

Concise Usul: Hanafi Usul in 8 parts

Part 2: What is the Taklifi Hukm?

Section 1: Defining the Taklifi Hukm

What is a Taklifi Hukm?

A Taklifi Hukm is the opinion of Allah about the action of his slaves (mukallaf) in how his slaves perform and in what they choose to perform.

What does that mean?

It means that a Taklifi Hukm is that which concerns itself with the action of the mukallafin in the following:

Does he have to do an action or leave it?

How sure is he that he has to do this action?

What choice does he have in doing or leaving it?

Does it have divisions?

There are 2 main divisions, and a third is possible for further discussion, they are:

1. Ahkam judging strength of proofs and applicable definitions
2. Ahkam regarding the state of the mukallaf
3. Benefits of the Ahkam, where do they go?

Section 2: Division 1- Proof and applicability

How many Ahkam are in this category?

There are 9¹ Ahkam in this category, they are:

1. Fardh
2. Wajib
3. Sunnah

¹ Notice the section heading of proof and applicability. This signifies the biggest difference between the hanafi fuqaha and others in this issue of usul al-fiqh. The Applicable Definitions are only 5. Something is either Wajib, Haram, Mustahab, Makruh, or Mubah. When one looks at how these rulings were derived however, it becomes possible to add upon the five. Hanafi Fuqaha made a distinction between Fardh and Wajib, and Makruh tahrimi and tanzih based on the strength of their sources and in how certain we are in the fact that we have to perform or leave that action.

4. Mustahab
5. Haram
6. Makruh Tahrimi
7. Makruh Tanzihi
8. Khilaf Awla
9. Mubah

Definiteness of Proof

Footnote 1 on the previous page discusses the applicability of actions being divided into 5 main types, Mandatory to do, Recommended to do, Mandatory to leave, Recommended to leave, and No Opinion.

The 9 Ahkam of the Hanafi madhhab are based on not just applicability but also proof and its definiteness. The understanding and sources of these proofs are divided into two types: Qat'iyah, and Zanniyah.

Qat'iyah is that which one has no doubt about.

Zanniyah is that which there is doubt within

The source is called Thabut.

The understanding is called Dalalah.

Every proof must have a source coupled with an understanding.

A source can either be Qat'iyah or Zanniyah, An Understanding can be Qat'iyah or Zanniyah, and there re therefore 4 categories:

1. Qat'iyah Thabut and Qat'iyah Dalalah
2. Qat'iyah Thabut and Zanniyah Dalalah
3. Zanniyah Thabut and Zanniyah Dalalah
4. Zanniyah Thabut and Qat'iyah Dalalah

The First category represents sources that are doubtless with understandings that are doubtless. Like Ayat of the Quran and some Mutawatir Hadith.

The Second category represents sources that are doubtless, but understanding that is lacking. Like those ayat in which ulema disagree in their interpretation.

The Third category represents sources and understandings that are doubtful, like non mutawatir hadith that the ulema disagree about.

The fourth category represents sources that are doubtful but understandings that are clear and definite, like those non mutawatir ahadith that the ulema are unanimous in how they interpret and apply them.

Fardh and Haram, can only be established with the first category. Anything less cannot establish the necessary definiteness and is now moved to the lesser categories, its level depending on the clues provided by the sources and understanding.

Fardh

What is Fardh?

Linguistically it means certainty and determination. In Usul al-Fiqh it means: That which is seeking the completion of a *necessary* action established with a *definite* proof.

What is the ruling of Fardh?

You must *believe* that you have to complete the action, and you *must* do the action physically. Denying a Fardh is *kufr*, leaving it for no reason is *fisq*.

How many types of Fardh are there?

There are two, they are:

1. Fardh Ayn
2. Fardh Kifayah

Fardh Ayn is fardh for a single person. Ex: Every person *must* pray his own salah.

Fardh Kifayah is fardh on a group of people. If some of them complete the action, the obligation is fulfilled. If no one complete the actions, they are all in sin. Ex: some people *must* pray a Muslims janaza.

Wajib

What is Wajib?

Linguistically wajib refers to falling, it is the ruling thrown upon the slave by Allah, In Usul al-Fiqh it refers to: That which is seeking the completion of a *necessary* action established with a **non-definite** proof.

What is the ruling of Wajib?

You *must* complete the action with the *assumption* that this is an established practice. Denying a wajib without evidence is *Dalal*, and leaving it without evidence or an excuse is *fisq*.

Why not Fardh?

Unlike Fardh, wajib is not established through the first definite category. Udhiyah, slaughtering during the days of Eid is wajib, Establish with Quran ayah(qati') that ulema do not agree on(zanni).

Salah al-Waitr is wajib, established through a non-mutawatir hadith(zanni) that ulema agree on(qat'i).

Wajib and Fardh

Wajib and Fardh both represent the MUST DO, part of taklifi ahkam. For this reason, they share a certain understanding. The only difference between them is proof, not meaning.

What makes something Wajib or Fardh?

Wajib and Fardh are established through the usage and implications of words in Quran and Sunnah.

What words make things Fardh and Wajib?

1. Words that imply that an action MUST be done
 - a. فرض
 - b. وجب
 - c. قضى
 - d. All words like the above
2. Words that give the meaning of *amr*
 - a. The 2nd and 3rd person amr verbs
 - b. The Ism fi'l that give the meaning of amr
 - c. The masdar that gives the meaning of amr
3. Words that imply an action must be done because of context

Sunnah

What is Sunnah²?

Linguistically it means a habit or a path. In Usul al-Fiqh it means: That which is seeking the completion of a **non-necessary** action with *emphasis*.

What is the ruling of Sunnah?

Emphasis of an action without legislating its necessity. The person who performs it deserves reward and praise. The one who leaves it deserves censure and criticism. The one who always leaves it deserves punishment.

What is the scope of Sunnah?

Everything established from the prophet and his companions is sunnah, be it words, actions or taqrir.

How many types of Sunnah are there?

² Here we read that sunnah is also established by companions, for this reason sunnah is defined as the treaded path of Islam, whether the prophet walked it or one of his companions. The definition used for Sunnah above reflects its division from mustahab. Sunnah being that which is encouraged *with emphasis*, while mustahab lacks that emphasis. The definitions of these terms are very important because sometimes you will find sunnah being used to describe what we consider wajib.

There are two types of Sunnah, they are:

1. Sunnah Huda (muakkadah)
2. Sunnah Zaidah (ghayr muakkadah)

Sunnah Muakkadah (Huda) is that which the prophet encouraged and used to perform in order to please Allah. These include things he would do, and leave sometimes with an excuse, or things that he would never leave, but didn't rebuke the person who left it. They are commonly referred to as 'mutimmat' or completers. They are divided into two types:

1. Muakkadah Ayn (tawarih, jama'h)
2. Muakkadah Kifiyah (tawarih in jama'h, last 10 days itikaf)

Sunnah Ghayr Muakkadah (Zaidah) are the personal habits, and extra actions of the prophet in worship, that he used to do and are not considered 'mutimmat'. Like the way he ate, and his extra prayers and fasts.

Sunnah will be discussed more in its proper place

Mustahab

What is Mustahab?

Linguistically it means an object of love and appreciation. In Usul al-Fiqh it means: That which is seeking the completion of a **non-necessary** action without emphasis or definiteness.

Usage of the term

Mustahab is also called mandub³, nafl, adab, tatawwu' and fadilah.

What is the ruling of Mustahab?

Reward is promised for the action, there is no blame or censure if a person does not do it.

Mustahab and Sunnah

Mustahab and Sunnah can also be derived from qat'i sources, Quran and Sunnah, as long as the understanding of those sources don't lead to an action being mandatory.

Must be completed

If a person begins to do an action that is considered sunnah or mustahab, completion of that action becomes necessary.

³ The author of fath al-qadir makes a distinction between mandub and nafl, he says regarding fasting: The example of mandub, is the fast of 3 days in every month, every fast in which the prophet or Allah promised reward, upto and including the fast of Dawud. Nafl, he says is everything that has no established Karahiyah. The author of Nur al-anwar however was of the opinion that Mustahab includes everything that the Ulama that was upstanding and good.

Cannot be denied

If an action is considered sunnah or mustahab, and it is established with proofs that are doubtless, denying the fact that this thing is indeed sunnah or mustahab will make a person Kafir.

Examples include things like having a written contract in business transactions, or having witnesses for things that normally don't require them.

Haram

What is Haram?

That which is seeking the *necessary* abstention from an action, established with a *definite* proof.

What is the ruling of Haram?

You must *believe* that you have to must not do the action, and you *must* do your utmost to avoid the action. Denying something Haram is *kufr*, leaving it deserves praise and reward, doing it without an excuse is *fisq*.

Examples of Haram things?

Zina, Stealing and things like them

How many types of Haram are there?

There are two, they are:

1. Haram li-'aynihi
2. Haran li-Ghayrihi

Haram li-'aynihi is haram because of a quality present in that thing. Ex: Khamr is haram to drink because of the quality of intoxication.

Haram li-'ghayrihi is haram because of a quality outside of that thing. Ex: Stealing someone else's property, having property isn't haram, having stolen property is.

What makes something Haram?

1. Words that indicate that something should be avoided
 - a. منع
 - b. نهي
 - c. حرم
2. Words that give the meaning of *nahy*
3. *Amr* to *avoid* something
4. Punishment and Warnings accompany the action

Makruh Tahrimi

What is Makruh Tahrimi?

That which is seeking the *necessary* abstention from an action, established with a **non-definite** proof.

What is the ruling of Makruh Tahrimi?

You *must* avoid the action with the *assumption* that this is an established practice. Denying Makruh Tahrimi without evidence is *Dalal*, and acting on it without evidence, interpretation or an excuse is *fisq*, deserving of blame and punishment.

Makruh Tahrimi vs Tanzihi

When a person sees the term Kirahah or Makruh in the books of fiqh mentioned without descriptive qualities like ‘tahirmi’ or ‘tanzih’ he should assume what is meant is tahrimi.

Makruh Tahrimi and Haram

Makruh Tahrimi is established with the same things that establish Haram⁴.

Makruh Tanzihi

What is Makruh Tanzihi?

That which is seeking the **non-necessary** abstention from an action with *emphasis*.

What is the ruling of Makruh Tanzihi?

Abstention from the action deserves praise and reward. Doing the action deserves blame and censure. Ex: Giving the Adhan without Wudhu

Usage of the term

Sometimes Makruh Tanzihi is also called khilaf awla

From where do we derive Makruh Tanzihi?

1. Usage of the word Kirahah
2. Something was forbidden, but no proof to say its Haram
3. Something was spoken against, or is obviously disgusting

Khilaf al-Awla

What is Khilaf al-Awla

That which is not good to do. That which is seeking the **non-necessary** abstention from an action without emphasis or definiteness.⁵

What is the ruling of Khilaf al-Awla?

⁴ See ‘what makes something haram’ on previous page

⁵ If assumed to be the opposite of Mustahab, this is the proper definition. Radd al-Mukhtar p439

Leaving it is best, and deserves reward. Doing it is not very good, but does not deserve punishment or censure. Ex: Not praying Duha or Chast Salah, leaving any mustahab.

Usage are deriving

Khilaf awla is expressed through many different wordings though the most famous is “la ba’s” لا بأس.

Mubah

What is Mubah?

Linguistically it is the object of the Arabic verb to allow, meaning that which is allowed. In Usul al-Fiqh it means: That which the slave has a **choice** in doing or leaving.

What is the ruling of Mubah?

Doing it or leaving it are exactly the same. No reward or blame for choosing either or. Examples include every day to day thing that people do without heavenly guidance.

How is it derived?

Ibah is the ruling for things when there is no problem, difficulty or sin in something, and when this thing is mentioned to be ‘halal’ or have ‘hillah’, the amr, when associated with certain clues can also tell you that something is Mubah.

Denying Mubah and other Ahkam of Din

Denying all things established by Qati’ proofs constitutes kufr. If one were to erroneously believe that the Mubah things establish through nass, like eating and drinking were things that actually were not allowed, this constitutes kufr, because its denial is a denial of what Allah mandates us to believe.⁶

Section 3: Division 2 – State of the Mukallaf

The Mukallaf is always in one of two states. He is either in a normal condition suitable to follow ahkam as allah required, or he is in a condition that doesn’t allow him to perform the ahkam or be held accountable for them these two states are called:

1. Azimah
2. Rukhsah

Azimah: The Normal State. A person in this state follows ahkam normally.

Rukhsah: The Abnormal State. A person in this state will follow a modified hukm.

There are two types of Rukhsah, each with two variations. They are:

⁶ There is a lengthy discussion that ties into aqidah here, let me know if you want it in a later version

1. Rukhsah Haqiqi Awla
2. Rukhsah Haqiqi Ghayr Awla
3. Rukhsah Majazi Tamm
4. Rukhsah Majazi Ghayr Tamm

What is Rukhsah Haqiqi Awla?

The state that allows one to do an action, even though it is Haram.

What is the ruling?

One should follow the original hukm, even if it leads to death.

Example: A Muslim is requested to say a word of kufr. This is Haram in the state of Azimah. The person who requested it, threatens the Muslim with a loss of a limb or his life. Saying the word of Kufr becomes allowed, but it is better to act on azimah, meaning to not say the words.

What is Rukhsah Haqiqi Ghayr Awla?

The state that allows one to do an action when a sabab is present and the hukm relaxes.

What is the ruling?

One should follow the original hukm, except if he fears for his life, then he is **not** allowed to follow the original hukm.

Example: The sick person and travelling person have an excuse to not fast Ramadan. If their lives are not in danger, they should fast in the month. If their lives are in danger, fasting in the month is no longer allowed.

What is Rukhsah Majazi Tamm?

The state that *completely* removes the applicability of ahkam. The rulings are no longer applicable to everyone and thus abrogated.

What is the ruling?

One *must* follow the rukhsah, doing anything other than the rukhsah is not allowed.

Example: Divine Law of previous nations that is no longer applicable to the Ummah of Muhammad.

What is Rukhsah Majazi Ghayr Tamm?

That state that removes the applicability of ahkam for *some* slaves, while they remain applicable for the majority.

What is the ruling?

One *must* follow the rukhsah, as long as one is in this state.

Examples: Qasr Salah, Eating carrion and pork if your life is in danger.

Section 4: Division 3 – Benefits and Huquq

The benefits and huquq of Ahkam can be divided into 4 parts, looking at the purpose of the action and who it serves. An action is either done for Allah because he commanded it, or for the benefit of the people through Allah's guidance. Disputes regarding fulfilling Allah's rights are the subject of the Day of Judgement, while disputes regarding the rights of fellow slaves can be negotiated in this world as well. The divisions are as follows:

1. Completely the Haqq of Allah
2. Completely the Haqq of the slave
3. The Haqq of Allah Outweighs the Haqq of the Slave
4. The Haqq of the slave outweighs the Haqq of Allah

Those things that are Allah's rights can not be disputed. A pure mukallaf person cannot be taken to task in this world for missing his obligations to Allah, like Salah and Sawm. Nor can any mukallaf person change punishments that Allah has designated for certain actions, like the punishments for Zina.

Those things that are the rights of Allah's slaves have 100% of their benefit come to them. Therefore all terms conditions rewards and punishments can be decided by them. How much will something cost, how long will you lend an item to someone etc. as long as shari' guidelines are followed.

There are some issues where Allah has set punishments for and regulations to be followed in how we treat each other, in these issues, Allah's right outweighs our own. For example, a person accuses another of Zina. The first person in accusing the second of Zina has hurt him and violated his haqq. This situation should be decided and disputed between them. However, in this case Allah has stipulated that the accuser without proof is whipped for his baseless accusation. Allah's command outclasses any right the two disputing parties had. The first person is punished whether the second approves of it or not.

When the right of the slave outclasses the right of Allah, this means that the legislated punishment depends on whether the affected party approves of it. Allah stipulated that a person who kills another must either be killed or pay a fine. This gives the affected party the ability to choose the fate of the accused. Either he kills him or forgives him,.