

PART TWO: AL-HUKM SHAR'EE (THE ISLAMIC RULE)

CHAPTER THREE: USOOL PRINCIPLES RELATED TO HUKM AT-TAKLEEFEE

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- product of the consolidation of schools of thought
- under maxims governing Islamic law

Code one: Could something be haram and Fard at the same time?

a. Could something be Haram and Fard at the same time?

- Yes
- Example
 - Different Intentions
 - a. Sujood, Fard to be done for Allah. Haram to be done for other than Allah.
 - Different Times
 - a. Eating during the day in Ramadan is Haram. Permissible after Maghrib.
 - Different People
 - a. Praying Maghrib is Fard, Haram for a person in a state of Janaabah to pray.

b. Can it happen with one person, at one time, Haram and Fard?

- Yes
- Example
 - a. Praying Maghrib on a stolen carpet.
 - i. Some scholars say that there is the Salah itself and the stealing itself. His salah is accepted but he is in sin for having the stolen item.
 - ii. Some say that the salah is invalidated.
 - b. If a woman travels to Hajj without a Mahram, for those that say it's a condition. Even if she is sinful in such a case, it does not nullify her Hajj.

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Code Two: If the Haram cannot be abstained from unless something is done, that something becomes Fard?

- If you dropped Haram meat amongst Halal meat and you were not sure which is which. The only way to not eat the Haram is to abstain from all of that meat. Abstaining from all meat becomes Fard.
- If you have no clean clothes, and prayer time is exiting, what do you do?
- The person has to do the prayer twice. They have to wear one and pray, and then wear the other.

Code Three: Credit Fard and Cash Fard

- **Fard fil Adaa'** (Cash): immediate fard
 - If the conditions of a type of Fard worship are present (like fasting in Ramadan), the human is then required to perform it.
- **Fard fidh-Dhimmah** (Credit): deferred fard
 - However, there may be something that is stopping them from performing that act. They are still required to perform the act, but on credit.
 - Examples
 - A woman in her menses or a sick person during Ramadan must make up the fasts she missed later
 - Someone who falls unconscious all through the time of 'Asr must make it up later

Code Four: The Sofa Fard, Bucket-seat Fard, and the Football Field time Fard

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- **Fard Muwassa'** (Sofa Fard): covert fard
 - In the Sofa Fard, it is a Fard whose time is long enough for the person to perform the Fard and do other things during that time.
 - Salah Dhuhr. Someone may pray it at the beginning of the time, or in the middle, or at the end. If they perform it in the middle, for example, they would have time to perform other Nafl prayers.

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- Someone who delays their Sofa Fard is not sinful, unless they delay it to the point where they know they won't be able to perform it within its time. So if someone needs to take a shower, knowing that it will take 20 minutes to complete, and they delay their Salah until there are only 5 minutes left in the time, such a person would be blameworthy.
- Or someone who delays their Salah until there are only 20 minutes left, and then travels on the highway, knowing they won't get to stop for 45 minutes, such a person would be blameworthy.
- **Fard Mudayyaq** (Bucket Seat Fard): measured fard
 - It is a Fard whose time is long enough only for the person to perform that particular Fard alone.
 - Example
 - Hajj: one can only perform it on specific days, once every year
 - Fasting the day of Ramadan: there is no time to fast something else → can't make up fasts of previous Ramadan in this Ramadan
- **Fard Mutlaq** (Football Field Fard): absolute fard
 - There are other types of worship that are not restricted by time. Instead, they should be performed when the need arises for them: Football Field Fard, or Fard Mutlaq/Wajibat Mutlaqah.
 - Example
 - Kind treatment to parents, visiting relatives, commanding the good, forbidding the evil, what year you want to make Hajj, etc.

Code Five: Tailored Fard and Untailored Fard

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- **Tailored Fard (Fard Muqaddar)**
 - Obligatory acts which the Shari'ah cut into size; no one can fit these obligatory acts into a different shape.
 - Fajr is 2 Rak'ahs, Zakah on gold and silver is 2.5% etc.
- **Untailored Fard (Fard Ghayr Muqaddar)**
 - Obligatory acts that the Shari'ah did not cut into a specific amount.

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- If the issue of this kind of Fard were to be raised to the Qaadhi, he would estimate an amount based on the situation.

- Question: What if someone misses a Fard of these two, what's the difference?
 - If someone misses a Fard Muqaddar, it becomes due even if the time has passed.
 - If someone misses Fard Ghayr Muqaddar, they are not responsible for making it up after the time has passed. They can only repent.
 - i. Spending on the needy
 - ii. Rescuing a drowning person→saving a person's life is more important than worrying about whether they are the opposite gender or not.
 - iii. Spending on a family member

Code Six: Specific Fard and 'Optional' Fard

- Specific
 - Most of the Fard are specific things we should do.
 - a. One must specifically pray Dhuhr at a specific time.
- Optional
 - Occasionally there are Fard that the person can perform by choosing one of the options.
 - a. The expiation (kaffarah) of a false oath.

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لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِى أَيْمَانِكُمْ وَلَكِنْ يُؤَاخِذُكُمْ
بِمَا عَقَدْتُمْ مِنَ الْأَيْمَانِ فَكَفَرْتُمْ^ط وَإِطْعَامَ عَشْرَةِ مَسْكِينٍ مِنْ أَوْسَطِ
مَا تَطْعَمُونَ أَهْلِيكُمْ أَوْ كِسْوَتُهُمْ أَوْ تَحْرِيرُ رَقَبَةٍ^ط فَمَنْ لَمْ يَجِدْ
فَصِيَامَ ثَلَاثَةِ أَيَّامٍ ذَلِكَ كَفْرَةٌ أَيْمَانِكُمْ إِذَا حَلَفْتُمْ^ط وَاحْفَظُوا
أَيْمَانَكُمْ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ آيَاتِهِ لَعَلَّكُمْ تَشْكُرُونَ ﴿٨٩﴾

i. 89: **Muhsin Khan:** Allah will not punish you for what is unintentional in your oaths, but He will punish you for your deliberate oaths; for its expiation (a deliberate oath) feed ten Masakin (poor persons), on a scale of the average of that with which you feed your own families; or clothe them; or manumit a slave. But whosoever cannot afford (that), then he should fast for three days. That is the expiation for the oaths when you have sworn. And protect your oaths (i.e. do not swear much). Thus Allah make clear to you His Ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) that you may be grateful. [Surah Al-Maaidah, 5:89]

- b. They must perform one of the three things, but if and only if NONE of the three are possible, THEN they must fast for three days.
- c. The sin is expiated when one performs any one of the three. However, they would be sinful and blameworthy if they did not perform any of the three.

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Code Seven: Personal Fard and Community Fard

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- **Personal Fard (Fard 'Ayn)**
 - Focus is on the individual, not the action
 - a. Salah, fasting, respecting one's parents, telling the truth, having basic knowledge about Islam.
- **Community Fard (Fard Kifaayah)**
 - Focus on the action, not the individual.
 - a. If you do Fard Kifaayah, you get the personal reward for doing it and the reward for the whole community. The sin is removed from the whole community as well. If you don't do it, but it is done, you don't get the reward or the sin.
 - b. Washing the dead body, praying on it, burying it, establishing a place where Quran is taught.
 - Why the name Kifaayah?
 - a. Called this because it is a fard that volunteers from the community come forward until there are enough of them. Kifaayah = enough.
 - b. Includes all the jobs/professions which the Muslim community needs for its well being. E.g.: Doctors, Lawyers, Farmers, Manufacturers, Officers, Soldiers, Muslim Jurists, Office Managers, etc.
 - c. In these cases, the person with the right intention would be rewarded for fulfilling the duty on behalf of the Muslim community
- **APOI**
 - If something like medicine is Fard Kifaayah for the Muslim community, the whole community is blameworthy if there isn't a doctor, until one is established.
 - a. Help and sponsor people so they can study and establish, like for position of imams and so on.
 - A community Fard could become a personal fard in some cases.
 - a. If there are 2 judges that are needed, and there are 2 people that are capable of the position, it becomes fard 'ayn for them.

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- b. People in Madinah who think studying Islam is Fard Kifayah so they quit←this is wrong because for them it's Fard 'Ayn because they have such a great opportunity that few others will have.

Code Eight: What is needed to complete a Fard is also Fard. However if the ruling of Fard does not apply until a certain action is achieved, that action is not Fard.

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- Paying Zakah is Fard only if you have a threshold on money. If a person does not have that threshold, then it isn't fard for them to get more jobs to get that threshold.
- What is needed to complete a Fard is also Fard (as long as you are capable of doing it)
 - Some Fard actions cannot be complete unless there is another action, before or after it, that is performed. Those before/after actions also take the ruling of Fard in such a case in such a relationship.
 - a. Hajj: You cannot perform it unless you travel to Makkah. Thus, the travel is Fard, even though there is no specific proof for that. However, traveling to Makkah by itself is not Fard.
 - b. Wudhoo': Normally, a Muslim is not required to have Wudhoo'. However, at the time of prayer, it is Fard that they make Wudhoo' because that Fard Salah will not count without the Wudhoo'.
- Exception:
 - If doing that act is not under your control, then it is not Fard.
 - a. The setting of the sun for Maghrib prayer to be fard
- If the ruling of Fard does not apply until something is achieved, that something is not Fard (keyword: ruling)
 - Some actions do not become Fard in the first place unless there is another action before it happens. That before action is not Fard.
 - a. Not fard to reach threshold of Zakah to pay it; you pay it when you've already reached threshold

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Code Nine: Is one obligated to complete a Mustahab act once they start in it?

Hanafis	Jamhoor (majority of scholars)
<p>Opinion: "It's Haram to break a Mustahab act once you start."</p>	<p>Opinion: "It's permissible to break a Mustahab act if the performer wishes."</p>
<p>Proof: "O ye who believe! Obey Allah and obey your Messenger and make not vain your deeds!"[47:33]</p>	<p>Reply: Ayah is speaking about those who disobey Allah and His Messenger and thus have their deeds nullified.</p>
<p>Aisha and Hafsa <i>radhiallahu wa anhum</i> broke their fast one day for some food they desired. The Prophet <i>sallallahu alaihi wasallam</i> told them to fast another day in its place.</p>	<p>Reply: Hadith means that if they were to fast another day, they would get the reward they seek. It doesn't carry the weight of Fard for them to make it up.</p> <p>Exception: Hajj and 'Umra are exempt from this. If one starts them, they must complete it.</p> <p>وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ فَإِنْ أُحْصِرْتُمْ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ وَلَا تَخْلِفُوا رؤُوسَكُمْ حَتَّىٰ يَبْلُغَ الْهَدْيُ مَجْلَهُ ۗ فَمَنْ كَانَ مِنْكُمْ مَّرِيضًا أَوْ بِهِ أَذًى مِّن رَّأْسِهِ فَعِدْيَةٌ مِّن صِيَامٍ أَوْ صَدَقَةٌ أَوْ تِلْكَ فَإِذَا مَنِتُّمْ فَمَنْ نَمَتَّعَ بِالْعُمْرَةِ إِلَى الْحَجِّ فَمَا اسْتَيْسَرَ مِنَ الْهَدْيِ فَمَنْ لَّمْ يَجِدْ فَصِيَامٌ ثَلَاثَةِ أَيَّامٍ فِي الْحَجِّ وَسَبْعَةٍ إِذَا رَجَعْتُمْ ۗ تِلْكَ عَشْرَةٌ كَامِلَةٌ ۗ ذَٰلِكَ لِمَنْ لَّمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ</p> <p>وَاتَّقُوا اللَّهَ وَعَلِمُوا أَنَّ اللَّهَ شَدِيدُ الْعِقَابِ ﴿١٦٦﴾</p> <p>196: Muhsin Khan: And perform properly (i.e. all the ceremonies according to the ways of Prophet Muhammad SAW), the Hajj and 'Umrah (i.e. the pilgrimage to Makkah) for Allah. But if you are prevented (from completing them), sacrifice a Hady (animal,</p>

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i.e. a sheep, a cow, or a camel, etc.) such as you can afford, and do not shave your heads until the Hady reaches the place of sacrifice. And whosoever of you is ill or has an ailment in his scalp (necessitating shaving), he must pay a Fidyah (ransom) of either observing Saum (fasts) (three days) or giving Sadaqah (charity - feeding six poor persons) or offering sacrifice (one sheep). Then if you are in safety and whosoever performs the 'Umrah in the months of Hajj, before (performing) the Hajj, (i.e. Hajj-at-Tamattu' and Al-Qiran), he must slaughter a Hady such as he can afford, but if he cannot afford it, he should observe Saum (fasts) three days during the Hajj and seven days after his return (to his home), making ten days in all. This is for him whose family is not present at Al-Masjid-al-Haram (i.e. non-resident of Makkah). And fear Allah much and know that Allah is Severe in punishment. [Surah Al-Baqarah, 2:196]

- If you are fasting an optional fast but you want to break it in the day: 2 opinions
 - It's Haraam to break the fast
 - It's permissible to break the fast because it was a mustahab fast, not a fard fast
- If you are praying sunnah and the Iqamah is called for a fard prayer, they you should break the sunnah with a salaam to join the first rak'ah of the fard prayer
- For Hanafis: it's debated whether breaking a mustahab act is haraam or blameworthy (but some consider a blameworthy act equal to haraam)
- For fard fasts you need intention before Fajr but not for optional fasts
- If you break `umrah, you must slaughter an animal
- If you break Hajj, you must come back next year to do it, if you can afford it

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Code Ten: Just like there is Fard Kifaayah, there is Mustahab Kifaayah

- Salah At-Taraweeh, giving Salaam, Adhaan, and Iqaamah for the congregational prayers.
- Some consider adhaan fard kifaayah
- Sunnah can be victorious for Islam
 - In history, before a war Muslims used to clean their teeth with miswak. The enemy got scared (thought that Muslims were going to eat them!!) and ran far, far away
- Ibn Taymiyah said that if all the people in the village agree to not perform a Mustahab Kifaayah, then it is a major sin.
- Example:
 - Blameworthy if NO ONE uses miswak before prayer
 - The Prophet *sallallahu alaihi wasallam* would not attack an enemy village until Fajr. If he heard the Adhan, the mission would be aborted. Otherwise they would attack. This is proof of what Ibn Taymiyyah said because saying the Adhan is Mustahab Kifaayah.

Code Eleven: Is Mubaah an Islamic Injunction?

- Mubaah is part of Hukm Takleef (rules of accountability) →where is the accountability? In discussion
- Mubaah is of two kinds: accountability is only for the 1st type
 - Things that Allah explicitly said were permissible. These are Islamic injunctions from the point of view that one must accept their permissibility. (Halal)

أُجِلَّ لَكُمْ صَيْدُ الْبَحْرِ وَطَعَامُهُ مَتَاعًا لَكُمْ وَلِلسَّيْرَةِ وَحُرْمَ عَلَيْكُمْ

صَيْدُ الْبَرِّ مَا دُمْتُمْ حُرْمًا وَاتَّقُوا اللَّهَ الَّذِي إِلَيْهِ تُحْشَرُونَ ﴿١١﴾

a.

96: **Muhsin Khan:** Lawful to you is (the pursuit of) watergame and its use for food - for the benefit of yourselves and those who travel, but forbidden is (the pursuit of) landgame as long as you are in a state of Ihram (for Hajj or 'Umrah).

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And fear Allah to Whom you shall be gathered back. [Surah Al-Maaidah, 5:96]

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَوْفُوا بِالْعُقُودِ أُحِلَّتْ لَكُمْ بَهِيمَةُ
الْأَنْعَامِ إِلَّا مَا يُتْلَى عَلَيْكُمْ غَيْرِ مُجِلِّي الصَّيْدِ وَأَنْتُمْ حُرْمٌ إِنَّ
اللَّهَ يَحْكُمُ مَا يُرِيدُ ﴿١﴾

b.

1: Muhsin Khan: *O you who believe! Fulfill (your) obligations. Lawful to you (for food) are all the beasts of cattle except that which will be announced to you (herein), game (also) being unlawful when you assume Ihram for Hajj or 'Umrah (pilgrimage). Verily, Allah commands that which He wills. [Surah Al-Maaidah, 5:1]*

- Things that were not mentioned in the Islamic texts. If it is other than a type of worship, then the default is that it is permissible. This type is not Islamic injunction. (Original/General Permissibility)
 - a. "What Allah made Halal in His book is Halal. And what He made haram in His book is haram. As for what he kept silent about, those things are from His grace, so accept this grace from Allah. Verily, Allah was never to have forgotten anything."

Code twelve: A Mubah may be a Fard at its root.

- Example: Eating bananas. You can eat bananas or oranges or apples or not. However, eating (enough to sustain your body) is Fard. It isn't permissible for someone to go without food until they die.

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Code thirteen: Depending on one's intention, a Mubah may become Waajib, Mustahab, Makrooh or Haram.

- Definition of Ibaadah: All that Allah loves and is pleased with, whether in statements or actions, whether external or internal.

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- **Examples of Mubah becoming:**
 - Mustahab: Eating food to gain strength for Jihad or `Ibaadah.
 - Mustahab: Performing a Halal job in order to have no need for Haram money.
 - Fard: If the Fard is not completed unless this Mubaah is performed.
 - Haram: If the Haram will be arrived at by way of this Mubaah action.
 - a. Selling grapes to a winemaker or watering plants when humans are dying of thirst
 - Haram: If one takes on an extra job just so they can afford more lottery tickets.
- If you started a mubaah act with a bad intention (for a non-worship act) but later you change the intention and keep the act.
- There is dispute if it's an act of worship
- Allah created everything in the heavens and earth for you to use.

Code Fourteen: The default Ruling in `Ibaadah is Haram; in other than `Ibaadah the default is Mubaah.

- Authentic worship in Islam comes in a defined shape and form. If someone makes something up, it will be rejected.
- The tale of 'Where's your proof?' If you know the issue and the default, you'll know who needs to bring proof
 - 'What's your proof that wearing a fur coat is Halal?' proof not required
 - 'What's your proof that spinning around and reciting Allah Hayy 2500 times is bid'ah?' proof required
- If someone claims that something is haram, something that is just a human thing to do, they have to bring proof.
 - Sitting on chairs during an Islamic class, or eating with spoons
- It goes both ways, some people make Haram what Allah makes halal. E.g.: Extremism in eating of meat products.

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قُلْ هَلْ مَسَّ شُهَدَاءُكُمْ الَّذِينَ يَشْهَدُونَ أَنَّ اللَّهَ حَرَّمَ هَذَا فَيَنْ شَهِدُوا فَلَا
تَشْهَدُ مَعَهُمْ وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ كَذَبُوا بِآيَاتِنَا وَالَّذِينَ لَا يُؤْمِنُونَ
بِالْآخِرَةِ وَهُمْ بِرَبِّهِمْ يَعْدِلُونَ ﴿١٥٠﴾

• 150: **Muhsin Khan:** Say: "Bring forward your witnesses, who can testify that Allah has forbidden this. Then if they testify, testify not you (O Muhammad SAW) with them. And you should not follow the vain desires of such as treat Our Ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) as falsehoods, and such as believe not in the Hereafter, and they hold others as equal (in worship) with their Lord." [Surah Al-An'aam, 6:150]

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Definition: A communication from the Lawgiver which enacts something into a cause (Sabab), a condition (Shart) or a hindrance (Maani') to something else. Or to connect two things by enacting one of them to be a cause, condition, or hindrance to the realization of the other.

You need evidence to define something as sabab, shart, or maani'

Signs for the 5 pillars

Always constant, (doesn't fluctuate), evident, possible to measure

Note: The different varieties of Hukm Wad'ee are known to be legal rulings (i.e. proof from the lawmaker should be provided to make something sabab, shart, or maani').

1. Sabab (cause)

a. Definition

- An attribute that is evident and constant (meaning it can be measured), which the Lawgiver has tagged as the indicator to a Hukm in such a way that its presence necessitates the

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presence of the Hukm and its absence means that the Hukm is also absent.

b. This is a necessity for a certain ruling.

c. Examples

أَقِمِ الصَّلَاةَ لِذُلُوكِ الشَّمْسِ إِلَى غَسَقِ اللَّيْلِ وَقُرْءَانَ الْفَجْرِ إِنَّ قُرْءَانَ

الْفَجْرِ كَانَ مَشْهُودًا ﴿٧٨﴾

- *78: **Muhsin Khan:** Perform AsSalat (Iqamat-as-Salat) from mid-day till the darkness of the night (i.e. the Zuhr, 'Asr, Maghrib, and 'Isha' prayers), and recite the Quran in the early dawn (i.e. the morning prayer). Verily, the recitation of the Quran in the early dawn is ever witnessed (attended by the angels in charge of mankind of the day and the night). [Surah Al-Israa', 17:78]*
- Murder is sabab for the death penalty → however it can also be a hindrance: if there is doubt, you can't have punishment
- Theft is a sabab for punishment
- Fulfillment of the marriage contract is a sabab for the obligation to provide the dowry and financially support his wife. Even if a man stipulates otherwise, it is still binding upon him.
- d. Sabab from Allah:
 - Death of a family member is sabab for you to get inheritance
 - Sunset (not adhan) is sabab for breaking fast
- e. Your actions can be a sabab for an action.
 - Talking while praying meaning that you have to redo your prayer.
 - Eating something during the days of Ramadan -> this means that you have to make up that day.
 - Sighting the moon is Sabab for initiating the month of Ramadan

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2. Shart (Condition)

a. Definition

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- An evident and constant attribute whose absence necessitates the absence of the Hukm, but whose presence does not automatically bring about its object (mashroot).

1. Example:

- a. Presence of a valid marriage is a precondition (Shart) for divorce. But it does not mean that when there is a valid marriage, it must lead to divorce.
- b. Presence of Wudhoo': It is a condition (Shart) of Salah. However, just because someone has wudhoo' does not necessitate Salah.

b. Types of Shart

- Logical Shart
 - 1. Life is a condition for someone to be obligated to learn.
- Linguistic Shart
 - 1. "If you come home on time, I'll give you a cookie."
- Shari'ah
 - 1. Wudhoo' is a condition for Salah.

c. The difference between Shart and Rukn (pillar)

- In both cases the action cannot take place without it. But in Shart, the condition is separate from the action (wudhoo). In Rukn, it is within the action (sajdah).
- Intention of salah can be either shart or rukn
- Note: It is possible for a person to make a Shart (condition) binding on themselves. Like someone who says in their marriage contract, "I shall not travel out of the country." If he does, that could invalidate the contract.
- d. Sabab for Fajr is dawn, but you still can't pray without the shart of wudhoo or facing qiblah
- e. Lack of shart = lack of hukm
- f. Sabab for zakah is possessing the minimum amount (nisb), the shart is having that amount for one year
- g. Can downgrade intention, but can't equalize or upgrade it! → intention from fard to nafl, but not nafl to fard, or fard to fard

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3. Maani' (Hindrance)

a. Definition

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- An act or an attribute whose presence either nullifies the Hukm or the cause (Sabab) of the Hukm. In either case, the result is the same, namely that the presence of the Maani' means the absence of the Hukm.
- **Example**
 1. A child steals a crayon from the teacher. Because (a) he is not Mukallaf and that (b) the crayon is below the threshold for stolen property and that (c) the crayon wasn't safeguarded, all three facts are Maani' (hindrance) to the ruling of Hudood punishment.

b. Loop Holes?

- It should be noted that a Muslim should not purposely intend to apply a Maani' to run a loophole on Allah's law.
- **Example**
 1. A person should not purposely spend a few bucks below the Zakah threshold before the end of the year to intentionally avoid paying the Zakah.
 2. A person should not intentionally smoke themselves with foul smells, or eat garlic so that attending the masjid becomes undesirable in their case.

A Maani' has the power to nullify/veto a Hukm or a Sabab

- **One: When a Maani' vetoes a Hukm**
 1. The presence of this type of nullifier directly nullifies the verdict (Hukm), even if the cause (Sabab) and the condition (Shart) are both present.
- 2. Example**
 - a. A father murders his son. Should the father receive capital punishment?
 - i. Hukm**
 1. Someone who kills should be killed in punishment for the crime.
 - ii. Sabab**
 1. Murder: in this case it took place.
 - iii. Condition**

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1. It must be done with premeditation.
This was present.

iv. Maani' (nullifier)

1. A father is not to be killed in retaliation for murdering his son (based on the hadith).

v. Note

1. The father may be severely punished with other punishments, but it should not reach capital punishment because of this Maani'.

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o Two: When a Maani' vetoes a Sabab.

1. A Maani' can veto and nullify a Sabab (cause) in the sense that its presence makes a cause (Sabab) null and void.

2. Case: A nephew murders his rich uncle to get \$\$

- a. **Sabab** (cause) for inheritance: That a person must be one of the sanctioned inheritors as dictated in the Qur'an.
- b. **MAANI'** (nullifier): A murderer does not inherit from the one he murdered.
- c. **Verdict**: Thus when the cause (Sabab) is nullified, the Hukm itself is nullified. He's not going to jail with a full bank account; he gets NOTHING.

3. Case: Someone has a lot of gold.

- a. **Sabab** for Zakah: It must pass the threshold and must be in his possession for one year.
- b. **MAANI'**: He has debts
- c. **Verdict**: Thus, if he has enough money for Zakah but he owes people the majority of what he has, he does not have to pay Zakah on that gold.
- d. However, if you lend money, you must include that when you calculate your zakah

CHAPTER FIVE: TAKLEEF (ACCOUNTABILITY)

Comes from the word كلف meaning "burden"

1. Mahkoom Feeh, Mahkoom `Alayh

a. Definition

- i. Literally: To place a burden on someone that includes a degree of hardship.
- ii. E.g.: As a term: It is an order—whether a command to do or a forbiddance from doing—with conditions that apply to either the one commanded or the action that is being requested. As follows:

b. Conditions that apply to the action, not the person commanded: Mahkoom Feeh

- i. It must be known that this is a commandment/prohibition from Allah.
- ii. It must be possible for the action to be performed/abstained from.

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا لَهَا مَا كَسَبَتْ وَعَلَيْهَا مَا أُكْتَسَبَتْ رَبَّنَا لَا
تُؤَاخِذْنَا إِنْ نَسِينَا أَوْ أَخْطَأْنَا رَبَّنَا وَلَا تَحْمِلْ عَلَيْنَا إِصْرًا كَمَا حَمَلْتَهُ
عَلَى الَّذِينَ مِنْ قَبْلِنَا رَبَّنَا وَلَا تُحَمِّلْنَا مَا لَا طَاقَةَ لَنَا بِهِ وَعَظْمًا وَعُظَيْرَ
لَنَا وَأَرْحَمِنَا أَنْتَ مَوْلَانَا فَانصُرْنَا عَلَى الْقَوْمِ الْكَافِرِينَ ﴿٢٨٦﴾

1.

286: **Muhsin Khan:** Allah burdens not a person beyond his scope. He gets reward for that (good) which he has earned, and he is punished for that (evil) which he has earned. "Our Lord! Punish us not if we forget or fall into error, our Lord! Lay not on us a burden like that which You did lay on those before us (Jews and Christians); our Lord! Put not on us a burden greater than we have strength to bear. Pardon us and grant us Forgiveness. Have mercy on us. You are our Maula (Patron, Suppor-ter and Protector, etc.) and give us victory over the disbelieving people. [Surah Al-Baqarah,

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2:286]: the action that Allah commanded you with IS in your abilities, b/c Allah knows your capabilities and doesn't burden you with more than you can bear

c. Conditions that apply to the person, not the action: Mahkoom 'Alayh

- i. He must be of sane mind. Hadith: *"The pen was raised from three people: The sleeping one until he awakes, the child until he reaches puberty, and the insane one until his faculties return to him."* → if an insane person leads your salah, your prayer is invalid
- ii. He cannot be sleeping or be in a state of forgetfulness. However, unlike the insane person, a sleeping or forgetful person has to make up what they missed during their sleep/forgetfulness. And if they damage anything in such a state, they are held liable. Absence of accountability does NOT mean absence of liability.
 1. They would have to pay the person whatever they broke in their sleep.
 2. Need to pay someone back even if they forgot about the debt.
 3. Are you accountable for waking someone up when they're supposed to pray? Issue of dispute
- iii. Cannot be in a state of intoxication.
- iv. He/she must have reached the age of puberty. → before puberty only good deeds are counted
- v. Cannot be under a state of compulsion.
 1. Free will, conscious, action is nullified if forced
 2. You can't force someone to pray fajr, but you can wake them up to pray with you.
 3. Lesser compulsion (no immediate harm) is not a legit excuse.

2. What do you mean compulsion (ikraah)?

a. Definition

- i. To force someone to do something using the element of fear.

b. Two types of Ikraah

- i. One: Lesser Compulsion

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1. It is a compulsion that does not lead to death, nor to that person losing limb of their body.
2. Ruling:
 - a. In such a case, the person cannot be considered under compulsion.
- ii. Two: Major compulsion
 1. It is compulsion where the person fears for his/her life or harm inflicted on a limb of the body or one's wealth.
 2. Ruling:
 - a. In such a case, the person carries the same ruling as the one who is not obligated to perform the action.
 3. "I will kill you if you don't... (do something that doesn't harm anyone but maybe yourself)...eat bacon." You have the choice to eat it or not.
 4. "I will kill you if you don't... (do something that harms someone else)...rape her." You MUST NOT do it.
 5. "I will kill her if you don't... (do something that doesn't harm anyone but maybe yourself)...eat bacon." You MUST eat it. ←Cannot inflict harm on others even if you will die for it.
 6. You cannot commit a crime to stop another crime from happening.

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c. Signs of puberty

- i. There are three signs of puberty that males and females have in common:
 1. Nocturnal emissions (wet dreams)
 2. Growth of coarse hair around the private parts.
 3. Reaching the age of fifteen. (only if none of the other signs appears)
- ii. In the case of females there is a fourth sign:
 1. Menstruation

3. Are non-Muslims adults Mukallaf>

a. Opinion one: NO

- i. Proof:

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1. There is no meaning to the branches of Islam being compulsory upon them because if they do it, it will not be accepted.
2. If they become Muslim, they do not have to perform all the Salah and Fasting etc. that they missed.
- ii. No rules of Islam apply to them, however you can advise but not obligate
- iii. If they live in an Islamic land, they must follow the law of the land

b. Opinion two: YES

- i. It isn't illogical to say they are responsible for the branches of Islam. They are responsible for the branches and responsible for the key to the acceptance of those branches, which is the Shahadah.
- ii. Proof

فِيهِ آيَاتٌ بَيِّنَاتٌ مَّقَامُ إِبْرَاهِيمَ وَمَنْ دَخَلَهُ كَانَ آمِنًا وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ سَبِيلًا وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ



1.
97: **Muhsin Khan:** *In it are manifest signs (for example), the Maqam (place) of Ibrahim (Abraham); whosoever enters it, he attains security. And Hajj (pilgrimage to Makkah) to the House (Ka'bah) is a duty that mankind owes to Allah, those who can afford the expenses (for one's conveyance, provision and residence); and whoever disbelieves [i.e. denies Hajj (pilgrimage to Makkah), then he is a disbeliever of Allah], then Allah stands not in need of any of the 'Alamin (mankind and jinns). [Surah Ali Imraan, 3:97]*

عَنِ الْمُجْرِمِينَ

2.

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41: **Muhsin Khan:** *About Al-Mujrimun (polytheists, criminals, disbelievers, etc.), (And they will say to them):*

مَا سَلَكَكُمْ فِي سَقَرٍ ﴿٤٢﴾

42: **Muhsin Khan:** *"What has caused you to enter Hell?"*

قَالُوا لَمْ نَكُ مِنَ الْمُصَلِّينَ ﴿٤٣﴾

43: **Muhsin Khan:** *They will say: "We were not of those who used to offer their Salat (prayers)*

وَلَمْ نَكُ نَطْعِمُ الْمِسْكِينَ ﴿٤٤﴾

44: **Muhsin Khan:** *"Nor we used to feed Al-Miskin (the poor);*

وَكُنَّا نَخُوضُ مَعَ الْخَاطِبِينَ ﴿٤٥﴾

45: **Muhsin Khan:** *"And we used to talk falsehood (all that which Allah hated) with vain talkers.*

وَكُنَّا نَكْذِبُ يَوْمَ الدِّينِ ﴿٤٦﴾

46: **Muhsin Khan:** *"And we used to belie the Day of Recompense*

حَتَّىٰ أَتَانَا الْيَقِينُ ﴿٤٧﴾

47: **Muhsin Khan:** *"Until there came to us (the death) that is certain." [Surah Al-Muddathir, 74:41-47]*

c. Benefit of this issue

- i. If they die in a state of kufr, not only will they be punished for their rejection of Islam, but also for all the branches that they were negligent of. If they become Muslim, it doesn't mean they don't have to make it all up because they don't have to make up what they weren't commanded in the first place. It just means that Allah forgave them.

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d. What is the ruling of "Ahlul Fatra": Non-Muslims who never received an appropriate invitation to Islam?

- i. No access to Islam/ Muslims and died worshipping other than Allah?
 1. In the rules of this dunya, we don't consider them Muslims.
 2. Rules of akhirah, we can't say. This will be up to Allah.
- ii. What if they receive partial invitation to Islam (Fox news)
 1. Depends on if they have access to the real knowledge → if not, they are considered Ahlul-Fatra

e. Terms related to a Mukallaf

- i. Adaa': To perform something on time.
- ii. Ee'aadah: To repeat something in its legal time because of some deficiency or that the action became invalid.
 1. You started your salah, sneezed, and said Alhamdulillah, so you start over
 2. You prayed not knowing where the Qiblah is but later found out, you must repeat
- iii. Qadaa': To perform something out of its legal time.
- iv. Saheeh: To describe a valid act incurred by the Mukallaf. → followed all the conditions and done correctly
- v. Faasid and Baatil: To describe an irregular and void (respectively) act incurred by the Mukallaf. → majority don't distinguish between them
 1. Faasid: directed to one of the attributes
 2. Baatil: Directed to essence → you pray correctly but realize you didn't wash your feet

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Something to think about... (Refer p. 37) Should you calculate all the salah you missed (for many years)?

Imam Ahmed: for someone who intentionally misses it for no reason, it's an act of kufr

Kafir in faith or action? Majority opinion: act of kufr but is still considered a Muslim

- Minority opinion: If you ask for forgiveness (make serious tawbah) you don't have to make it up
- Majority opinion: you must estimate how many salah you missed and try to make it up daily

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- Some say if you asked for forgiveness, you are not obliged to make up for it.
- The 1st thing you will be asked of on the Day of Judgment is salah

4. Rukhsah (Concession) vs. Azeemah (Strict resolute, default ruling in shar'iah)

a. Definition

i. Literally

1. Facilitation and ease. They say Rakhsah As-Si'r, if it becomes cheaper and easier to buy that commodity.

ii. As a term

1. (Concessionary Law – Allowance) A law that is modified due to the presence of extenuating factors.

b. Comes from Arabic word meaning getting easier, cheaper→getting discount on Islamic rulings

c. Can't make rukhsah for yourself—only from Shar'iah

d. Example

i. Azeemah

1. Salah needs to be prayed on time with all the rakahs prayed.

ii. Rukhsah

1. If a person travels, then it is allowed to shorten and combine.

2. Tayyammum

a. Situations – Suppose you have water available BUT you are sick and the water would increase your sickness OR the only water available is being sold for abnormal prices.

b. Verdict – To do tayyammum in one of these two cases would be a Rukhsah.

c. What if you didn't have water altogether?

- i. It wouldn't be considered a Rukhsah. It would be considered 'Azeemah (Strict resolute); i.e. you have to do tayammum

iii. Which is better to use?

1. Depends on the situation and it is up to the person.

2. Not fasting in Ramadan when traveling with the intention that you are enjoying the rukhsah is better than fasting and complaining about it→ you get more reward

iv. Default is azeemah unless there is a rukhsah

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