

USŪL AL-FIQH

for the Muslim who is not a Mujtahid



Shaykh SA'D B. NASIR AL-SHITHRI

Translation by AbdulWahid Stephenson

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Usūl al-Fiqh

*for the Muslim who is
not a Mujtahid*

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Usūl al-Fiqh

*for the Muslim who is
not Mujtahid*

تأليف الدكتور سعد بن ناصر بن عبد العزيز الشثري
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Translated by AbdulWahid Stephenson





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TRANSLATOR'S INTRODUCTION

This is a small book on the required learning for every Muslim in the subject of *Usūl-ul-fiqh*. *Usūl-ul-fiqh*, usually translated as 'Principles of Islamic Law', is the study of the sources, fundamental principles and methodology by which the Islāmic laws pertaining to Muslim's actions is derived. *Usūl-ul-fiqh* provides the framework for having a correct understanding of the Qur'ān and the Sunnah and its practical application to the various changing situations a Muslim faces in his or her life.

The scholars consider the study of *Usul al-Fiqh* as a collective obligation, which means that as long as some Muslims have knowledge of it, the responsibility is lifted from the rest of the Muslim community. There are nevertheless some aspects of *Usūl-ul-fiqh* that are essential for every Muslim to know.

This is perhaps the only book authored that has selected principles and issues from the classical books of *Usūl-ul-fiqh* and compiled and categorised them in a single booklet that relate directly to the Muslim who is not a *Mujtahid* (a scholar capable of independent legal reasoning to deduce rulings from the Qur'ān and Sunnah). Therefore, it is considered essential reading for every Muslim.

I pray that Allah makes it a source of benefit in this life and the next.

PROLOGUE

*All praise is for Allah
And peace and blessings be upon the Messenger of Allah*

There is no doubt that a person is rewarded for studying *Usūl-ul-fiqh* when studying it is purely for the sake of Allah. This reward is not restricted to the scholars who study it, rather it includes every Muslim.

It is well known amongst the scholars that knowledge of *Usūl-ul-fiqh* is generally considered *Fardh al-Kifāyah* (a collective obligation).¹ A collective obligation means that as long as some Muslims learn and practice it, the rest of the Muslims are exempt from the obligation of learning it. It is compulsory for the Muslim community to have scholars who are capable of deducing the Islamic rulings from the legislated sources [The Qur'ān and Sunnah] and to respond to the needs of the Muslim community by issuing legal verdicts and rulings for them to follow. When a person looks at the separate subjects of *Usūl-ul-fiqh*, he discovers that it is divided into two types:

¹ *Musawadah Fi Usul Al-Fiqh* p.581, *Sifat Al-Fatwa Wal-Mufti Wal-Mustafiti* p14, *Al-Mahsul* 1/54, *Sharh Al-Kawakib Al-Munir* 1/47, *Usul Al-Fiqh of Al-Bahisin* p130

1. Subjects that are essential for becoming a scholar and that he needs to be able to deduce rulings from the sources of Islamic Law. It is not something that will be of benefit to a Muslim who is not a scholar. These subjects are required for the scholars and not for every Muslim.
2. Subjects that are essential for every Muslim to learn. It is an obligation on every Muslim because he needs it in his daily actions.

THE BENEFITS OF LEARNING USŪL-UL-FIQH

Learning some of the principles of *Usūl-ul-fiqh* has a number of significant benefits for every Muslim. The following are some of the most important benefits:

1. The science of *Usul* is an Islamic Science that when studied with the correct intention, is rewardable with the reward mentioned in Islam for seeking knowledge.
2. The science of *Usul* makes it possible for the person to make *ijtihad* (diligent inquiry). *Ijtihad* is a requirement for the scholar to deduce Islamic rulings from the texts.
3. The science of *Usul* gives the person the ability to understand the Book of Allah and the Sunnah of the Prophet Muhammad ﷺ.
4. The science of *Usul* clarifies the terminology the scholars use in their *Fiqh* discussions and issuing of *Fatawa* (religious verdicts).

5. The science of *Usul* enables the person to be precise in his wording.
6. The science of *Usul* gives the person confidence in the *ijtihad* of the scholar whose opinions and views he follows.
7. The science of *Usul* teaches a person how to word questions to the scholars and to whom questions should be directed (thus helping to determine who is to be considered a scholar and who is not).²

² *Usul Al-Fiqh of Al-Bahisin* p128

PART 1

USŪL-UL-FIQH RELATED TO THE ACTIONS OF THE MUSLIM WHO IS NOT MUJTAHID

- 1.1. The ruling of a Muslim doing deeds without knowing the Islamic legal verdict
- 1.2. The wisdom behind being bound to the Islamic rulings
- 1.3. The methodology of deducing Islamic rulings

1.1. THE RULING OF A MUSLIM DOING DEEDS WITHOUT KNOWING THE ISLAMIC LEGAL VERDICT

The scholars of Islam state that it is *Wajib* (obligatory) for a person to have knowledge of the Islamic ruling of any action before he does it so that he does not do something which is prohibited. It is mentioned that there is a consensus on the prohibition of performing an action before knowing the ruling.³

It is narrated that Umar ibn al-Khattab⁴ ؓ would not allow a person to open a stall in the marketplace if he did not know the rulings of buying and selling, saying: 'a person who does not have understanding of the *Deen* (religion) of Islam is not allowed to trade in our markets'.⁵

The scholars mention that if a Muslim lives in a country where there is not a Mufti to issue Islamic verdicts, then it becomes an obligation to migrate to another country and it is impermissible to remain a resident in that country.⁶

³ *Kishaf Al-Qina'a 'An Matan Al-'Iqna'* 3/135, *Hashiyat Al-Rawda' Al-Murbi'* 4/325

⁴ He is the noble companion of the Prophet Muhammad ﷺ, one of the four rightly guided *Khulufaa* (leaders) of the Muslim Ummah, who has many virtues mentioned in the books of *Hadith*

⁵ *Al-Tirmithi, Book of Witr, Ch. Virtue of sending salutations on the Prophet ﷺ*

⁶ *Muthakirah Fi 'Ilm Al-Usul* p4, *Al-Majmu'* 1/94, *Al-Musawadah* p550

However, today this issue has no place today because the means of communication is widespread.

1.2. THE WISDOM BEHIND A MUSLIM BEING BOUND TO THE ISLAMIC RULINGS

From Allah's compassion with the creation is that He made upholding the Islamic laws a reason for the benefit of humanity in both this life and the next life. Therefore, upholding the Islamic legislation is a cause of benefit for mankind as a blessing and a manifestation of Allah's compassion to his worshippers.⁷

The wisdom and rationale behind the Divine Legislation may be apparent to the worshipper or it may be hidden from him. It is wrong for the Muslim to comply with the legislation solely to attain worldly benefit. So that he is rewarded for his deeds his intention should be to attain the pleasure of Allah and His reward in the afterlife. As for the person who seeks only some worldly benefit, he will not qualify for reward in the Afterlife⁸ because Allah says:

مَنْ كَانَ يُرِيدُ الْحَيَاةَ الدُّنْيَا وَزِينَتَهَا نُوَفِّ إِلَيْهِمْ أَعْمَلَهُمْ فِيهَا وَهُمْ فِيهَا لَا يُبْخَسُونَ • أُولَئِكَ الَّذِينَ لَيْسَ لَهُمْ فِي الْآخِرَةِ إِلَّا النَّارُ
وَحِطَّ مَا صَنَعُوا فِيهَا وَبِطِلٌ مَّا كَانُوا يَعْمَلُونَ

“Whoever desires the life of this world and its adornments - We fully repay them for their deeds therein, and they therein will not be

⁷ *Al-Mawafiqat* 2/6 & 4/195, *Sharh Al-Kawakib Al-Munir* 1/312

⁸ *Taysir Al'aziz Al-Hamid* p375, *Fath Al-Majid* p333

deprived. Those are the ones for whom there is not in the Hereafter but the Fire. And lost is what they did therein, and worthless is what they used to do.” {Hud (11): 15-16}

Allah also says:

مَنْ كَانَ يُرِيدُ الْعَاجِلَةَ عَجَّلْنَا لَهُ فِيهَا مَا نَشَاءُ لِمَنْ نُرِيدُ ثُمَّ جَعَلْنَا
لَهُ جَهَنَّمَ يَصْلَاهَا مَذْمُومًا مَدْحُورًا

“Whoever should desire the immediate - We hasten for him from it what We will to whom We intend. Then We have made for him Hell, which he will [enter to] burn, censured and banished.” {al-Isra’ (17): 18}

When a Muslim only seeks worldly benefit by his deed, you must look at the type of deed he is carrying out. If it is an action that can only be considered worship like the prayer, then his action is considered invalid and is not given any consideration in Islam. If it is an action which can be considered worship or other than worship, like spending on family and avoiding the prohibited in Islam, then it is considered valid and the obligation is lifted but the person loses reward in the afterlife (if he only intended worldly benefit).

1.3. THE METHODOLOGY OF DEDUCING ISLAMIC RULINGS

If an incident occurs where the person needs to know the Islamic ruling, then he falls into either one of two categories:

1. The first is that he is capable of making *ijtihād* (which is conducted by a scholar and involves legal reasoning to deduce a ruling from the evidences of the Qur'ān and the Sunnah), in which case he takes the ruling from the evidences using the principles of *Usūl-ul-fiqh*.
2. The second is that he is unable to make *ijtihād*, so he obtains the ruling by asking the people of knowledge.⁹ The following verses from the Qur'ān and Hadith of the Prophet Muhammad ﷺ is evidence:
a)

فَسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

“Ask the people of remembrance if you do not know.” {an-Nahl (16) :43 and al-Anbiya’ (21): 7}

⁹ *Al-Musawadah* p459, *Sharh Mukhtasir Al-Rawdah* p3/650, *Sharh Tanqih Al-Fusul* p430

In the above verse Allah commands the person who does not have knowledge to ask the people of remembrance. The people of remembrance are the scholars.

b)

فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِّنْهُمْ طَائِفَةٌ لِّيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ

“There should separate from every division a group of them [remaining] to obtain understanding in the religion and warn their people when they return to them that they might be cautious.” {at-Tawbah (9): 122}

- c) In the hadith of al-Aseef he asked the people of knowledge and they issued him with a ruling. The Prophet ﷺ did not object to his asking the people of knowledge.¹⁰
- d) The hadith of the Prophet ﷺ: “If you did not know, why did you not ask? Indeed the cure for ignorance is to ask.”¹¹

¹⁰ *Al-Mawafiqat* 4/261

¹¹ *Al-Bukhari & Muslim*

Imam ash-Shatibi said:

When a *Muqallid* (somebody who follows the fatwa of the scholar) is faced with a religious issue, there is generally no recourse in the religion except for him to ask [the people of knowledge] concerning it.

Part 2

USŪL-UL-FIQH RELATED TO SEEKING FATAWA FOR A MUSLIM WHO IS NOT MUJTAHID

- 2.1 The manners of a Muslim with the *Mufti*?
- 2.2 Who does a Muslim ask for *fatawa* (religious verdicts)?
- 2.3 A Muslim being bound by the fatwa of the *Mujtahid* once he has acted upon it
- 2.4 What does a Muslim do when the scholar changes his *ijtihad* (opinion) on an issue?
- 2.5 What opinion does a Muslim follow when two *Muftis* differ on an issue?
- 2.6 Who does a Muslim ask when there are numerous *Muftis*?
- 2.7 What does a Muslim do if he cannot find a *Mufti* to ask?
- 2.8 Is it allowed for a Muslim to follow a *Mufti* who is *mutasahil* (overly lenient) in giving *fatawa*?
- 2.9 What is the verdict on a Muslim following all the scholars' concessions?

2.10 Does a Muslim have to follow a specific *Madhab*?

2.11 Does a Muslim have to ask for the verdict again in the case that the incident reoccurs?

2.1. THE MANNERS OF A MUSLIM WITH THE MUFTI

There are important etiquettes a Muslim should have with a *Mufti*, from them are the following:

1. He must maintain good conduct with the *Mufti*.
2. He should show respect for the *Mufti* and his position. Therefore, he does not behave like he would with his peers, doing things like pointing his finger in the face, using bad words etc.
3. He does not ask questions for verdicts at inappropriate times, like when the *Mufti* is angry, sad, etc.
4. Some scholars state that the Muslim should not ask the *Mufti* for the evidence of his verdict in the sitting he is asking the question, as it may remove the trust that people have in his verdicts. Allah has obligated asking the people of knowledge and acting on the verdict. Additionally, it is possible that the Muslim will not understand the evidence and how it supports the verdict given. Other scholars state that it is permissible to ask for the evidence, and it is not something disliked, as long as the person is asking to seek guidance and not out of being stubborn. The *Mufti* should reply when the

evidence is clear enough to be commonly understood by all.¹²

¹² *Sharh Al-Kawakib Al-Munir* 4/593, *Al-Faqeeh Wa Al-Mutafaqih* 2/98-180, *Al-Majmu'* 1/98

2.2. WHO DOES A MUSLIM ASK FOR FATAWA?

If an incident that needs a verdict happens to a Muslim and he wants to know the Islamic ruling by asking a scholar, then he needs to know who to ask as not everyone is suitable. There are specific conditions that must be met in the person being asked, such that he must be a scholar having general and detailed knowledge of the Islamic evidences and he must have the ability to apply the *Usul* (principles) and *Qawa'id* (maxims) of *Fiqh* to the evidence.¹³

Therefore, how can a Muslim know whether the person he is asking for the Islamic verdict meets the necessary conditions of *ijtihad*?

The scholars mention a number of ways that that a Muslim may know if the person he is asking for the verdict is capable of making *ijtihad*. The following are some of the ways:¹⁴

1. He has known him for some time as being a person of knowledge and sound reputation.

¹³ *Sharh Al-Kawakib Al-Munir* 4/459, *Al-Mustasfah* 2/250, *Sharh Tanqih Al-Fusul* p437, *Fawatih Al-Rahamut* 2/323, *Irshad Al-Fuhul* p250, *Al-Mawafiqat* 4/262

¹⁴ *Fawatih Al-Rahamut* 2/403, *Irshad Al-Fuhul* p261, *Sharh Al-Kawakib Al-Munir* 4/541

2. He is appointed to deliver religious verdicts, teach and is respected by people. This provides evidence of his knowledge and his capacity to issue verdicts, especially in the case where it is known that only a *Mujtahid* will be given that position, if he is not a *Mujtahid* then he would be prevented from the post.
3. Somebody knowledgeable and trustworthy refers people to him, giving him a reference as being trustworthy and a *Mujtahid*.
4. It becomes widespread amongst people that he is suitable for issuing verdicts.
5. Other scholars make reference to his statements and his verdicts.

If a Muslim does not know his suitability to make *ijtihad*, then it is not correct for him to ask that person for religious verdicts.

It is necessary for a Muslim to be satisfied that the verdict of the *Mufti* is Allah's legislation in that issue, such that he finds contentment with the verdict.¹⁵

¹⁵ *Sharh Al-Kawakib Al-Munir* 4/574

2.3. A MUSLIM BEING BOUND BY THE FATWA ONCE HE HAS ACTED UPON IT

When a Muslim acts on the verdict of the *Mujtahid* in a particular issue, he is bound to stick to it and he cannot go against this verdict in favour of another verdict in the same issue.

The scholars have reported an *ijma'* (scholarly consensus)¹⁶ that he is bound to it once he has acted upon it, except when it is known that the verdict goes contrary to the legislated evidence.

If the Muslim did not act on the verdict of the *Mujtahid*, then it is not binding on him to stick to the ruling unless he believes that it is the ruling of Allah in the issue, in which case it is an obligation to act upon it.¹⁷

¹⁶ *Sharh Al-Kawakib Al-Munir* 4/579, *Irshad Al-Fuhul* p272, *Fawatih Al-Rahamut* 2/405, *Al-Majmu'* 1/98

¹⁷ *Al-Majmu'* 1/98, *Sharh Al-Kawakib Al-Munir* 4/579

2.4. WHAT DOES A MUSLIM DO WHEN THE SCHOLAR CHANGES HIS IJTIHAD (OPINION) ON AN ISSUE?

If the *Mujtahid* issues a Muslim with a verdict in an issue that *ijthad* is permissible, and then later changes his verdict, what should the Muslim do? Does he continue to act on the original verdict based on the first *ijthad*, or change to the new verdict of the *Mujtahid*?

This situation falls into one of two circumstances:

1. He already acted on the first verdict. In which case it is permissible for him to continue to act on it. It is not an obligation for him to implement the new verdict, because there is an established principle among the scholars, which is that one *ijthad* does not invalidate another *ijthad*. It is the same in the case of a judge who issues a ruling based on *ijthad* and then at a later date changes his *ijthad*.
2. He did not act on the first verdict. In this case he can act on the new one instead of the initial one.¹⁸

¹⁸ *Sharh Al-Kawakib Al-Munir* 4/512, *Fawatih Al-Rahamut* 2/396, *Sharh Tanqih Al-Fusul* p441

2.5. WHAT OPINION DOES A MUSLIM FOLLOW WHEN MUFTIS DIFFER ON AN ISSUE?

If a Muslim asks a number of scholars about an issue and they issue different opinions, then in this case a Muslim must make *tarjeeh* (decide which of the opinions is the correct one) between the opinions based on the knowledge and *wara'* (humility in the sight of Allah) of the *Mufti*.

This is the means he has to distinguish one opinion over the other, as his belief in the correctness of the opinion is stronger when it is issued by a scholar who possesses more knowledge and a greater level of *Wara'*.

It is impermissible for a Muslim to go against what he believes to be the correct opinion. If there are two opposing opinions, and the truth is in one of them, then he is compelled to take the strongest opinion according to the knowledge and *wara'* of the *Mufti* just as the *Mujtahid* is compelled to take the stronger of the two views.

A Muslim is required to follow the legislation of Allah. He cannot know the legislation except through the *Mufti*. Therefore, when there is a difference of opinion, it is an obligation for a Muslim to act on the opinion which he believes to be the legislation of Allah, regardless of whether it is a result of the large number of *Muftis* with one view, because of the virtue of those who have that

view, or a result of the strength of the evidence presented.¹⁹

¹⁹ *Sharh Al-Kawakib Al-Munir* 4/573, *Al-Majmu'* 1/97, *Rawdah Al-Talibeen* 11/105, *Al-Mawafiqat* 4/132

2.6. WHO DOES A MUSLIM ASK WHEN THERE ARE NUMEROUS MUFTIS?

According to the majority view, when there are numerous scholars who issue religious verdicts it is allowed for a Muslim to ask any of them, regardless of whether that particular scholar is the less qualified or more qualified of the group.

The following is evidence;

1. Allah says:

فَسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

“So ask the people of remembrance if you do not know...” {an-Nahl (16): 43}

The *Mufti* who is considered lesser in knowledge is included in this verse as being from the people of knowledge.

2. The consensus amongst the *Salaf* was that the lesser knowledgeable person was appointed for religious verdicts in the presence of people who were more qualified. This became widespread and well known, without any reports of anybody objecting to it. Therefore, there is a consensus on the permissibility on seeking rulings from the lesser qualified *Mufti* even with the ability to ask the person who is better qualified than he is.

3. Additionally, some scholars argue that the Muslim does not have the ability to distinguish between the *Mujtahids* as it requires knowledge and *ijtihad*, which he lacks. However, this goes against the view previously mentioned that there are ways for the Muslim to distinguish between various *Mujtahids*, such as other scholars going back to him, or the sheer number of people that seek rulings from him, or the scholars frequently visiting him.²⁰

²⁰ *Sharh Al-Kawakib Al-Munir* 4/571, *Al-Majmu'* 1/94, *Al-Taqlid* p159, *Irshad Al-Fuhul* p271

2.7. WHAT DOES A MUSLIM DO IF HE CANNOT FIND A MUFTI TO ASK?

The scholars differ in the situation where a Muslim cannot find a *Mujtahid* to ask for a religious verdict. There are three opinions:

1. He takes the ruling before legislation.
2. He uses the principle related to dealing with evidences that are opposing.
3. He fears Allah to best of his ability²¹

However, this issue is extremely rare in contemporary times where the means of communication are widespread making it possible for a person living in the UK or US for example to call the scholars in Saudi Arabia and ask for the Islamic verdict in an instant.

²¹ *Sharh Al-Kawakib Al-Munir* 4/553, *Al-Taqlid* p178, *Al-Musawadah* p550, *Al-Mawafiqat* 4/291, *I'lam Al-Mawaqi'een* 4/279

2.8. IS IT ALLOWED FOR A MUSLIM TO FOLLOW A MUFTI WHO IS MUTASAHIL (OVERLY LENIENT) IN GIVING FATAWA?

It is prohibited for a Muslim to act on a verdict from a *Muftahid* when he knows that he is *Mutasahil* (overly lenient and without due diligence in research) in issuing verdicts, meaning that he does not do the necessary research.

A Muslim acts on the verdict of the *Muftahid* because he believes it to be the legislated ruling. However, if he knows that the *Mufti* is *mutasahil* in issuing verdicts, then this leads to suspicion that the verdict is not in accordance with the legislated ruling on the issue and therefore the rationale obliging him to act on the verdict of the *Muftahid* is removed.²²

²² *I'lam Al-Mawaqi'een* 4/282, *Sharh Al-Kawakib Al-Munir* 4/588, *Al-Majmu'* 1/81, *Al-Taqlid* p154

2.9. WHAT IS THE VERDICT ON A MUSLIM FOLLOWING ALL THE SCHOLARS' CONCESSIONS?

According to the scholarly consensus, it is prohibited for the Muslim to look for and follow the compromises and concessions of the scholars, which is to practice and act upon all the verdicts of contemporary scholars that are compromises and concessions. Many scholars judge such a person to be a *fasiq* (sinful person) for following all the compromises of the scholars. Also, not a single scholar has allowed following all the concessions of all the various scholars. One scholar may allow for a concession in one issue, but he does not allow it in another issue that the other scholar allows the concession in.²³ The hadith forbidding a Muslim from following the mistakes of the scholars is proof for the impermissibility of following all the concessions of the different scholars.²⁴ Lastly, there are many texts that encourage the person to exercise caution in his *Deen*, such as the following sayings of the Prophet ﷺ:

“The halal is clear and the haram is clear, and between them are matters unclear that are unknown to most people. Whoever avoids these unclear matters has

²³ *Al-Taqlid* p154, *Sharh Al-Kawakib Al-Munir* 4/577, *Al-Majmu'* 1/96, *Al-Mawafiqat* 4/144, *Irshad Al-Fuhul* p272

²⁴ , *Al-Mawafiqat* 4/170, *Al-Taqlid* p155

absolved his religion and honour.” (Bukhari and Muslim).

And:

“Leave that about which you are in doubt for that about which you are in no doubt.” (at-Tirmidhi, an-Nasaa’i and Ahmad)

2.10. DOES A MUSLIM HAVE TO FOLLOW A SPECIFIC MADHAB?

It is not compulsory for a Muslim to adopt a specific *Madhab*,²⁵ being bound by all the rulings and concessions of that *Madhab*.

The majority of scholars are of the view that it is impermissible to do so because he does not know the statements or terminology of the *Madhab*. Therefore it is an obligation on him to ask one of the available *Muftis* [for religious verdicts].²⁶

A person may say: "Contemporary scholars continue to author works on the four *Madhahib*: Hanafi, Maliki, Shafi'e and Hanbali, so what then is the benefit of all the works of fiqh on a particular *Madhab*, classical and contemporary, if it is not compulsory on the Muslim to act on it and rather it is compulsory on him to ask the Mufti of his time?"

I respond by saying that the aim of these books is to teach people, they are not authored to practice what is in them. So they are important books whose significance is in helping to understand the words of Allah, the words of the Prophet ﷺ and to learn how to comprehend the various Fiqh issues.²⁷

²⁵ A madhhab represents the school of thought /legal opinion of a particular Imam, such as Abu Hanifa, Malik, Shafi'i, or Ahmad.

²⁶ *Al-Taqlid* p142, *Sharh Al-Kawakib Al-Munir* 4/574, *Irshad Al-Fuhul* p252, *Taysir Al-Tahrir* 4/253

²⁷ *Taysir Al'aziz* p486, *Fath Al-Majid* p343-345

2.11. DOES A MUSLIM HAVE TO ASK FOR THE VERDICT AGAIN IN THE CASE THAT THE INCIDENT REOCCURS?

When a Muslim seeks a fatwa for a situation he faces and then implements the ruling, does he have to ask again if he finds himself in the same situation again?

If the Muslim has knowledge of the textual evidence or of the consensus that the *Mujtahid* based his verdict on, then there is no need to ask the question again.

If however he does not know the evidence, or he knows that the verdict stems from *ijtihad*, then in this case the scholars are of two opinions:

- It is an obligation to ask again, due to the possibility that the *Mujtahid* changed his opinion.
- It is not an obligation to ask again because he already has a previous verdict that he is acting upon.²⁸

²⁸ *Al-Taqlid* p195, *Sharh Al-Kawakib Al-Munir* 4/555, *Taysir Al-Tahrir* 2/232

Part 3

IMPORTANT USŪL-UL-FIQH PRINCIPLES FOR EVERY MUSLIM

- 3.1. What are *al-Ahkam al-Shari'ah* (Islamic legal rulings) found in *Fatawa* of the scholars?
- 3.2. The various readings of the Qur'ān important for a Muslim to know
- 3.3. The actions of the Prophet ﷺ
- 3.4. A Muslim issuing *Fatawa*
- 3.5. Types of *Wajib* (obligation) in relation to time and its rulings
- 3.6. Who is requested with a collective obligation?
- 3.7. Interrupting an action before its completion
- 3.8. Are Disbelievers Commanded with the *Furoo'*?
- 3.9 Is it allowed for a Muslim who is not a scholar to give *Tafsir* of Qur'ān?
- 3.10. Is it allowed for a Muslim who is not a scholar to relate Hadith of the Prophet ﷺ by meaning?
- 3.11. What *Qawa'id* of *Fiqh* (maxims of *Fiqh*) does a Muslim need to know?

3.1. WHAT ARE AL-AHKAM AL-SHARI'AH (ISLAMIC LEGAL RULINGS) FOUND IN FATAWA OF THE SCHOLARS?

The *Mufti* uses legal terminology²⁹ when issuing verdicts. Therefore, every Muslim needs to know the the legal terminology the *Mufti* uses, the various different names given to each, its meaning and the result of performing or leaving each one. The rulings related to *Taklif* (agency and liability) fall under five categories:

i) Al-Wajib/Obligation

An obligation is a binding demand in respect of doing something.³⁰ Prayer is *wajib*. It is a binding command of Allah:

أَقِمِ الصَّلَاةَ

“Establish prayer.” {al-Israa (17): 78}

Therefore, it is an obligation to pray.

Wajib is an action that the person is deserving of reward for doing it and is deserving of punishment for leaving it.

Wajib is also known by other names, such as ‘*al-Maktub*’, ‘*al-Fard*’, ‘*al-Hatam*’, and ‘*al-Lazim*’.

²⁹ A Shar`ia ruling is a communication from the Lawgiver concerning the conduct of the mukallaf (person in full possession of his faculties) which consists of a demand, an option or an enactment.

³⁰ *Sharh Al-Kawakib Al-Munir* 1/340, *Irshad Al-Fuhul* p6

ii) Al-Mandub/ Recommendation

Al-Mandub is something encouraged by Allah to perform, without it being an obligation.³¹ Pardoning the harmful actions of others is Mandub. It is encouraged, but is not an obligation, in the speech of Allah:

وَلَمَن صَبَرَ وَغَفَرَ إِنَّ ذَلِكَ لَمِنْ عَزْمِ الْأُمُورِ

“And whoever is patient and forgives - indeed, that is of the matters (requiring) determination.” {al-Shuraa (42): 43}

Mandub is an action that the person is deserving reward for doing but not punished for leaving.

Mandub is also known by ‘as-Sunnah’, ‘al-Mustahab’, ‘at-Tatawwu’, ‘at-Taa’ah’, ‘an-Nafl’, ‘al-Qurb’ah’, ‘al-Ihsaan’ and ‘al-Marghab fihi’.

iii) Al-Haram/ Prohibition

Al-Haram is a binding demand in respect of abandoning something.³²

Haram is an action that the person is rewarded for leaving, if he intends worship, and punished for intentionally doing. Consuming Riba (Usary) is Haram. Allah demands abandoning it:

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا الرِّبَا

³¹ Sharh Al-Kawakib Al-Munir 1/340, Irshad Al-Fuhul p6

³² Sharh Al-Kawakib Al-Munir 1/341

“O you who have believed, do not consume usury.” {Ali Imran (3): 130}

Therefore it is al-haram, prohibited.

Other terminology for *Al-Haram* is ‘al-Mah-thoor’, ‘al-Mamnu’, ‘al-Ma’siyah’, ‘ath-Thanb’, ‘al-Qabih’, ‘al-Mutawa’ad ‘alayhi’, ‘as-Sayyi’ah’, ‘al-Faahisha’, ‘al-Ithm’, ‘al-Haraj’, ‘at-Tahrim’ and ‘al-’Uqoobah’.

iv) Al-Makruh/ Discouraged

Al-Makruh is a demand of the Lawgiver, which requires the person to avoid something, but it is not binding.

It is an action that the person is rewarded for avoiding but not punished for doing.³³

v) Al-Mubah/permissible

Al-Mubah gives a person the option to do or not to do something.

Commerce is generally speaking *mubah*. Allah gives the option of choosing to do or not to do commerce:

وَأَحَلَّ اللَّهُ الْبَيْعَ

“Allah has permitted trade.” {Surah al-Baqarah (2): 275}

Therefore, commerce is permissible.

Mubah is an action that the person is neither rewarded for doing nor punished for leaving in and of itself.³⁴

³³ *Sharh Al-Kawakib Al-Munir* 1/342, *Irshad Al-Fuhul* p6

Mubah is also known as '*al-Halal*' and '*al-Jaa'iz*'.

Muslims also need to know some of the *al-Ahkam al-Wad'iyah* to enable him to understand the Mufti's verdicts. The following terminology is important:

i) Al-Shart/ Prerequisite

Wudu' (ablution) is a prerequisite for the validity of the prayer.

It means that without it, the action for which it is a condition is considered invalid.³⁵

ii) Al-Mani'/ Hindrance

Impurity of clothes is an impediment to the validity of prayer.

The presence of an impediment, removes the consideration of the ruling.³⁶

iii) Al-Sahih/ Valid

A ritual like prayer or trade or marriage that fulfils all the requirements pertaining to the essential pillars (*arkan*), causes (*asbab*), conditions (*shuroot*) and hindrances (*mawani*) is considered *sahih*.

Sahih is what is effective and relied upon.

Sahih is also known as '*al-Mujzi*' and '*al-Maqbool*'.³⁷

³⁴ *Sharh Al-Kawakib Al-Munir* 1/432, *Irshad Al-Fuhul* p6

³⁵ *Sharh Al-Kawakib Al-Munir* 1/451,

³⁶ *Sharh Al-Kawakib Al-Munir* 1/456, *Irshad Al-Fuhul* p7

iv) Al-Fasid / Void

An action that is void of a pillar from the essential pillars (*arkan*), or a condition from the conditions (*shuroot*) is *fasid*. It is an act that has a condition that makes its validation or correction impossible. It is also known as *al-Batil*.³⁸

v) Al-Adaa / Regular performance in its set time

It is an action that is done within its prescribed legislated time. For example, performing the *Duhr* prayer when the sun has passed the zenith is *Adaa*.

vi) Al-Qadaa / Performance after its set time

It is an action that is performed after its prescribed legislated time. Fasting some days of Shawwal in the place of days of Ramadan that the person did not fast due to travelling or being ill is called *al-Qadaa*.³⁹

vii) Al-I'ada/ Repeating the action

It is an action that is performed for a second time. The prayer performed again because a pre-requisite was not fulfilled that made it invalid. A Muslim who prayed without ablution and then repeated his prayer, the second prayer is called *al-I'ada*.⁴⁰

³⁷ *Sharh Al-Kawakib Al-Munir* 1/467

³⁸ *Sharh Al-Kawakib Al-Munir* 1/365, *Al-Mustasfah* 1/95

³⁹ *Sharh Al-Kawakib Al-Munir* 1/366, *Al-Mustasfah* 1/95

⁴⁰ *Sharh Al-Kawakib Al-Munir* 1/367 *Al-Mustasfah* 1/95

3.2. THE VARIOUS READINGS OF THE QUR'ĀN IMPORTANT FOR A MUSLIM TO KNOW

A topic that the scholars of Usūl-ul-fiqh discuss is the variant readings of the Qur'ān. I will begin with an introduction that defines the topic and then mention the rulings that are important for every Muslim to know.

There are seven recitations of Qur'ān attributed to the Prophet ﷺ⁴¹ with a chain of narration that is *mutawatir* (narrated by a large number of companions making it impossible to be incorrect). These seven recitations correspond with the *Mushaf* (the pages, cover etc. that Qur'ān is written on) of Uthman⁴² ؓ as well as with the Arabic language. It is the seven *huruf* mentioned in the statement of the Prophet ﷺ:

“The Qur'ān is revealed in seven ahruf.” (Bukhari and Muslim).

So in light of this, the following rulings are important for every Muslim to know:

⁴¹ *Sharh Al-Kawakib Al-Munir* 2/127, *Tashnif Al-Masaami'* p311

⁴² Uthman ibn Affan is the noble companion of the Prophet Muhammad, and one of the rightly guided leaders of the Muslim Ummah, who succeeded Umar ibn al-Khattab.

1. Reciting the Qur'ān in any of the seven recitations is valid and the reward of reciting Qur'ān is affirmed.
2. It is permissible for the person praying to recite in any of these recitations in his prayer, because of the Prophet's ﷺ saying:

“Recite what is easy for you of the Qur'ān.”
(Bukhari and Muslim)

3. It is impermissible to admonish somebody who reads with one of these recitations, as reciting with it is a permissible action.

There is a hadith in al-Bukhari and Muslim from Umar ibn al-Khattaab, that he heard Hisham ibn Hakeem recite Surah al-Furqan in prayer in a different recitation to the one that Umar knew. Umar was about to grab hold of him in his prayer, however he waited until he had completed. Then he called him over and asked: “Who taught you this Surah the way I heard you recite it?” He said “The Prophet ﷺ taught me to read it this way.” Umar said: “You are lying, because the Prophet ﷺ taught me it in a different way to the way you recited it.” So Umar took him to the Prophet ﷺ, and said “I heard him read al-Furqan in a different way to the way you taught me.” So the Prophet ﷺ said to Umar: “Let him go.” He then said: “Read Hisham.” So he read the way that Umar heard him read. Then the Prophet ﷺ said: “Read Umar.” Umar read the way he

usually reads. Then the Prophet ﷺ said: “*This is the way it was revealed*” (sanctioning both recitations).⁴³

There is another variation of recitation that is not mutawatir in its chain of narration. This type is impermissible to recite in prayer and it is disliked to read outside of the prayer giving the impression it is part of the Qur’ān.⁴⁴

⁴³ Bukhari & Muslim

⁴⁴ *Al-Burhan* 1/332, *Sharh Al-Kawakib Al-Munir* 2/140

3.3. THE ACTIONS OF THE PROPHET ﷺ

A Muslim may read the books of the Sunnah and come across *ahadith* that inform us of the actions of the Prophet ﷺ, which then causes us to wonder about the Islamic legislation of following the actions of the Prophet ﷺ in these instances. The Prophet's ﷺ actions are classified into the following categories:

1. Actions that are specific to the Prophet ﷺ, such as marriage to more than four wives. It is impermissible to follow the Prophet's ﷺ Sunnah in this category.
2. Actions that are considered innate and natural, meaning things he did without intending worship or drawing closer to Allah by it, for example wearing a turban. This type shows the permissibility of that action, but it is not a legislated action to follow because he ﷺ did not do it as an act of worship to draw closer to Allah so it is not valid for us to seek closeness to Allah by following the Prophet ﷺ in this action otherwise it would be going against the Prophet's ﷺ guidance in this action.
3. Actions that are considered acts of worship, with there being no evidence to indicate that it was specific for him. This type of action is considered a

Sunnah that is legislated for the Muslim to follow the Prophet ﷺ in.⁴⁵

⁴⁵ *Usul Al-Sarkhasi* 2/86, *Sharh Al-Kawakib Al-Munir* 3/178, *Taysir Al-Tahrir* 3/120, *Fawatih Al-Rahamut* 2/180

3.4. A MUSLIM ISSUING FATAWA

A Muslim (who is not *Mujtahid*) is not qualified to make *ijtihad* because he cannot extract verdicts independently. However, he may come to know the verdict of an issue by asking one of the scholars. Therefore, does he have the right to give religious verdicts in this case?

A Muslim does not have the right to give verdicts (in this case), because he does not know the scholar's evidence for arriving at the verdict and the manner in which it is an evidence. Also there could be a difference of opinion that he is unaware of between the issue he knows from the scholar and another issue.⁴⁶

The Prophet ﷺ said:

"Allah does not take away knowledge suddenly from the worshippers, rather he takes it away with the passing of the scholars, to the point that there will not be a scholar left and the people will take as leaders people who are ignorant, so they will be asked and they will issue verdicts without knowledge, misguided themselves and misguiding others." (Bukhari and Muslim)

It is allowed for him to pass on the verdict of a scholar by saying that so and so scholar issued a verdict in such a case with the following ruling.⁴⁷

⁴⁶ *Al-Taqlid* p129, *Al-Mawafiqat* 4/167, *Al-Majmu'* 1/94

⁴⁷ *Sharh Al-Kawakib Al-Munir* 4/570, *Al-Taqlid* p129

3.5. TYPES OF WAJIB (OBLIGATION) IN RELATION TO TIME AND ITS RULINGS

In relation to time of performing the action, an obligation is divided into two categories:

1. An obligation that is restricted in relation to its time. It is an obligation in which the specified time for performing it does not allow for another same type obligation to be done. The time for fasting is from dawn to dusk, so it is not possible for the person to perform another fast in the same time. Therefore it is an obligation to do it in its set time and it is not permissible to delay it without a valid excuse.
2. An obligation that is not restricted in relation to its time. It is an obligation in which the time for its performance and the performance of another obligation of its type is possible. The time for *Duhr* prayer is from the time just passed midday to the time that a person shadow is about twice his size in length. That period extends to more than the time to perform just the action, meaning it is possible for the person to pray many prayers within this time.

An obligation that is not restricted in relation to its time has a number of rulings that are important for a Muslim to know:

1. It is permissible for the person to delay performing an obligation in this category from its early time on condition that he is certain he will be able to perform it within its prescribed time.⁴⁸
2. When the time remaining is just long enough to perform the action, then it is an obligation to do it without delay. An example is a Muslim who has three days of fast to make up from the month of Ramadan. Making up the fast is an obligation, but its time in which to perform it begins on the second day of the following month (the first day is 'Eid, which is prohibited to fast) to the end of Sha'ban (which is the month just before Ramadan). So it is permissible for him to delay making up the three days of Ramadan on condition that he makes the intention to do it before the coming Ramadan. However, if he delayed it until there are only three days left, then it becomes an obligation that is restricted in relation to him.⁴⁹
3. If a person believes that he will die before the time prescribed, then it becomes an obligation for him to do the action before the end of the prescribed time. If a person is about to have the death penalty

⁴⁸ *Sharh Al-Kawakib Al-Munir* 1/369, *Al-Bahr Al-Mahit* 1/310, *Rawdah Al-Nathir* 1/175

⁴⁹ *Sharh Al-Kawakib Al-Munir* 1/369, *Al-Bahr Al-Mahit* 1/218

applied to him during the time for Dhuhr prayer, then in this case it becomes an obligation for him to perform the prayer before the punishment is carried out. If he decided to delay the prayer past that time, and he was pardoned and then prayed it after the appointed time for his punishment, he will be considered sinful and must seek forgiveness.⁵⁰

4. If a person dies in the middle of performing an obligation that is unrestricted in its time of performance, the obligation of the action is dropped from him and he is not considered sinful.⁵¹

⁵⁰ *Sharh Al-Kawakib Al-Munir* 1/372, *Al-Bahr Al-Mahit* 1/218, *Rawdah Al-Nathir* 1/179, *Usul Al-Sarkhasi* 1/33

⁵¹ *Sharh Al-Kawakib Al-Munir* 1/373

3.6. WHO IS REQUESTED WITH A COLLECTIVE OBLIGATION?

In relation to what is demanded, obligations are divided into two categories:

1. The first is an individual obligation, which is a request from the individual person. An example would be the five compulsory prayers, Hajj and fasting the month of Ramadan.
2. The second is collective obligation, which is that which is requested from some individuals to carry out and the rest of the Muslims are exempt from the obligation. An example is washing the dead person and praying funeral prayer over him.⁵²

The following rulings that relate to the collective obligation have a direct connection to a Muslim (who is not a *Mujtahid*):

1. The collective obligations are a request from everybody who is suitable to carry it out, so it is a collective responsibility.⁵³

⁵² *Sharh Al-Kawakib Al-Munir* 1/374, *Al-Bahr Al-Mahit*, 1/242, *Al-Furuq* 1/117,

⁵³ *Sharh Al-Kawakib Al-Munir* 1/375, *Al-Bahr Al-Mahit*, 1/243

2. The demand and the sin for not carrying it out is dropped from the person if he believes that it has been fulfilled already by somebody else.⁵⁴
3. If the person thinks that the collective obligation has not been fulfilled, then it is compulsory on him to carry it out and he is sinful if he does not because he believed that it had not been fulfilled, even if it was fulfilled by somebody else and he was unaware. In this issue it is the belief that it had not been fulfilled that makes the collective obligation in his case an individual one directed to him.⁵⁵

⁵⁴ *Sharh Al-Kawakib Al-Munir* 1/376, *Al-Bahr Al-Mahit*, 1/246, *Al-Furuq* 1/117

⁵⁵ *Sharh Al-Kawakib Al-Munir* 1/372, *Al-Bahr Al-Mahit*, 1/246, *Al-Furuq* 1/117

3.7. INTERRUPTING AN ACTION BEFORE ITS COMPLETION

When a *Mukallaf* (person legally responsible) wants to break a recommended action he started but has not completed, then if it is a recommended pilgrimage to Mecca, it is an obligation to complete based on the statement of Allah:

وَأَتِمُّوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ

“And complete the Hajj and 'umrah for Allah.”

{al-Baqarah (2): 196}

However, if it is any other recommended action, like recommended prayer and recommended fasting, then the majority of the scholars are of the opinion that it is not compulsory on a person to complete a recommended action he began.⁵⁶ They cite as evidence for this opinion the following:

- What is narrated that the Prophet ﷺ would begin a recommended fast and then would break it before its completion (recorded by Muslim).
- The Prophet ﷺ said:

⁵⁶ *Sharh Al-Kawakib Al-Munir* 1/407, *Al-Bahr Al-Mahit*, 1/289

“The person doing a voluntary fast can fast if he wishes or he can break his fast.” (at-Tirmidhi, Ahmad and al-Hakim who graded it authentic)

As for the obligatory actions, regardless if they are from the type that is an individual or a collective action, once he begins the action then he must complete it and it is prohibited for him to break it.⁵⁷ This is in the case when the action is a single action where if he stops the action it will void the start of the action as well. As for if it is a number of actions, each part will have its own ruling and he will not be compelled to do the second action because he started the first one. Memorising Qur’ān is a collective action. However, it is not compulsory on the person who began memorising a surah of Qur’ān to complete memorising that Surah, as memorising each *ayat* (verse of Qur’ān) is an action in itself, so for each is its ruling.

⁵⁷ *Sharh Al-Kawakib Al-Munir* 1/378, *Al-Bahr Al-Mahit*, 1/250

3.8. ARE NON-MUSLIMS COMMANDED WITH THE FUROO' OF THE RELIGION?

There is difference of opinion amongst the *Usuli* scholars on whether disbelievers are commanded with the *furoo'* (branches)⁵⁸ of the religion?

This is not the place to mention the different opinions of the scholars.⁵⁹ Instead I will speak about the benefit of the view of those who say that they are responsible for the *furoo'* of the religion, and then I will discuss its importance to every Muslim.

There is consensus amongst the scholars that the disbelievers are not requested to carry out the branches of the religion whilst being disbelievers. There is also a consensus that when they become Muslim they are not required to make up the actions they did not do whilst being disbelievers. The difference of opinion in this issue is will the disbelievers be punished, in addition to the punishment for disbelief, for not doing the branches of Islam? Those who say that they are responsible hold the opinion that they will have additional punishment in the afterlife in addition to the punishment for disbelief.⁶⁰

⁵⁸ Here the word branches refers to the practical aspects of Islam, like the prayer, fasting etc.

⁵⁹ This issue is discussed in depth in the Shaykh's book *Al-Tafriq Bayna Al-Usul Al-Furu'*, 2/9-61

⁶⁰ *Sharh Al-Kawakib Al-Munir* 1/503, *Al-Mahsul* 1/316, *Al-Talwih* 1/213

Hence, it is incorrect to criticize a disbeliever for not carrying out obligations required from Muslims. Any criticism of disbelievers cannot stem from the difference of opinion in this issue, as it is related to rulings in the Afterlife and not this life.

3.9. IS IT PERMISSIBLE FOR A MUSLIM WHO IS NOT A SCHOLAR TO GIVE TAFSIR OF QUR'ĀN?

It is prohibited for a Muslim to explain Allah's Speech according to his opinion without having a legislated basis⁶¹ for the following reasons:

1. He does not possess the tools to make *Tafsir*
2. It is considered speaking about Allah without knowledge, which is prohibited by the statement of Allah:

قُلْ إِنَّمَا حَرَّمَ رَبِّي الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ وَالْإِثْمَ
وَالْبَغْيَ بِغَيْرِ الْحَقِّ وَأَنْ تُشْرِكُوا بِاللَّهِ مَا لَمْ يُنَزَّلْ بِهِ سُلْطَانًا وَأَنْ
تَقُولُوا عَلَى اللَّهِ مَا لَا تَعْلَمُونَ

“Say: ‘My Lord has only forbidden immoralities - what is apparent of them and what is concealed - and sin, and oppression without right, and that you associate with Allah that for which He has not sent down authority, and that you say about Allah that which you do not know.’” {Surah al-A’raaf (7):33}

⁶¹ *Sharh Al-Kawakib Al-Munir* 2/157, *Al-Burhan* 2/161

3. The Prophet Muhammad ﷺ said:

“Whoever speaks about the book of Allah without knowledge then let him take his seat in the Fire.”⁶²

It is also mentioned that he ﷺ said:

“Whoever speaks about the Book of Allah based on his intellect even if he gets it correct then he has made a mistake.”⁶³

⁶² Collected by Imam Ahmed, al-Nisaa'i and al-Tirmithi who said the hadith is hasan-sahih. However in the isnad of al-Tirmithi is Abd al-A'laa al-Tha'labi who has been criticized.

⁶³ Collected by al-Nisaa'i, al-Tirmidhi, Abu Dawud. However, in the isnad is Suhail al-Qat'i, who is declared weak by the Imams of hadith.

3.10. IS IT ALLOWED FOR A MUSLIM WHO IS NOT A SCHOLAR TO RELATE HADITH OF THE PROPHET ﷺ BY MEANING?

The majority of the scholars are of the view that it is permissible for a Muslim to relate a hadith by meaning as long as the following conditions are observed:

1. The person knows the meaning of the words and what they indicate.
2. The meaning is consistent with the first meaning.⁶⁴

They cite as evidence for this opinion a number of proofs, from them:

There is consensus on the permissibility of *Tafsir* of Qur'ān in a language other than Arabic. This points to the permissibility of translating the Prophet's ﷺ *ahadith* into other languages, as long as it fulfils the two pre-requisites are mentioned above are met.

The rationale for the permissibility of narrating hadith by meaning is that the objective is to convey the meaning of the hadith. Translating the hadith into another language is valid and correct as it fulfils this objective. This is different from the call to prayer, where the actual wording

⁶⁴ *Sharh Al-Kawakib Al-Munir* 2/530, *Sharh Tanqih Al-Fusul* p380

and sequence is intended as an act of worship, making it is impermissible to translate it to another language.⁶⁵

⁶⁵ *Sharh Al-Kawakib Al-Munir* 2/535

3.11. WHAT QAWA'ID OF FIQH (MAXIMS OF FIQH) DOES A MUSLIM NEED TO KNOW?

A) ACTIONS ARE BY INTENTIONS

Intention has a big impact on the deeds of the *Mukallaf*. The Prophet ﷺ said:

“Actions are by intentions and everybody will have what he intended.” (Bukhari and Muslim)

Intention reveals the intent behind oaths and indirect utterances used. Intention also determines the type of worship performed, for example if is it the *Dhuhr* prayer or the voluntary prayer prior to it.

Reward and punishment is determined by the intention. A person does a haram act without intending it will not be punished. Whoever does an act of worship, seeking closeness to Allah and to attain reward in the afterlife, is deserving of reward. Permissible actions like eating and sleeping, when the intent is to strengthen oneself for an obligatory or recommended act of worship, reward is attained for this action because of the intention.⁶⁶

⁶⁶ *Sharh Al-Kawakib Al-Munir* 4/456, *Al-Ashba Wal-Natha'ir* p8

B) AVOIDING DIFFERENCES OF OPINION IS RECOMMENDED

When the scholars differ on an issue, then it is legislated for the *Mukallaf* to remove himself from the difference by doing an action that the scholars agree on its permissibility and correctness.⁶⁷

C) NO REBUKE IN ISSUES OF IJTIHAD

When a person does an action in the religion that is based on a [valid] *ijtihad*, then it is impermissible for anybody to level an accusation or criticise him for it.⁶⁸

⁶⁷ *Al-Ashba Wal-Natha'ir* p136, *Al-Mawafiqat* 4/202

⁶⁸ *Al-Ashba Wal-Natha'ir* p158

BIBLIOGRAPHY

Al-Ihsan Fi Taqrib Sahih Ibn Hiban Ala' Al-Din Bin Balbaan Al-Farisi,
(Beirut, 1418AH)

Al-Ihkam Fi Usul Al-Ahkam, Ibn Hazm , (Cairo, 1404AH)

Irshad Al-Fuhul Ila Tahqiq Al-Haq Mon 'Ilm Al-Usul, Al-Shawkani,
(Egypt, 1356AH)

Al-Ashba Wal-Natha'ir, Al-Suyuti, (Beirut, 1403AH)

Usul Al-Fiqh: Al-Had Wal-Mawdu' Wal-Ghaya, Al-Bahsin, (Riyadh,
1408AH)

Usul Al-Sarkhasi, (Beirut)

I'lam Al-Mawaqi'een 'An Rabil-'Alamin, Ibn Qayim Al-Jawziyah,
(Beirut, 1397AH)

Al-Bahr Al-Mahit Fi Usul Al-Fiqh, Al-Zarkashi, (Kuwait, 1409AH)

Al-Burhan Fi Usul Al-Fiqh , Al-Juwayni, (Qatar, 1399AH)

Al-Burhan Fi 'Uloom Al-Qur'an, Al-Zarkashi, (Beirut)

Takrij Al-Furu' 'Ala Al-Usul, Al-Zinjani, (Beirut, 1399AH)

Tashnif Al-Masaami' , Al-Zarqashi , (Phd Thesis)

Al-Tafriq Bayna Al-Usul Al-Furu', D. Sa'd Al-Shithri, (Riyadh,
1417AH)

Al-Taqlid Wa Ahkamahu, D. Sa'd Al-Shithri, (Riyadh, 1315AH)

Al-Talkhis Limustadrak Al-Hakim, Al-Hafidh Al-Thahabi, (Beirut)

Al-Talwih Sharh Al-Tawdih 'Ala Al-Tankih, Al-Tiftaazaani, (Beirut)

Al-Tamhid Fi Usul Alfiqh, Al-Kalwathaanee, (Jeddah, 1406AH)

Al-Tamhid Fi Takhrij Al-Furu' 'Ala Al-Usul, Al-Aswani, (Beirut, 1401AH)

Taysir Al-Tahrir, Muhammad Amin Amir Badishaa (Beirut)

Taysir Al'aziz Al-Hamdi Sharh Kitab Al-Tawhid, Sulayman Ibn Abdullah, (Damascus)

Jami' Al-Bayan Fi Ta'wil Al-Qur'an, Al-Tabari (Beirut, 1412AH)

Hashiyat Al-Rawda' Al-Murbi', Abdul-Rahman Ibn Muhammad Ibn Qasim, (Beirut, 1305AH)

Dirasat Fi Muqadimat 'Ilm Usul Al-Fiqh, D.Abdul-Halim Abdul-Fatah 'Umar, (Cairo, 1413AH)

Al-Risalah, Imam Al-Shafi'e

Rawdah Al-Nathir, Ibn Qadamah (Riyadh, 1413AH)

Rawdah Al-Talibeen, Imam Al-Nawawi, (Beirut, 1305AH)

Sunan Ibn Majah, Ihyaa Al-Kutub Al-'Arabiyy

Sunan Abi Dawud,

Sunan Al-Tirmithi, (Beirut)

Sunan Al-Dariquitni, (Beirut)

Sunan Al-Kubra, Al-Bayhaqi, (Beirut)

Sunan Al-Kubra, Al-Nisa'i. (Beirut, 1411AH)

Sharh Tanqih Al-Fusul Fi Ikhtisar Al-Mahsul Fi Al-Usul, Al-Qarafi, (Cairo, 1393AH)

Sharh Jam' Al-Jawami', Jalal Ul-Din Al-Mahali, (Beirut)

Sharh Al-Sunnah, Al-Baqhawwi, (Damascus, 1390AH)

Sharh Al-Kawakib Al-Munir, Ibn Najar Al-Futuhi (Damascus, 1400AH)

Sharh Mukhtasir Al-Rawdah, Al-Tufi, (Beirut 1407AH)

Sahih Al-Bukhari

Sahih Muslim

Sifat Al-Fatwa Wal-Mufti Wal-Mustafti, Ibn Hamdan Al-Hanbali, (Damascus 1394AH)

Al-Uddah Fi Usul Al-Fiqh, Al-Qadi Abu Ya'la Al-Fara',

'Umdat Al-Qari' *Sharh Sahih Al-Bukhari*, Al-'Ayni, (1399AH)

Fath Al-Bari Bi Sharh Sahih Al-Bukhari, Ibn Hajar Al-'Asqalani, (Cairo, 1380AH)

Fath Al-Majid, Abdul-Rahman Ibn Hassan

Al-Furuq, Al-Qarafi, (Beirut)

Al-Fiqh Wa Al-Mutafaqih, Al-Khatib Al-Baghdadi, (Riyadh, 1389AH)

Fawatih Al-Rahamut, Abdul Al-'Ali Al-Ansari (Hamish Al-Mustasfah)

Al-Qat' Wa Zhan 'Inda Al-Usuliyeen, D. Sa'd Al-Shithri, (Riyadh, 1318AH)

Al-Qawa'id Wa Al-Fawa'id Al-Usuliyah Wa Ma Yata'alaq Biha 'Inda Al-Far'iyah, Ibn Al-Liham, (Riyadh, 1318AH)

Al-Qawanin Al-Fiqhiyah, Ibn Jazi Al-Kalbi, (Beirut, 1403AH)

Kishaf Al-Qina'a 'An Matan Al-'Iqna', Mansur Ibn Yunus Al-Bahuti, (Makkah 1394AH)

Al-Majmu' Sharh Al-Muhathab, Imam Nawawi, (Cairo, 1981AH)

Al-Mahsul Fi 'Ilm Al-'Usul, Fakhr Al-Din Al-Razi, (Beirut 1408AH)

Muthakirah Fi 'Ilm Al-Usul, D.Sa'd Al-Shitri, (Riyadh 1310AH)

Al-Mustadrak, Al-Hakim, (Beirut)

Al-Mustasfah, Al-Ghazali, (Beirut 1403AH)

Musnad Al-Imam Ahmad Ibn Hanbal, (Beirut 1398AH)

Musnad Abi Dawud Al-Tiyalisi (Beirut)

Al-Musawadah Fi Usul Al-Fiqh, (Cairo, 1383AH)

Mutalib 'Uli Al-Nahi, Mustafah Al-Ruhaybani Al-Aswiti (Damascus)

Al-Manthur Fi Al-Qawa'id Badr Al-Din Al-Zarkashi, (Kuwait, 1302AH)

Al-Mankhul Min Ta'liqat Al-Usul, Al-Ghazali, (Damascus 1400AH)

Al-Mawafiqat Fi Usul Al-Shari'at, Al-Shatibi, (Beirut)

Mizan Al-Usul Fi Nata'ij Al-'Uqul, Al-Samarqandi (Qatar, 1303AH)

Nafa'is Al-Usul Fi Sharh Al-Mahsul, Shihab Al-Din Al-Qarafi (Riyadh, 1408AH)