

ISLAMIC DIVINE LAW (SHARI'AH)

Structuring the Life of Man by Divine Law

The Five Ruling Values (The Five Ahkam)

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The Five Categories of Ruling Values:

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Allah -the Exalted- said in the Qur'an:

“In the Law of Equality there is (saving of) Life to you, O you people of understanding; that you may become righteous.” (Qur'an, 2: 179)

Rules and regulations are very beneficial to human life, but if they are not enforced they are seldom obeyed. Take for example regulation of speed limits, or prohibition of drinking and driving. These regulations are very beneficial to everyone; it saves the life of the driver, the lives of others, it protects the property of the driver, property of others, property of the state, family members, and many other things, but this regulation cannot achieve its goal without a law to enforce it on the society and then a system of legislation, courts, and punishments. Similar to that is the regulation of the benefits in the Qur'an; it is enforced by a set of punishments.

The regulations and the ruling values in Islam are called Ahkam. One ruling value or regulation of actions is called Hukm. There are five kind of Ahkam in the Islamic Divine Law. Let us discuss them in some detail.

9.1. Five Ahkam or Ruling Values in Shari'ah

These five categories of ahkam are legal and moral regulations and are related to the behavior of humans in their relationship with Allah.

What is a Hukm (a legal rule)?

Hukm is the word and command of Allah that is addressed and related specifically to the actions, or behaviors, or deeds of humans who are capable of performing these commands.

From this definition we can conclude that in Islam the ruling values of behavior and moral responsibility or legal obligation are derived from:

- The word of Allah (through the Qur'an)
- The tradition of the Prophet Muhammad (pbuh) (through the Sunnah)

- The consensus (Ijma') of 'Ulama' or scholars of Islamic law in light of the Qur'an and Sunnah
- From Qiyas.

This legal regulation, or hukm, commands either permission or prohibition. It is either in the form of a request or a demand (talab) to do a particular thing, or a demand to avoid doing a particular thing. This request or demand might also be in the form of a binding obligation or could be in a form of giving choice, as we will see in textual examples from the Qur'an and Sunnah.

The Hukm, or legal regulation, might give the believer the freedom of choice in making a decision whether to do a particular thing or not, without giving specific preference to the choice made by the believer. This is called takhieer in Arabic.

The Hukm or legal obligation might also be in the form of making one thing as a cause of the other or its condition or prevention.

For example the following Ayat are Hukm of prohibition:

"O you who believe! Enter not houses other than your own, until you have asked permission and greeted those in them: that is best for you, in order that you may remember." (Qur'an, 24:27)

"And do not come near to adultery. Indeed, it is ever an immorality and is evil as a way." (Qur'an, 17:32)

Hukm is the legal command establishing what is prohibited and what is not, for example this following verse is not a hukm; it is only a description about natural phenomenon:

"It is not permitted to the Sun to catch up the Moon, nor can the Night outstrip the Day: each (just) swims along in (its own) orbit (according to law)." (Qur'an, 36:40)

The following verse is a hukm because it regulates something, making it forbidden and obligatory on every Muslims to avoid:

"O you who believe! Intoxicants and gambling, [dedication of] stones, and [divination by] arrows, are an abomination of Satan's handiwork. So avoid that in order that you may be successful." (Qur'an, 5:90)

Who is Legally and Morally Obligated (Mu.kal.laf)?

Every Muslim, male or female, who is mature by reaching the age of puberty, and mentally competent is obligated to follow the commands of Allah. For the Prophet Muhammad said:

"Allah's commands exclude those who are asleep till he wakes up, and the young until reaching puberty, and the insane till they become mentally competent."

Thus, there are three requirements for legal obligation and moral responsibility:

1. Islam; which excludes non-Muslims.
2. Maturity (having reached puberty); which excludes infants, babies, and children.
3. Sound Rationality, consisting of two parts:

- A. Consciousness; which exclude people in sleep, anesthetic, comatose people, and the like.
- B. Mental competence; which excludes the insane, mentally ill and similar cases.

The Nature of Allah's Commands

All the commands of Allah to humans are within the realm of human capability and capacity. There is not a single command in the Qur'an that humans cannot carry out or perform.

"Allah burdens not a person beyond his scope. He gets reward for that which he has earned, and he is punished for that [evil] which he has earned." (Qur'an, 2:286)

In the Islamic Divine law the Ahkam and the legal regulations in regard to all human behavior can be divided into five categories:

9.2. Wajeb or Fardh (Required, Obligatory):

This category would include obligations such as daily prayer, obligatory fasting, etc., which are obligatory on every Muslim, male or female, who have fulfilled the requirements of takleef, or the ability to do them. The requirements of takleef that every Muslim should fulfill in order to perform these obligations are:

First, being mature by reaching the age of puberty (children are not obligated in Islam, but they are encouraged).

Second: by having sound reasoning (insane, comatose people, or people in a similar unconscious states are not obligated).

This type of required behavior is binding and it is established by definitive proof in the Qur'an and Sunnah. The performance of Wajeb or Fardh acts is rewarded. According to the Qur'an and Sunnah, if a Muslim neglects performing these required behaviors they would be punished, both in this world and the hereafter.

The Fardh or obligations are divided into two kinds:

One is called *Fardhu 'Ayn* which means individual or personal duties that every Muslim is responsible to do. Each Muslim is responsible for their own prayers, almsgiving and fasting and are held individually accountable for the performance of these duties.

Second: are those called *Fardhu Kifaya*, which means collective duties, such as attendance at funeral prayers, or commanding the good and forbidding evil. If some member of the community did this fard in a way that fulfills the goal, then it is no longer obligatory on the rest of the community to do it, and they are absolved from this duty. Those who perform this duty are the ones who will be rewarded. If no one achieves this fard, then the whole community will be held accountable.

9.3. Mandoob (Recommended):

This hukm is also called: mustahabb, masnoon, and nafl. Mandoob is any act that is commendable but not required. While there is no punishment for the neglect of duties which are Mandoob, there is reward for performing them.

The Mandoob or recommended acts include extra prayers, fasting Monday and Thursday, praying sunat al-fajr, charitable acts, and pious deeds of different kinds. For example:

“O you who believe! When you deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing.” (Qur’an, 2:282)

Documenting transactions and debt among people is not obligatory but recommended in order to protect the rights of people and their inheritances in cases of denial or forgetfulness. Although the Qur’anic word "write" gives the meaning of obligatory command in Arabic, writing down debts is not Wajeb but recommend, because in the rest of the ayah there is an explanation in the form of 'If you trust each other, then there is no need to the writing' which renders the action as only Mandoob. Since the command of Allah in the Wajeb or obligatory is not conditional, rather it is imperative.

9.4. Mubah (Permitted but Morally Indifferent):

This is also called: ja'ez and halal (lawful). Mubah is any act that is left to the personal decision and to individual liberty. Muslims can make the decision whether or not to perform any act that is considered Mubah. There is neither reward nor punishment for the performance or avoidance of the Mubah. For example Allah -the Exalted-said:

“This day are[all] things good and pure made lawful to you. The food of the People of the Book is lawful to you and yours is lawful to them. [Lawful to you in marriage] are [not only] chaste women who are Believers, but chaste women among the People of the Book, revealed before your time, when you give them their due dowers, and desire chastity, not lewdness, nor secret intrigues. If any one rejects faith, fruitless is his work, and in the Hereafter he will be in the ranks of those who have lost [all spiritual good].” (Qur’an, 5:5)

The Mubah is usually called halal (lawful), the reference to which is usually associated with the word halal or any other word similar in meaning in Arabic such as:

“It is no fault in the blind nor in one born lame, nor in one afflicted with illness, nor in yourselves, that you should eat in your own houses, or those of your fathers, or your mothers, or your brothers, or your sisters, or your father's brothers, or your father's sisters, or your mother's brothers, or your mother's sisters, or in houses of which the keys are in your possession, or in the house of a sincere friend of yours: there is no blame on you, whether you eat in company or separately. But if you enter houses, salute each other - a greeting of blessing and purity as from Allah. Thus does Allah make clear the Signs to you: that you may understand.” (Qur’an, 24:61)

There is a rule in Islamic law that all things in their original or natural state are Mubah (halal or lawful) unless there is a regulation of their prohibition because Allah -the Exalted- said in the Qur’an:

“He is Who created for you all that is on earth [outside the earth or hidden inside it].” (Qur’an, 2:29)

Although there is neither reward for doing mubah nor punishment for avoiding it, the intention might turn a mubah act into a rewarding act. For example eating with the sincere intention to strengthen your body so you can work more and help your parents is an act of reward, because of the sincere intention toward the parents.

9.5. Makrooh (Discouraged or Abominable):

An act that avoiding its doing is preferable over doing it. One such act would be divorce, for the Prophet Muhammad (pbuh) said:

“The most abominable of permissible things in the sight of Allah is divorce.”

However, for acts of doing makrooh there is no punishment, and for the avoidance of these acts there is reward.

Another example: the Prophet Muhammad (pbuh) made it clear that it is makrooh to offer to buy something for which another person has made an offer to purchase. Or trying to offer an engagement to a woman who was already engaged to another person.

Makrooh is the opposite of mandoob, meaning that the neglecting of a mandoob act is discouraged and leads to a makrooh.

9.6. Haram (Forbidden or Prohibited):

It is also called mahdoor. Haram is any act that is prohibited by the religion. These acts are binding by definitive proof in the Qur'an and Sunnah. For the performance of haram there is punishment and for the avoidance of haram there is reward.

Some examples of haram are killing, theft, unlawful sexual activity or adultery, drinking alcohol, and gambling.

The prohibited acts are clearly mentioned in Islam with the word of prohibition or other words similar in meaning in the Arabic language. An example is this verse from the Qur'an, where Allah -the Exalted- says:

“Prohibited to you (for marriage) are: your mothers, daughters, sisters; father's sisters, mother's sisters; brother's daughters, sister's daughters; foster-mothers (who gave you suck), foster-sisters; your wives' mothers; your step-daughters under your guardianship, born of your wives to whom you have gone, no prohibition if you have not gone in; (those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, except for what is past; for Allah is Oft-Forgiving, Most Merciful.” (Qur'an, 4:23)

Another example from the Qur'an:

“Those who unjustly eat up the property of orphans, eat up a fire into their own bodies: they will soon be enduring a blazing fire!” (Qur'an, 4:10)

By doing what is haram or prohibited a person is subjecting himself to punishment; in this world or in the hereafter. Specific punishments are prescribed penalties and are applied according to Islamic Divine law, and can only be performed by an Islamic court with qualified judges.

According to the tradition of the Prophets, abstaining from haram is an act that deserves the rewards that are enjoyable in the hereafter.

Every prohibited thing in Islam is prohibited, by the Qur'an and Sunnah, in order to secure benefits, the rights of people, to enhance the society, or to prevent harm.

Haram or the prohibited are of two kinds:

The first type is haram *lidhatihi*, meaning that it is harmful itself, and it becomes forbidden for the harm that is intrinsically possessed. Harm will be inflicted on the user of such a thing. An example of this is found in the Qur'an, where Allah -the Exalted- said:

"He has only forbidden you dead meat, and blood, and the flesh of swine" (Qur'an, 2:173)

The meat of carrion is prohibited for the harm that it causes to the user. The same can be said about killing and stealing. Adultery, murder, and theft, are all forbidden for the same reason.

The Second kind is haram *lighayrihi* or an act that is forbidden for a reason other than itself. This kind of haram is not harmful in itself, and might be very useful, but it is associated with something else that deprives it its value and turns it to haram. An example would be as follows: prayer is wajib, but to pray in a house or on land that is taken illegally and unlawfully from others make the prayer itself unacceptable. A contract of business or sale that takes place during the time of the Friday congregational prayer is a haram of this kind, although sale and business is not forbidden, but during this specific time it becomes haram lighayrihi.

Categories of Ruling Values



For more details please see *Mirror of realization* by Mashhad Al-Allaf.