

Student Name: IBRAHIM SARFARAZ
Title of Course: Islamic Jurisprudence I
Name of Faculty Member: Aijaz Ahmed
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ISLAMIC JURISPRUDENCE I

Q. Write in detail about Elements of commanded rule (Hukm Shar'i?)

Introduction:

Hukm means "the assessment of something in a particular manner. the relation or negative of an attribute to its subject, as the the decision that the moon has risen or has not risen"

The moon was assigned. It then stands like a hukm (judgment) over the Moon.

The term hukm is theoretically identified in List-11 al-Fiqh as:

"God's correspondence concerning the conduct of Mukallafeen

do an act or make a decision to do so or announce a success
Anything that is a source or an impediment to an order”

Mukallafeen is Mukallaf's plural. Mukaffaf is the subject of
Taldif means to claim the law. Literally, Taklif means moral duty.
Anything that causes discomfort Abdur Rahim described the hukm as law.

Classifications of Hukm Shari’ah:

Hukm Shar'i means the communication of the lawgiver. The communication also requires or does not provide the communicator with the probability of deciding between two or more options. The communication often declares something to be the source or the state of an order or an impediment to it. There are two sorts of Shar'i hukm, it reveals.

1. Hukm Taklifi
2. Hukm Wad'i

The communication of the lawgiver which demands to do or not to do a thing or gives an option to do or not to do a thing is called hukm taklifi. The communication which declares a thing to be a cause or condition of a rule or an impediment to it is called hukm wad'i.

Categories of Hukm Taklifi:

- i.** Ijab
- ii.** Nadb
- iii.** Tahrim

- iv. Karahah
- v. Ibahah

i. Ijab:

Ijab means to declare an act obligatory. It is the correspondence that necessitates the execution of an act.

ii. Nadb:

It is communications that claim results indecisively for a deed.

iii. Tahrim:

It is the communication which demands absolutely to refrain from an act. It also means to declare an act forbidden.

iv. Karahah:

It is the correspondence that demands indecisively that one act be refrained.

v. Ibahah:

It is the correspondence that offers a preference between the act and the omission.

The acts pertaining to the above-mentioned correspondence Named, respectively, Wajb, mandab, haram, makrah and mub5h. The Godfather Legals broke the hukm taklif into 7 forms. They have improved. The fard and wajib, the makra tahrimi and the haram.

The absolute is the Request for an act dependent on decisive proof (dalil qati) is requested. fard and the utter order to act on the basis of likely facts Wajib is named (Dalil Zanni). The utter order that an act on the Haram and an unconditional demand to refrain is the foundation of decisive proof. The makrah tahrimi is named from an act on the basis of possible facts. Hanafiyya referred to makrih as makrih tanzih (religious disapproval). (Scruple)

Kinds of Hukm Wad'i:

The word means to place, put down or lay down. Technically, it stands for the declaration of a thing by the lawgiver to be a cause (sabab) or condition (Shut) or an impediment (mani'). There are basically three kinds of hukm wad'i, Sabah, Shart and Mani'.

i. Sadab (Cause):

The explanation for the invoking or establishment of a hukm taklifi is.

ii. Shart (Condition):

Shart means a symbol that is practically inseparable. Shart means atechnological component

Item whose deficiency (mashrat) does not emerge from the object of situation in life, although it does not actually require the existence of the the things

iii. Mani' (Impediment):

Mani's life means that the order does not exist, since father is not executed in revenge for his son's death.

Hukm Wadi, Sahih, Fdsid and Batil are also classified.

iv. Sahih (Valid):

Sala is one of the basic elements and circumstances under which the Shari' ah is understood in relation to the order.

Therefore, prayer, fasting and selling are valid if each of them has necessary features and conditions.

v. Batil (Invalid):

Batil, despite the nature of the shape, fails to attain the purpose of the right of disposition, either because the individual has no power.

vi. Fasid (Irregular):

Fasid is characterized by its existence as valid, but not by its attribute. The majority of lawyers split an act into Sahib and Batil, whether it be a ceremony or a trade. Fasid is like jail. Fasid is like bail. The Hanafis are three distinct types: sahih, batil and fasid. According to them, the act which fulfills the conditions Arkdn, Wajibat and everything. Batill is one who neglects every fard, rukn or rukn that is called Inegad Shart, and is fasid, which in rituals or contracts shares Sehah wajib. Bail can't be applied, but Fasid has some consequences and an act of this nature becomes legitimate if the source of the irregularity is excluded. Abdul Aziz al-Bukhari defined that the distinction between three is that, by their nature and attribute, legitimate, fasid, that which is by their nature legitimate but not by its attribute legitimate, and that which is by its nature not legitimate nor by its attribute is known as batil.

Classification of Shart (Condition)

Hanafis defined shart in four forms, shart in'iqdd (constitution), shart Sehddh (conditional validity) shart nafddh (execution) and shart lurtim (binding) Sadr al-Shar'iah (constitution) clarified that iqad means a mixture of the terms of a transaction, in compliance with the Shariah's requirements. Nafddh means the consistency of effect from iqad and luzam means the step of the arrangement where binding and indissoluble. The Hanafis, on the grounds of a previously stated classification of situation, have divided the contract into several kinds of sahib, basil, fasid contracts. If a contract neglects Sehah, it transforms to a fasid contract. When shardy nifddh fulfills a deal, otherwise it stays moquf.

As we have come to know from the classification of hukm shar'i that the commands of Shariah are not having the same status, some commands are obligatory and some are demanded indecisively while some others give

permissions to perform an act and these are permissive commands. On the other hand modern law does not have such classification.

Hukm Shar'i and Modern law:

Austin defines law as "a law is a rule of conduct imposed and enforced by the Sovereign Another eminent legal writer Hobbs says "The commands of him and them that have coercive power" Both definitions expressed that the modern law basically comprising of that rules which are to be enforced decisively as the word of sovereign and coercive power have been used. We do not see any kind of resemblance in the classification of law and hukm shar'i. Modern law has been classified into positive law, imperative law, physical or scientific law, natural or moral law, customary law and conventional law etc. The term law is applied to the general rules having some authority behind it enforced by superior power and called imperative law. Austin says, "A law is a command which obliges a person or persons to a course of conduct" So the law is only combination of obligatory commands. To satisfy other departments of life, they have created different laws such as natural law, conventional law etc. The law is totally deprived of the classification which the Shariah have in form of hukm shar'i. This point is a great evidence against those who claim that the Shariah or Fiqh has mainly been derived from Roman Law. No society or civilization has precedent of that which the Shariah has in the shape of hukm Shaer. Subject matter of Islamic law is hukm shar'i and Islamic law in totality and comprehensively addresses all spheres of life, rituals, family matter, transactions and crimes. No doubt the Islamic law has been classified into different laws such as fiqh al Ibadat, fiqh al Usrah, fiqh al-Muamlat and fiqh al-uqubat. But according to Islamic jurisprudence, Islamic law is a unit and deals with all spheres of life comprehensively. This discussion shows that the Shariah differs to the modern law regarding structure and enforcement. There can not be any similarity because the Shariah is gifted by Allah called revealed law while the law is made by human beings.