ أَحَدِكُمْ إِذَا أَحْدَثَ حَتَّى يَتَوَضَّأَ" (Allah does not accept the prayer of any of you if he has nullified his ablution until he performs it again), we understand the ruling that ablution is a condition for prayer.
8. From the Prophet's saying "أَلَيْسَ إِذَا حَاصَتْ الْمَرْأَةُ لَمْ تُصَلِّ وَلَمْ تَصُمْ" (When a woman menstruates, she does not pray or fast), we understand the ruling that menstruation is an obstacle to prayer and fasting.
9. From the verse "يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا قُمْتُمْ إِلَى الصَّلَاةِ فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ" (O you who have believed, when you rise to [perform] prayer, wash your faces and your forearms to the elbows and wipe over your heads), we understand the ruling that ablution is obligatory and a condition for prayer.

The next division of rulings relates to defaults and concessions. Dispensations occur when circumstances make the default impossible or difficult to observe.

7 - The Division of Rulings Into: Defaults (Azim) and Concessions (Rukhsa)¹

يُنْقَسِمُ الْحُكْمُ أَيْضًا إِلَى: عَزْمٍ وَتَرْخِيصٍ فَمَا كَانَ حُكْمًا ابْتِدَائِيًّا عَامًّا فِي جَمِيعِ الْأَحْوَالِ فَهُوَ عَزْمٌ، وَالْفِعْلُ الَّذِي تَعَلَّقَ بِهِ يُسَمَّى عَزِيمَةً كَأَيَّاجِبِ الصَّلَاةِ وَالصَّوْمِ وَتَحْرِيمِ الْخَمْرِ. وَمَا كَانَ حُكْمًا سَهْلًا شُرِعَ بَعْدَ حُكْمٍ صَعْبٍ فِي حَالَةٍ خَاصَّةٍ لِأَجْلِ الْعُدْرِ مَعَ قِيَامِ السَّبَبِ لِلْحُكْمِ الْأَصْلِيِّ فَهُوَ تَرْخِيصٌ، وَالْفِعْلُ الَّذِي تَعَلَّقَ بِهِ يُسَمَّى رُخْصَةً، كَقَصْرِ الصَّلَاةِ وَالْفِطْرِ فِي السَّفَرِ، وَالْمَسْحُ عَلَى الْخُفِّ، وَإِسَاعَةِ الْعُصَّةِ بِالْخَمْرِ

Rulings are divided into defaults and dispensations. So, whatever is a primary, general ruling in all circumstances, is the default, and the action to which it is related is called *azima*. Examples are the obligations of prayer, fasting and the prohibition of alcohol. Dispensation is a ruling the Shari'ah legislated to facilitate- to modify- the primary (*azima*) ruling due to a specific condition or a sincere excuse, while the original reason for the ruling still stands. Examples of *rukhsa* are shortening the prayers and breaking the fast during travel, wiping over leather socks, and saving a person with a small amount of alcohol.

8 - Sound (Tasheeh) and Null (Ibtal) Rulings

وَيُنْقَسِمُ أَيْضًا إِلَى: تَصْحِيحٍ وَإِبْطَالٍ: فَالتَّصْحِيحُ: الْحُكْمُ بِالصَّحَّةِ فِي الْعِبَادَاتِ، وَعُقُودِ الْمُعَامَلَاتِ وَهِيَ اسْتِيفَاءُ الْعَقْدِ، وَالْعِبَادَاتِ بِالشَّرْطِ الْمُعْتَبَرَةِ فِيهِ شَرْعًا، وَسَلَامَتِهِ مِنَ الْمَوَانِعِ بِحَيْثُ يَقَعُ عَلَى الْوَجْهِ الْمَشْرُوعِ، وَمَا تَعَلَّقَتْ بِهِ الصَّحَّةُ مِنْهُمَا صَحِيحٌ، وَإِبْطَالُ الْحُكْمِ لِإِبْطَالِ الْعَقْدِ أَوْ الْعِبَادَةِ.

Rulings are also divided into sound and null. A sound ruling: It's the ruling of compliancy in acts of worship and transactional contracts. It is the fulfillment of the contract and the acts of worship

¹ 'Azima and rukhsa are legal terms referring, respectively, to the application of a commandment in Islamic law in its original force, and to its replacement with a less onerous alternative in cases of need or duress.

with the conditions commanded by the Sharia; it is free from impediments, such that it occurs in the way Allah prescribed it.

Soundness is related to acts of worship and occurs when the worshiper observes its pillars and designations, if required, just as the nullification of a ruling is due to the failure to comply with the condition's of a contract or the conditions of an act of worship.

وَالْبُطْلَانُ وَالْفَسَادُ هُوَ: اخْتِلَالُ الْعِبَادَةِ أَوْ الْعَقْدِ لِتَخَلُّفِ شَرْطٍ أَوْ وُجُودِ مَانِعٍ، بِحَيْثُ تَكُونُ الْعِبَادَةُ أَوْ الْعَقْدُ وَقَعَتْ عَلَى غَيْرِ الرَّجْحِ الْمَشْرُوعِ (٨)، وَمَا تَعَلَّقَ بِهِ الْإِبْطَالُ مِنْهُمَا فَهُوَ بَاطِلٌ، لِقَوْلِهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ «مَنْ عَمِلَ عَمَلًا لَيْسَ عَلَيْهِ أَمْرُنَا فَهُوَ رَدٌّ» (٩) رَوَاهُ الشَّيْخَانُ عَنْ عَائِشَةَ رَضِيَ اللهُ عَنْهَا

Anullment and corruption are due to a shortcoming in an act of worship or the contract due to the absence of a condition or the presence of an impediment, such that the act of worship or the contract commenced outside of shariah complacency. When the qualites of nullification are present in an act, it is null. This is based on the statement of the Prophet ﷺ from Sayyida ‘Aiesha, “Who performs an action that is not compliant with what we have commanded, it is rejected.” (Al-Bukhari and Muslim)

9 - The judge is Allah, the Most High.

وَكُلُّ حَاكِمٍ مِنَ الْخَلْقِ فَإِنَّمَا يَكُونُ حَاكِمًا شَرْعًا إِذَا كَانَ يَحْكُمُ بِحُكْمِ اللهِ: يَتَحَرَّاهُ وَيَقْصِدُهُ لِقَوْلِهِ تَعَالَى: {إِن الْحُكْمُ إِلَّا لِلَّهِ} {وَأَن أَحْكُمَ بَيْنَهُمْ بِمَا أَنْزَلَ اللهُ} {إِنَّا أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ .. إِلَى .. اللهُ} {وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ} {وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ} {وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللهُ فَأُولَئِكَ هُمُ الْفَاسِقُونَ}

Rulers are shariah complieant only when they rule with the judgment of Allah, seeking and intending it. As the Almighty stated: ‘The ruling belongs only to Allah’, ‘Judge among them by what Allah has revealed’, ‘We have sent down the Book to you in truth, so rule with what Allah has sent’, ‘Those who do not judge by what Allah has revealed are indeed disbelievers’, ‘Those who don’t adhere to Allah’s decrees are wrongdoers’, and ‘Those who defy Allah’s laws are the rebellious.’

10 - The Object of Rulings

هُوَ فِعْلُ الْمُكَالِفِ: الظَّاهِرُ وَالْبَاطِنُ، وَلَمْ يُكَلَّفِ اللهُ الْعِبَادَ إِلَّا بِمَا فِي مَقْدُورِهِمْ وَلَا حَرَجَ عَلَيْهِمْ فِيهِ؛ فَلَا تُكَلِّفُ بِغَيْرِ الْمَقْدُورِ كَقِيَامِ الْمُفْعَدِ لِلصَّلَاةِ، وَلَا بِمَا فِيهِ حَرَجٌ كَقِيَامِ الْمَرِيضِ لَهَا (٨)؛ لِقَوْلِهِ تَعَالَى: {... رَبَّنَا وَلَا تُحَمِّلْنَا مَا لَا طَاقَةَ لَنَا بِهِ ..} (٩)، {لَا يُكَلِّفُ اللهُ نَفْسًا إِلَّا وُسْعَهَا} (١٠)، {وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ} (١١)

The object of rulings is the outward and inward actions of the accountable person. “Allah has not burdened His servants except with what is within their capacity,” and “There is no hardship upon them in His commands,” and therefore, there is no obligation beyond what is possible for a person., like expecting a crippled person to stand for prayer, or expecting someone ill to bear undue strain. This is consistent with the verse: ‘Our Cherisher, do not burden us beyond our capacity,’ and the verse, ‘Allah does not impose on any soul more than it can bear’, and ‘He has not set any difficulty upon you in the religion.’

11- Who is Accountable In Shari’ah?

المَحْكُومُ عَلَيْهِ - وَهُوَ الْمُكَلَّفُ الْبَالِغُ الْعَاقِلُ الْمُخْتَارُ دُونَ الصَّبِيِّ وَالْمَجْنُونِ وَالْمَعْتُوهِ وَالْمُكْرَهِ. الْمُخَاطَبُ بِالْأَحْكَامِ

It is every adult, sane person, who exhibits moral competence, not a child, the insane, the ignorant, and the coerced.

12- To Whom the Rulings Address?

إِذَا كَانَ الْخِطَابُ بِحُكْمٍ وَضَعِيٍّ فَهُوَ عَلَى عُمُومِهِ لِلْمُكَلَّفِ وَغَيْرِهِ؛ وَلِهَذَا لَزِمَ الصَّبِيُّ وَالْمَجْنُونُ أَرْشُ جِنَايَتِهِمَا، وَوَجِبَتِ الزَّكَاةُ بِمِلْكِ النَّصَابِ فِي مَالِهِمَا. وَإِنْ كَانَ الْخِطَابُ بِحُكْمٍ تَكْلِيفِيٍّ فَهُوَ لِخُصُوصِ الْمُكَلَّفِينَ. ثُمَّ الْخِطَابُ التَّكْلِيفِيُّ إِنْ كَانَ بِمَا تَتَوَقَّفُ عَلَيْهِ مَصْلَحَةٌ كُلِّ فَرْدٍ تَوْفَّقًا مُبَاشِرًا تَوَجَّهَ لِكُلِّ فَرْدٍ، وَسُمِّيَ الْخِطَابُ: خِطَابًا عَيْنِيًّا، وَيُسَمَّى الْمَطْلُوبُ بِهِ مَطْلُوبًا عَيْنِيًّا - وَاجِبًا كَانَ أَوْ مَنْدُوبًا - كَالصَّلَاةِ وَالصَّوْمِ وَالْحَجِّ وَالصَّدَقَةِ فَرَضِيًّا وَنَفْلِيًّا، وَلَا يَسْقُطُ الطَّلَبُ فِيهِ عَنْ أَحَدٍ بِقِيَامِ غَيْرِهِ بِهِ

If the address is of a designated ruling, it generally applies to both the accountable and those (usually) exempted from obligations. That is why a child and an insane person are held liable for the consequences of their offenses, and are obliged to give zakat if they possess the required amount. But, if the address is of an obligatory nature, it is exclusive to the accountable individuals (Ar. Mukalffin). Furthermore, if the obligatory address concerns matters directly benefiting society, it addresses every individual. Such an address is termed a “individual address”, and the sought-after act in this context is known as an “individual request”, be it obligatory, like prayers, fasting, pilgrimage, and obligatory charity, or recommended, like voluntary prayers and charity. No one is exempted from this requirement by the action of others.

13 - Communal and Individual Obligations

وَإِنْ كَانَ بِمَا تَتَوَقَّفُ عَلَيْهِ مَصْلَحَةُ الْمَجْمُوعِ وَمَصْلَحَةُ الْفَرْدِ مِنْ حَيْثُ إِنَّهُ جُزْءٌ مِنَ الْمَجْمُوعِ - تَوَجَّهَ لِلْمَجْمُوعِ، وَسُمِّيَ الْخِطَابُ خِطَابًا كِفَائِيًّا، وَاجِبًا كَانَ الطَّلَبُ كَطَلَبِ الْعِلْمِ وَالْأَمْرِ بِالْمَعْرُوفِ وَالنَّهْيِ عَنِ الْمُنْكَرِ، أَوْ مَنْدُوبًا: كَأَفْشَاءِ السَّلَامِ وَتَشْمِيتِ الْعَاطِسِ، وَيَسْقُطُ الطَّلَبُ عَنِ الْمَجْمُوعِ. إِذَا قَامَ بِهِ بَعْضُهُمْ، وَيَكْفِي فِيهِ عَنْ كُلِّ أَحَدٍ غَيْرُهُ، وَمِنْ هَذَا الْقِسْمِ جَاءَ قَوْلُهُ تَعَالَى: {وَلَتَكُنَّ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَأُولَئِكَ هُمُ الْمُفْلِحُونَ} ، {فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ} . وَيُسَمَّى الْمَطْلُوبُ بِهِ مَطْلُوبًا كِفَائِيًّا

If the address pertains to matters that benefit society and individual members of that society, the obligation is for the group, and that type of obligation is designated as a “communal address,” and the act is known as a “a sufficient obligation.” Communal addresses can be obligatory, like seeking knowledge, enjoining the good and forbidding the evil, or recommended, like sharing greetings of peace and offering blessings when someone sneezes.

The group obligation is relieved when some people undertake it. Their actions remove the obligation on the whole: it is sufficient for the rest. From this category comes the Quranic verse: ‘Let there be among you a group that calls to good, commands what is right, and forbids what is wrong. They are the successful ones’, and ‘Why not a group from every community come forth to gain understanding in religion and to warn their people when they return to them, so they might be cautious.’ This type of request is called a communal request.

Third Chapter Foundational Sources

14 - The Quran

الْكِتَابُ: هُوَ الْقُرْآنُ الْعَظِيمُ، وَهُوَ الْكِتَابُ الْمُنَزَّلُ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، الْمَكْتُوبُ فِي الْمَصَاحِفِ، الْمَقُولَةُ إِلَيْنَا بِالتَّوَاتُرِ، الْمَحْفُوظَةُ بِحِفْظِ اللَّهِ مِنَ التَّغْيِيرِ وَالتَّغْيِيرِ. وَهُوَ أَصْلُ الْأَدْلَةِ؛ إِذْ كُلُّهَا يَرْجِعُ إِلَيْهِ، وَاسْتَدَلَّ عَلَى حُجَّتِهَا بِهِ: فَالسُّنَّةُ بَيَانُهُ، وَالْإِجْمَاعُ لَا يَكُونُ إِلَّا عَنْ دَلِيلٍ مِنْهُ أَوْ مِنَ السُّنَّةِ، وَالْقِيَاسُ لَا يَكُونُ إِلَّا عَلَى أَصْلِ تَبَيَّنَتْ حُكْمُهُ بِالْكِتَابِ أَوْ السُّنَّةِ أَوْ الْإِجْمَاعِ.

The Book (الْكِتَابُ) is the magnificent Quran, which Allah ﷻ revealed to the Prophet, peace be upon him, recorded in text, transmitted to us through continuous narration (تَوَاتُرًا), and preserved by Allah from alteration and change. And it (the Quran) is the foundation of all evidence, as everything ultimately goes back to it. The Sunnah (tradition of the Prophet) clarifies it, consensus (الْإِجْمَاعُ) is not established except through evidence from it or from the Sunnah, and analogy (الْقِيَاسُ) is only based on a principle whose ruling has been established by the Quran, the Sunnah, or consensus.

15 - The Sunna

السُّنَّةُ: هِيَ مَا تَبَيَّنَتْ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِنْ قَوْلٍ أَوْ فِعْلٍ أَوْ تَقْرِيرٍ، وَهِيَ حُجَّةٌ فِي دِينِ اللَّهِ بِالْإِجْمَاعِ؛ لِقَوْلِهِ تَعَالَى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا}، وَقَوْلِهِ تَعَالَى: {يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ كَمَا كَانَ لِمُؤْمِنٍ وَلَا مُؤْمِنَةٍ ... إِلَى: مُبِينًا}، وَقَوْلِهِ تَعَالَى: {فَلْيَحْذَرِ الَّذِينَ يُخَالِفُونَ عَنْ أَمْرِهِ} الْآيَةَ، وَقَوْلِهِ تَعَالَى: {وَيَقُولُونَ آمَنَّا بِاللَّهِ وَبِالرَّسُولِ وَأَطَعْنَا ثُمَّ يَتَوَلَّى فَرِيقٌ مِنْهُمْ مِنْ بَعْدِ ذَلِكَ - إِلَى قَوْلِهِ: وَمَا عَلَى الرَّسُولِ إِلَّا الْبَلَاغُ الْمُبِينُ} وَقَوْلِهِ تَعَالَى: {وَإِذَا قِيلَ لَهُمْ تَعَالَوْا إِلَى مَا أَنْزَلَ اللَّهُ وَإِلَى الرَّسُولِ رَأَيْتَ الْمُنَافِقِينَ يَصُدُونَ عَنْكَ صُدُودًا}.

The Sunnah refers to what has been authenticated from the Prophet, peace be upon him, whether his sayings, actions, or silent-approvals. It is an authoritative source in Islam by the consensus of scholars, due to the saying of God Almighty: “Whatever the Messenger gives you, take it; and whatever he forbids you, abstain from it.” And His saying: “O you who believe, obey God and obey the Messenger,” and “It is not for a believing man or woman to the saying: clearly evident. And God Almighty said: “Let those who oppose His commandment beware...” and He said: “And when they say, ‘We believe in Allah and in the messenger, and we obey,’ a group of them turns away after that - to His saying: and upon the Messenger is only the duty of clear conveyance”. And He said: “And when it is said to them, ‘Come to what Allah has revealed and to the Messenger,’ you see the hypocrites turning away from you dismissively”.

16 - The Roles of the Sunnah

وَتَجِيءُ السُّنَّةُ لِتَبَيِّنِ الْكِتَابِ؛ لِقَوْلِهِ تَعَالَى: {وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ}، وَقَوْلِهِ تَعَالَى: {وَمَا أَنْزَلْنَا عَلَيْكَ الْكِتَابَ إِلَّا لِتُبَيِّنَ لَهُمُ الَّذِي اخْتَلَفُوا فِيهِ}. وَتَسْتَقِيلُ بِالنُّشْرِيِّ لِقَوْلِهِ تَعَالَى: {وَمَا آتَاكُمُ الرَّسُولُ} الْآيَةَ. وَقَدْ رَوَى الشَّيْخَانُ: أَنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: (لَعَنَ اللَّهُ الْوَأَشِمَاتِ وَالْمُسْتَوْشِمَاتِ، وَالنَّامِصَاتِ وَالْمَتَمِّصَاتِ، وَالْمُتَفَلِّجَاتِ لِلْحُسْنِ الْمُغَيَّرَاتِ خَلَقَ اللَّهُ). قَالَ: فَبَلَغَ ذَلِكَ امْرَأَةً مِنْ بَنِي أَسَدٍ يُقَالُ لَهَا: أُمُّ يَعْقُوبَ، وَكَانَتْ تَقْرَأُ الْقُرْآنَ - فَأَتَتْهُ فَقَالَتْ: مَا حَدِيثٌ بَلَغَنِي عَنْكَ أَنَّكَ لَعَنْتَ الْوَأَشِمَاتِ؟ فَقَالَ عَبْدُ اللَّهِ: وَمَا لِي لَا أَلْعَنُ مَنْ لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُوَ فِي كِتَابِ اللَّهِ، فَقَالَتِ الْمَرْأَةُ: لَقَدْ قَرَأْتُ مَا بَيْنَ لَوْحِي الْمُصْحَفِ فَمَا وَجَدْتُهُ. فَقَالَ لَهَا: إِنْ كُنْتَ قَرَأْتِيهِ لَقَدْ وَجَدْتِيهِ، فَقَالَ اللَّهُ تَعَالَى: {وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ} الْآيَةَ. فَقَالَتْ: إِنِّي أَرَى شَيْئًا مِنْ هَذَا عَلَى امْرَأَتِكَ الْآنَ، قَالَ: أَذْهَبِي فَاَنْظُرِي، قَالَ: فَدَخَلَتْ عَلَى امْرَأَةِ عَبْدِ اللَّهِ فَلَمْ تَرَ شَيْئًا، فَجَاءَتْ إِلَيْهِ فَقَالَتْ: مَا رَأَيْتُ شَيْئًا، فَقَالَ: أَمَا لَوْ كَانَ ذَلِكَ لَمْ أُجَامِعْهَا.

- 1) The Sunnah explains the Quran, as God Almighty said: “And We have revealed to you the Reminder, so that you will clarify to people what was sent to them” and He said: “And We have not sent down the book to you except to clarify for them those things in which they disagree.”
- 2) The Sunnah legislates due to His saying: “Whatever the Messenger has given you.” Al-Bukhari and Muslim narrate that Abdullah bin Mas’ud, may Allah be pleased with him, said: “God has cursed those who tattoo and those who get tattooed, those who pluck their eyebrows and those who get their eyebrows plucked, and those who file their teeth for beautification, altering the creation of God.” When a woman from the tribe of Bani Asad, known as Umm Yaquob, who used to recite the Quran, heard this, she came to him and said: “What is this narration I heard about you cursing the women who do tattoos?” Abdullah replied: “Why shouldn’t I curse those whom the Messenger of God, peace be upon him, has cursed? He, God’s peace be upon him, said it and it’s in the Book of Allah.” The woman replied, “I’ve read the entire Quran and I didn’t find it.” Abdullah said to her, “If you had truly read it, you would have found it. Allah Almighty says, ‘And whatever the Messenger has given you, take it.’” She retorted, “I think I see some of these (tattoos or plucked eyebrows) on your wife.” Abdullah replied, “Go and check.”

She went and saw Abdullah’s wife and found nothing of the sort. She returned and informed him, “I saw nothing.” Abdullah responded, “Had that been the case, I would not have been with her (meaning he would not have married her).”

17 - Consensus

هُوَ اتِّفَاقُ مُجْتَهِدِي هَذِهِ الْأُمَّةِ بَعْدَ وَفَاةِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي عَصْرِ مِنَ الْأَعْصَارِ عَلَى حُكْمٍ شَرَعِيٍّ. وَهُوَ حُجَّةٌ لِقَوْلِهِ تَعَالَى: {وَمَنْ يُشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعْ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ نُوَلِّهِ مَا تَوَلَّىٰ وَنُصَلِّهِ جَهَنَّمَ وَسَاءَتْ مَصِيرًا} (مَصِيرٍ ١٠).

Consensus is the agreement of Muslim scholars of this Ummah in a certain era (community) after the death of the Prophet, peace be upon him, on a specific legal ruling. This is based on Allah’s statement, “Whoever opposes the Messenger after guidance has been made clear to him and follows a path other than that of the believers, We will give him what he has chosen and burn him in Hell; what an evil end.”

وَهُوَ قِسْمَانِ: عَمَلِيٌّ: نَقَلَتْهُ الْأُمَّةُ كُلُّهَا كَالصَّلَاةِ وَالصِّيَامِ وَنَظَائِرِيٍّ: وَهُوَ إِمَّا أَنْ يَكُونَ مُبَيَّنًّا عَلَى النَّظَرِ وَالْإِجْتِهَادِ عَنْ أُدْلَةٍ قَطْعِيَّةٍ أَوْ عَنْ أُدْلَةٍ ظَنِّيَّةٍ، وَهَذَا وَفُوعُهُ مُمَكِّنٌ، وَلَكِنَّ مَعْرِفَتَهُ مُعَدَّرَةٌ لِانْتِشَارِ الْمُجْتَهِدِينَ فِي الْأَفَاقِ وَكَثْرَةِ عَدَدِهِمْ، إِلَّا إِجْمَاعَ الصَّحَابَةِ قَبْلَ انْتِشَارِهِمْ؛ فَمُنْحَصِرٌ عَدَدُ الْمُجْتَهِدِينَ مِنْهُمْ

There are two types of consensus:

1. Addressed: Which the entire Ummah follows, like prayer and fasting.
2. Silent: Which is either based on definitive evidence or probable evidence.

While it’s possible for ijma’ to occur, knowing about it is difficult due to the dispersion of scholars across different regions and their large numbers, except for the consensus of the companions before they spread out, because their number was limited.

18 - Analogical Reasoning (Qiyas)

الْقِيَاسُ - هُوَ الْإِحْتِاقُ فَرَعٌ مَجْهُولٌ الْحُكْمُ بِأَصْلِ مَعْلُومِ الْحُكْمِ فِي ذَلِكَ الْحُكْمِ لَوْصَفَ جَامِعٌ مَا بَيْنَهُمَا يَكُونُ هُوَ سَبَبَ الْحُكْمِ الثَّابِتِ بِالْأَصْلِ، مَعَ انْتِفَاءِ الْفَارِقِ بَيْنَ الْأَصْلِ وَالْفُرْعِ، كَالْحَاقِ النَّبِيذِ بِالْخَمْرِ فِي التَّحْرِيمِ لِلْإِسْكَارِ الْجَامِعِ مَا بَيْنَهُمَا الَّذِي هُوَ عَلَّةُ تَحْرِيمِهِ

Analogical reasoning is the process of assigning the ruling of a foundational matter (original ruling) to a secondary matter (new case) based on a shared trait (‘illa) between them. It is that trait that constitutes the basis for the ruling in qiyas. Proper qiyas occurs only when there’s no

significant difference in the trait's presence between the two matters. An example of a sound qiyas is equating marijuana (a type of intoxicant) with wine in terms of prohibition due to intoxication which is the shared 'illa for between them both, and the 'illah for the prohibition of wine, intoxication.

Chapter Four Types Of Evidences

18 - There are two types of evidences

1. Detailed Evidences - This category includes the verses and hadith related to rulings. They are called 'detailed' because each of these evidences indicates a specific ruling for a specific action.
2. General Evidences - These are the fundamental principles, and they are called 'comprehensive' because they encompass many detailed evidences, each of which falls under one of them.

19 - How Are Rulings Derived - By understanding evidences and their corresponding interpretive principle, jurists derive the legal ruling. For instance, “And establish the prayer” is a command for the prayer, and the verse contains the foundational principle, “commands signify obligation.” Thus, “And establish the prayer” is a command making the prayer obligatory; therefore, the prayer is a duty.

20 - The Sources of Evidences

The sources of detailed evidences are the Qur'an, Sunnah (Prophetic traditions), consensus (Ijma) and analogy (Qiyas) as mentioned by scholars. The source for general principles, on the other hand, are books on foundational jurisprudential principles (books of qawa'id).

Chapter Four Principles & Interpretation

21 - Principles concerning linguistic interpretation

1. Words are to be interpreted in their literal sense unless there is contextual evidence or an indication to take them metaphorically.
2. Words should be interpreted based on the speaker's intended meaning, rather than the dictionary definition of the word or its customary usage.

3. Words from the Quran and the Hadith should be interpreted with their religious meanings rather than their linguistic or customary meanings.

22 - Principles concerning commands

1. The default ruling of a command is an obligation unless there is evidence or an indication suggesting otherwise.
2. Commands do not inherently imply immediacy or repetition; both are known only if there is contextual evidence or an indication.
3. Implementing a command is essential, and commands also necessitate refraining from doing the opposite of what's commanded.
4. Commands also necessitate doing what is essential for achieving the commanded.

23 - Principles concerning prohibitions

1. The default ruling of prohibitions is forbidden unless there's evidence or an indication suggesting otherwise.
2. Prohibitions demand immediate action and consistent abstention.
3. Prohibitions necessitate performing the opposite of what is prohibited.

24 - Principles concerning commands

1. Commands are based on capability.
2. Prohibitions are (generally) not conditioned; their default is abstention. This is based on a hadith from Prophet Muhammad that instructs to take from his commands what one can do and to avoid what he has prohibited.

25 - Principles concerning the explicit and implicit meanings

1. Any meaning derived directly from the essence of a word (does not accept multiple meanings), for which the meaning is primary to the word, is the explicit meaning.
2. Any meaning understood from the mention of the word, but not the primary meaning of the word is the implicit meaning.
3. Any meaning inferred from the word that is opposite to its primary meaning is given the judgment opposite to the explicit meaning and is termed the "inferred opposite meaning."
4. Any inferred meaning that is not opposite to the explicit meaning is given the same judgment as the explicit and is termed "inferred confirming meaning."

The prohibition of consuming it is in His exalted statement, "And do not consume their properties with yours" This is because equating the two actions, transgression, oppression, and neglect against the orphan is similar.

And if the description which warranted the ruling was stronger, it would be understood as being in agreement with the Ahrawiyah. It is termed: 'the essence of the address.' Such as the

prohibition of hitting from the prohibition of saying ‘Uff’ in His exalted statement: ‘So do not say to them [a word of] disrespect.’ This is because the action is more severe than the statement in causing harm.

26 - Types of Address Indicators:

1. Indicator Based on an adjective: As in His exalted statement: ‘From what your right hands possess of your believing maids.’
2. Indicator Based On a Condition: As in His exalted statement: ‘And if they are pregnant, then spend on them until they give birth.’”
3. Indicator Based On Objective: As in His exalted statement: ‘Until she marries a husband other than him.’”
4. Indicator Based On a Number: As in His exalted statement: ‘Then flog them eighty lashes.’
5. Indicator Based On Exclusivity: As in his saying, peace and blessings be upon him, ‘Loyalty is only for the one who emancipates’ (Hadith).
6. Indicator Based On Time: As in His exalted statement, ‘For a number of days’ (Qur’an: Surah Al-Baqarah 2:184).
7. Indicator Based On Place: As in His exalted statement, ‘And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way’ (Qur’an: Surah Al-Imran 3:97).

25 - Specification

The implied meaning is not used as evidence if the statement deviates from the common understanding, such as His exalted statement, ‘And your step-daughters who are under your guardianship’ (Qur’an: Surah An-Nisa 4:23).

Or if the statement depicts reality, as in His exalted statement, ‘Do not consume interest, multiplied many times over’ (Qur’an: Surah Al-Imran 3:130).

Or if the statement is made according to the actual situation, as in His exalted statement, ‘While you are in a state of retreat in the mosques’ (Qur’an: Surah Al-Baqarah 2:187).

And not when a text opposes it, as in His exalted statement, ‘There is no blame upon you for shortening the prayer if you fear’ (Qur’an: 4:101). Indeed, it has been established in the Prophetic traditions, both in sayings and actions, that the prayer can be shortened even without fear.

26 - Rules For Explicit Texts

Everything that indicates a single meaning, without allowing for another interpretation, is considered a definitive, immutable text for that particular meaning. This includes things proper nouns and numerical terms.

27 - Rules of Implicit Texts

Texts that suggests a single meaning but also holds the possibility of another, where one interpretation is more likely, is deemed as the apparent indication of that primary meaning. It then gets ascribed particularly to that meaning. This is similar to a generic term in its original sense or a general term covering all its specifics.

28 - Rule of Interpreted Texts

Every reference that leans towards a certain meaning due to supporting evidence is then interpreted in alignment with that now specific meaning. This can be compared to a generic term when utilized in a secondary or non-original context.

29 - Rules For Clear Texts

Every word that stands independently in indicating its intended meaning is considered ‘clarified’. Whether it’s a definitive text or an apparent one, it should be understood for its clear meaning without hesitation.

30 - Rules For Ambiguous Texts

Every word that suggests a certain meaning, but its intended meaning isn’t clear on its own, is termed ‘ambiguous’. In such cases, one should refrain from making a judgment until the intended meaning is clarified with evidence.

31 - Reasons for Ambiguity

Among these reasons are: having multiple meanings or applications, such as ‘Qur’ which can mean both purity and menstruation; religious wording that has a non religious meaning, like salah and zakah; and when a description is suitable for two entities, like the one responsible for the marriage contract from both the husband and the guardian’s sides.”

32 - Rules of the Clarifier (Al-Mubayyin):

Everything whose intent becomes clear because of something else is considered a “clarifier” (Al-Mubayyin), whether verbally, through action, or otherwise.

33 - Rules concerning the General (Al-'Aamm):

Every word that encompasses all it can denote in a single instance without specificity is considered "general" (Al-'Aamm). It's necessary to interpret it in its most general sense because of its obvious generality, until other evidence singles out a particular meaning from it. So, whatever the specific evidence indicates should be excluded from it, and it remains general for the rest.

34 - Forms of Generality (Siyaaagh Al-'Umoor):

Conditional nouns, such as the saying of the Prophet (peace be upon him): "Whoever revives a dead land, it belongs to him," and his statement,

"Whatever death leaves, belongs to the closest male relative."

It also includes interrogative nouns, like when someone asks:

"What is permissible for me to do with my wife while she's menstruating?"

And the relative pronouns, such as His saying (Exalted be He):

"{Those of you who die and leave wives behind should bequeath for their wives a year's maintenance without forcing them to leave}" [Quran: Surah Al-Baqarah 2:240].

And the noun defined by "al-" (the definite article) indicating comprehensiveness in its kind, like His saying (Exalted be He):

"{As for the thief, male or female, cut off their hands}" [Quran: Surah Al-Ma'idah 5:38].

And His saying:

"{Men are the protectors and maintainers of women}" [Quran: Surah An-Nisa 4:34].

And the indefinite noun in the context of negation, prohibition, condition, or interrogative denial, such as the saying of the Prophet (peace be upon him):

"There is no zakat on wealth until a year passes over it" (Reference 4).

And His saying (Exalted be He):

"{Let not a group mock another group}" [Quran: Surah Al-Hujurat 49:11].

And the saying of the Prophet (peace be upon him): "Whoever harms a non-Muslim under protection, I will be his adversary on the Day of Resurrection" (Reference 6).

And His saying (Exalted be He):

“{Is there a deity with Allah?}” [Quran: Surah An-Naml 27:60].

And what is added to the known, when it is intended to encompass everything: like his saying (peace be upon him): “The congregational prayer is twenty-seven times superior to the prayer offered by a person alone” (Reference 8).

And His saying (Exalted be He): “{And do not invalidate your deeds}” [Quran: Surah Muhammad 47:33].

35 - A Rule Concerning the Varieties of the Generic Term

Every general term that hasn't been made specific remains universal. When mentioned in its general sense, it retains its broad meaning. Any general term, when used to denote only some of its parts, is the generic term meant for specificity. This is a form of allegory, like the saying of Allah: “Those to whom people said, ‘Indeed, the people have gathered against you’,” [Quran: Al-Imran 3:173] even though not all people are intended in both instances. And every general term that's meant to cover all its parts but excludes some based on a specification is the specified general term.

36 - A Rule Concerning Specification

Any exclusion of some parts from the general term is a specification. The general ruling does not cover the excluded parts.

37 - A Rule Concerning the Specifier and its Divisions

Everything by which the aforementioned exclusion is made is the specifier:

If it doesn't stand on its own, it's the connected specifier, like the exception in the saying of the Prophet, peace be upon him: “Do not sell food for food unless in equal measure.” And the saying of Allah: “How can there be for the polytheists a treaty in the sight of Allah and with His Messenger, except for those with whom you made a treaty at the Sacred Mosque?” [Quran: At-Tawbah 9:7]. Also, the condition in His saying: “So if they are upright toward you, be upright toward them” [Quran: At-Tawbah 9:7]. And as an attribute in His saying: “Except those of the polytheists with whom you had a treaty and who have not subsequently failed you in anything nor supported anyone against you” [Quran: At-Tawbah 9:4]. And in a term limit, as in His saying: “So complete the term of the treaty with them to its end” [Quran: At-Tawbah 9:4]. Specification in this manner is conceptual.

If it stands alone, it is the detached specifier, like the specification in His saying: “And divorced women should wait for three menstrual cycles” [Quran: Al-Baqarah 2:228]. And His saying:

“And for those who are pregnant, their term is until they give birth” [Quran: At-Talaq 65:4], specifying the Quran by the Quran.

And like specifying the saying of the Prophet, peace be upon him: “A tenth is due on what the rain waters”, with his saying, peace be upon him: “No charity is due on less than the threshold”, specifying the Sunnah by the Sunnah.

In specifying the statement of the Prophet (peace be upon him), “Allah does not accept the prayer of any one of you unless he performs ablution,” [Hadith Reference 1], it is supported by the words of Allah: “If you are ill or on a journey or one of you comes from the place of relieving himself or you have contacted women and find no water, then seek clean earth and wipe over your faces and hands with it.” [Quran 5:6, Reference 2], thus, the Sunnah specifies what’s in the Book.

And in specifying the verse of Allah, “Allah instructs you concerning your children: for the male, what is equal to the share of two females...” [Quran 4:11, Reference 4], with the statement of the Prophet (peace be upon him), “A Muslim cannot be the heir of a disbeliever, and a disbeliever cannot be the heir of a Muslim” [Hadith Reference 5], the Sunnah specifies what’s in the Book.

Sometimes, the wording is specified by analogy. As in the verse of Allah: “The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes...” [Quran 24:2, Reference 7]. The slave was specified by analogy to the slave girl, as indicated in another verse of Allah: “But those [who commit adultery] of your [slave] girls - then for them is half the punishment [of free women].” [Quran 4:25, Reference 9].

38 - A principle on the general and the specific

Everything that indicates an individual, two individuals, or multiple individuals in a general sense without any condition is considered general. Whether it is a noun or a verb, it remains broad until something specifies it. And everything that indicates what has been mentioned with a condition is considered specific, and its condition must be taken into account.

39 - A principle in interpreting the general in the light of the specific:

Whenever the form of the general and the form of the specific coincide in a ruling, the general is interpreted in the light of the specific, whether they coincide in the reason or not.

Examples

The first example is the statement of Allah: “And mention the name of your Lord [in prayer] and devote yourself to Him with [complete] devotion.” [Quran 73:8, Reference 4], which indicates the necessity of an unrestricted remembrance. It was interpreted in light of the Prophet’s (peace

be upon him) statement, “Its prohibition is the Takbir” [Hadith Reference 5], specifying the remembrance with the Takbir. Both share the same reason and ruling: the intention to start the prayer and the necessity of what one starts the prayer with.

The second example is the statement of Allah: “Those who pronounce thihar among you [to separate] from their wives and then [wish to] go back on what they said will [thereafter] free a slave before they touch each other.” [Quran 58:3, Reference 7], which suggests freeing an unrestricted slave. It was interpreted in light of His statement: “But whoever kills a believer by mistake - then the freeing of a believing slave...” [Quran 4:92, Reference 10], which specifies the slave to be a believer clarifying its beneficial constraint by faith, the ruling in both scenarios is the same: the requirement to free a slave, even if the reasons differ. In the first scenario, it pertains to “dhihar” (a form of divorce), and in the second, it relates to accidental killing.

41 - Regardless of the difference in rulings for both situations, it is not possible to generalize one scenario based on the specific ruling of the other, whether the reason is the same or different.

Examples

The first example is in Allah’s saying: “But those who cannot find [a slave] – then a fast for two months consecutively” [Quran 58:4], highlighting the necessity to fast for two consecutive months. This is juxtaposed with His saying: “But he who does not find [a slave] – or cannot fast – then a feeding of sixty needy people” [Quran 58:4], emphasizing the need for feeding without specificity. Hence, a general ruling cannot be confined to a specific one, given their distinct verdicts, even if their cause—dhihar—is the same.

The second example is based on Allah’s proclamation: “As for the thief, the male and the female, amputate their hands” [Quran 5:38], versus His saying: “So wash your faces and your forearms to the elbows” [Quran 5:6]. In the first verse, the ruling is to cut off the thief’s hand due to theft, while in the second, the command is to wash in preparation for prayer.

Chapter Five Abrogation

41 - Any Shariah evidence from the Quran and Sunnah, whose ruling persists and is not entirely superseded by another piece of evidence from them, is deemed decisive (muḥkam). Conversely, any evidence from them whose ruling is wholly abrogated by another piece is termed as abrogated (mansūkh). Any evidence from the Quran and Sunnah that supersedes a fixed ruling established by previous evidence is termed as the abrogator (nāsikh). Any abrogation of a firmly established ruling based on prior evidence, altogether by subsequent evidence—if not for which, the initial ruling would have persisted—is deemed as abrogation (naskh).

42 - When is the ruling of abrogation applied?

The ruling of abrogation is applied when two authentic evidences conflict, and it is impossible to reconcile between them. And the earlier evidence is distinguished from the later one. Otherwise, the authentic evidence is prioritized, or the two are reconciled, or the decision is suspended.

43 - The scope of abrogation

Abrogation pertains to rulings, but it does not apply to narratives or reports. The wisdom of abrogation is to consider the greater benefit, to train the Muslim community in receiving divine rulings, and to draw attention to the consideration of benefits in the legislative process. That benefits the mufti when selecting what to apply to the community from the statements of the leading jurists and scholars.

44 - Types of Abrogation

1. The textual wording (rasm) is abrogated, but the ruling remains: As in the case of the verse of stoning, which said, “The old man and old woman, if they commit adultery, stone them absolutely as a retribution from Allah, and Allah is Mighty, Wise.”
2. The ruling is abrogated, but the textual wording (rasm) remains: As in the case of the verse about the waiting period, which is Allah’s saying: “And those of you who die and leave wives behind, a will for their wives” [Quran 2:240].
3. Both the textual wording and the ruling are abrogated: As in the hadith recorded by Muslim and others, “There was a revelation about ten specific breastfeedings,” which was later abrogated by “five specific breastfeedings.”

Abrogation can be replaced with an alternative: Like the abrogation of facing towards Bayt Al-Maqdis (Jerusalem) in prayer. Or without an alternative: Like the charity of secret conversations. Abrogation can lead to a lighter ruling: Like the verse about patience in battle. Or to a more stringent one: Like the abrogation of the choice between paying a ransom or fasting, with the specification of fasting.

1. The Quran can abrogate the Quran: Like the verses about the waiting period and patience.
2. The Sunnah can be abrogated by the Quran: Like the matter of the Qibla (prayer direction).
3. Sunna can abrogate Sunna, such as the hadith, ‘I had previously forbidden you from visiting the graves. Now visit them.’
4. And the Quran can be abrogated by Sunna, such as the verse about the will for parents and close relatives along with the hadith, ‘There is no bequest for an heir.’

Note: The principles mentioned are applied specifically to the Quran and Sunna, and what remains from the Sunna is the Prophet's action, peace be upon him, and his tacit approval.

45 - Rules regarding his actions - peace be upon him -

Everything the Prophet did in worship and dealings for the sake of drawing nearer to Allah is a good model for the Ummah, unless evidence indicates it's exclusive to him. And whatever he did out of devotion is either obligatory or recommended, and its ruling is determined by evidence. What he consistently practiced is more emphasized than what he did occasionally. Whatever he omitted in religious rituals isn't considered an act of devotion. Whatever he did due to his human nature isn't essentially to be emulated, but his manner is the best.

46 - Rules regarding his tacit approval - peace be upon him -

Whatever was said or done in his presence, or was reported to him and he approved of it, is true as he approved. And whatever was said or done in his time, and was widely known in a way that it couldn't have been hidden from him, is like what was done in his presence.

Second Note: The Sunna is distinct from the Quran in principles related to its authenticity. From this perspective, they're not of the same level, unlike the Quran which is mutawatir (narrated by many at each level of transmission), every authentic or good hadith is valid for deriving rulings.

47 - Weak Hadiths

Every weak hadith is not valid for rulings. Whatever is proven to be required to do or avoid with valid evidence is accepted, but encouragement or discouragement regarding an act is valid from a weak hadith, as long as its weakness isn't severe.

Chapter Five Ijtihad, Taqlid, and Ittiba' & Conclusion

48 - Ijtihad is the exertion of effort in deriving a ruling from the religious evidence based on established principles. Its practitioners are those who deeply study the sciences of the Qur'an and Sunnah, possess a broad understanding of the objectives of the Sharia, and a correct comprehension of the Arabic language.

49 - Taqlid is the act of following a jurist's opinion without knowledge of his evidence. Those suited for it are those who are unable to understand the evidence, including the general public who don't engage in the study of Sharia sciences and linguistics.

50 - Ittiba' is adopting the opinion of a jurist with knowledge of his evidence and understanding how he derived his ruling from that evidence based on established principles. Its practitioners are those engaged in Sharia and linguistic sciences, who have attained mastery in both. This enables

them to, in the case of differing opinions among scholars, understand the strength and weakness of the arguments, choose what appears stronger, and benefit from the knowledge found in verses of the Qur'an and hadiths that enlightening the mind, purify the soul, and guide actions.

In closing, it is an obligation upon educators and students of the Sharia and linguistic sciences to strive in their teaching and learning of this important study.

This blessed book concluded on the 28th of Dhu al-Qi'dah, 1356 AH, by its writer, Muhammad al-Arabi ibn Salih al-Harkati, then al-Ban'isiy. May Allah guide him to what He loves and is pleased with, grant him a good end, and make Paradise his final abode. Amen. Peace be upon the Messengers, and all praise is due to Allah, Lord of the worlds. [Reference: Qur'an (6:124)]

The translation of this text took was completed on the fourth day of safar, in Washington D.C.

Praise is due to Allah and peace and blessing upon the Messenger of Allah, Muhammad صلى الله عليه وسلم.