



AL HIDAAYAH

الهداية

The Guidance for Humanity

Based on the Glorious Qur'an and Authentic Hadith

STUDY GUIDE



AL *Qawa'id* AL FIQHIYYAH

PART 2

BY SHAIKH ASSIM AL HAKEEM

From the series:
Al Qawa'id Al Fiqhiyyah



■ Course Topics

1. Understanding the rule
'Al Yaqeen Laa Yazoolu Bish Shakk'
2. Sub-rules to the rule
'Al Yaqeen Laa Yazoolu Bish Shakk'
3. Can the majority be considered as a Hujjah in Islam?
4. Sub-rules to the rule 'Al Aslu Baqaau Maa Kaan 'Alaa Maakaan'
5. Criteria for an act of worship to be accepted
6. Bid'ah and its dangers
7. Sub-rules to the rule
'Al Yaqeen Laa Yazoolu Bish Shakk'

■ Course Objectives

1. To understand about the different rules of Shariah
2. To know about the defaults in different circumstances
3. To understand Bid'ah and its dangers

COURSE OUTLINE



- Question & Answer Bucket

- Transcripts

- Assessment

 - Multiple Choice Questions

 - Match the Columns

 - True or False

- Course Duration

 - Video – 2 hours 20 min

 - Study Guide – 30 min

 - Assessment – 10 min

 - Total Duration – 3 hours

Lesson 1

THE SECOND MAJOR RULE: CERTAINTY IS NOT REMOVED BY DOUBT – PART 1





01

UNDERSTANDING THE RULE 'Al Yaqeen Laa Yazoolu Bish Shakk'

The second Fiqhi rule – 'Al Yaqeen Laa Yazoolu-Bish Shakk' – Certainty is not removed by doubt is a very important rule that can be used in all our affairs.



"And most of them follow not except Zann (assumption). Indeed, Zann (assumption) does not avail anything against the truth."

Al Qur'an 10:36



The Prophet (pbuh) said:

"One should not leave his prayer unless he hears a sound or smells something."

The above evidence from the Qur'an and the Sunnah proves that the norm is to be decisive and sure; what is certain is not removed by what is uncertain.



For example, you pray your Fajr Salaah and go to your office around 11 o'clock. It's time for Zuhr prayer, and you're confused whether you should renew your Wudoo or not, because you're not sure whether you broke your Wudoo after Fajr or not.

This rule should be applied in such cases – there is certainty and there is doubt. What is certain is that you left home in the state of Wudoo because you prayed Fajr, and the doubt is that whether you broke your Wudoo or not.

According to the above rule, you set aside the doubt (whether or not you broke your Wudoo) and continue with what is certain (you have your Wudoo), meaning that you don't have to redo your Wudoo.





02 SUB-RULES TO THE RULE 'Al Yaqeen Laa Yazoolu Bish Shakk'





The rule 'Certainty is not removed by doubt' has two sub-rules to it:

- i The first is what is understood exactly by what is stated, *Mafhoom Al Muwafaqah* – certainty is not removed by doubt.
- ii The second is what is understood by the opposite, also known as *Mafhoom Al Mukhaalafah* – doubt can be removed by certainty.

From these two sub-rules, there are further sub-rules from them.

The rules that stem from 'Certainty is not removed by doubt' are:

- i *Al Aslu Baqaau Maa Kaan 'Alaa Maa Kaan* – the default is that a matter remains as it was.

Anything that is certain remains as it is; for example – if someone is in the state of *Wudoo*, his *Wudoo* remains intact until he's certain that there is something else that changed it.

- ii *Al Aslu Fil Ashyaa' At Tahaarah* – the default in things is that everything is pure.



The Prophet (pbuh) said:

“The earth has been made for me a place of prostration and a means of purification, so wherever a man of my Ummah is, when the time for prayer comes, let him pray.”

The certainty is that everything is pure and Tahir unless you see some Najaasah (impurity) on it. If you want to pray on the floor or an open ground, apply this rule and you can pray without a carpet or a prayer mat because it is pure.





03

CAN THE MAJORITY BE CONSIDERED AS A HUJJAH IN ISLAM?

HUJJAH IS SOMETHING THAT CAN BE FOLLOWED AS EVIDENCE OR A PROOF.

Ideally speaking, view of the majority cannot be considered as Hujjah (conclusive) in Islam, because a Muslim is supposed to follow the Qur'an and Sunnah.

Even if the majority of scholars say or are inclined towards a particular opinion while on the other side there are only a few scholars with a particular opinion, but the latter have a stronger evidence backing them, their opinion would hold more importance.

For example, The Prophet (pbuh) was asked, 'shall we make ablution after eating camel's meat?' He (pbuh) said: "Yes." 'Shall we make ablution after eating mutton?' He (pbuh) said: "If you wish."

The above Hadith explains that eating camel's meat breaks your Wudoo, but the majority of scholars are of the opinion that it does not. So, in this case the view of the majority does not hold much value and will not be considered Hujjah.

Lesson 2

THE SECOND MAJOR RULE: CERTAINTY IS NOT REMOVED BY DOUBT – PART 2





04 SUB-RULES TO THE RULE 'AL ASLU BAQAAU MAA KAAN 'ALAA MAA KAAAN'

AL ASLU BAQAAU MAA KAAAN 'ALAA MAA KAAAN'

The default is that a matter
remains as it was

The default in food is that it is
permitted

The default in people's
wealth is prohibition

The default in people's
customs is that they
are permitted

The default in human
life is prohibition

The default in people's
reputation is prohibition

The default in worship
is prohibition



There are also sub-rules to the rule ‘Al Aslu Baqaau Maa Kaan ‘Alaa Maa Kaan – the default is that a matter remains as it was.’

i The default in food is that it is permitted

The default when it comes to food in general is that ‘everything is Halaal until proven otherwise.’



“O mankind, eat from whatever is on earth lawful and good.”

Al Qur’an 2:168



“And do not eat of that upon which the name of Allah has not been mentioned, for indeed it is grave disobedience.”

Al Qur’an 6:121

The ruling ‘everything is Halaal until proven otherwise’ does not extend to meat. The default rule for the meat of animals is ‘everything is Haraam until proven otherwise’, because while slaughtering we have to say Bismillah and anything that the name of Allah is not mentioned over is not Halaal for a Muslim to consume.



And that is also why a Muslim should abstain from consuming meat in non-Muslim countries except in the case of Jews and Christians, unless he/she is sure that the animal has been slaughtered and the name of Allah has been mentioned over it.

ii The default in human life is prohibition

This rule explains that you cannot kill anyone, hit, or torture any human being without valid cause.

You are not allowed to take the law in your own hands and give out judgements as you wish; Islam governs and controls all the aspects of life.

Of course, when proven guilty, a murderer must be executed, a thief must have his hands chopped off. Everything is governed in Islam, and it has a ruling for it, and there are Fiqhi rules to control our thinking.

Lesson 3

THE SECOND MAJOR RULE: CERTAINTY IS NOT REMOVED BY DOUBT – PART 3





The default in people's wealth is prohibition

It is Haraam for a Muslim to take the wealth of another human unjustly, whether Muslim or a non-Muslim. Islam doesn't give you the right to do so.



The default in people's reputation is prohibition

It is Haraam for a Muslim to speak ill about his brother, lie or backbite about and try to bring down his reputation.



“O you who have believed, avoid much assumption, indeed some assumption is sin. And do not spy or backbite each other. Would one of you like to eat the flesh of his dead brother, you would detest it.”

Al Qur'an 49:12



- v** The default in people's customs is that they are permitted

Al Aslu fil 'Aadaat Al Ibahah – The default in people's customs is permission.

'Aadaat are customs and traditions. They are permitted unless there is evidence that they go against the teachings of Islam or are similar to imitating the Kuffar, for that would make them invalid.

For example, what is the ruling on eating on a dining table?

We have Ahadith that the Prophet (pbuh) always ate on the floor and never ate on a table, but this is considered as a part of customs and not a part of religion. This is how the Arabs used to eat. Thus, it is permissible to eat on a dining table.

SUNNAH IS DIVIDED INTO TWO TYPES

- a** SUNNAH RELATED TO WORSHIP
- b** SUNNAH RELATED TO CUSTOMS



One should be very careful while attributing something as Sunnah, because not everything can be attributed as a part of Deen and worship.

Customs are a part of Mubah (permissible); if you want to sit on the floor or dine on a table, go ahead; your clothes that you wear (western or traditional), there is no problem in wearing them.

Thus, whatever is part of your customs, there is nothing wrong in that and it is permissible for you to do it, wear it, or use it provided that they do not go against the rules of the Shariah, like imitating the disbelievers or men imitating the women, etc.





vi The default in worship is prohibition

Adding or making changes in worship is prohibited, because it is a form of innovation in religion, and innovation in Islam is totally prohibited.



“Or they have partners who have ordained for them a religion to which Allah has not consented?”

Al Qur'an 42:21



The Prophet (pbuh) said:

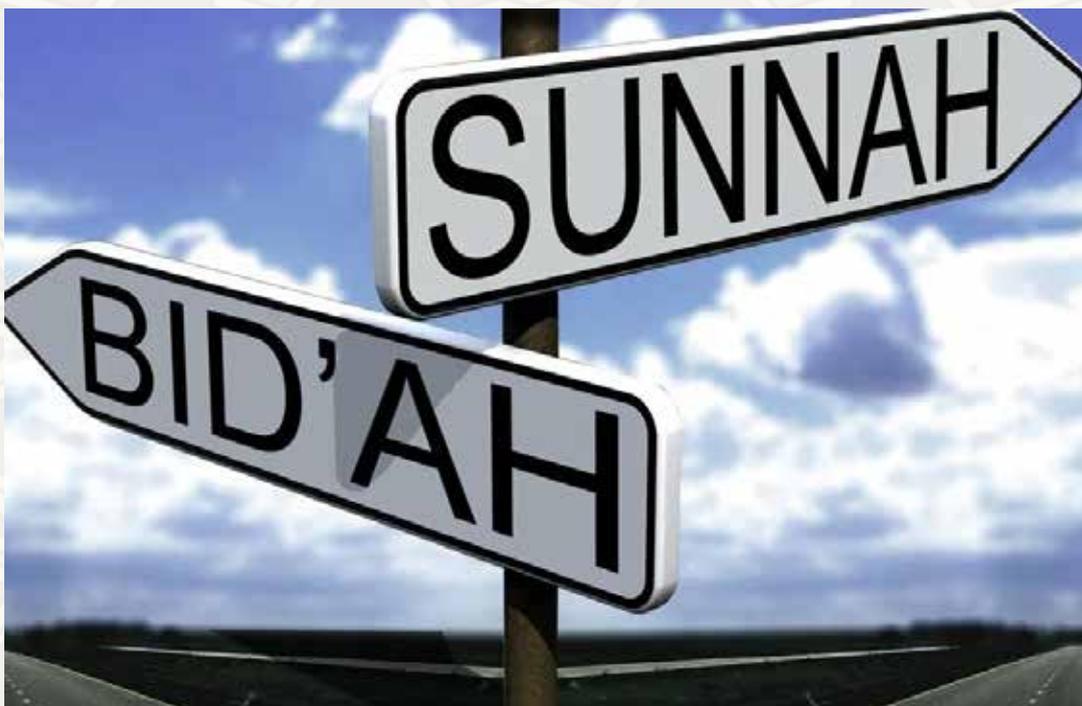
“Whoever innovates in our religion, what is not part of it, it is rejected.”

The issue of the default in forms of worship is prohibition is a very complicated issue, and the need of the hour.



Most of the time, when you try to explain to people to stay away from the innovations (Bid'ah), they go on the offensive and ask for evidence or try to turn it into a debate. Sometimes you yourself would be confused, that this is a good act so why would it be prohibited; why is it a Bid'ah?

As a student of knowledge, you have to build your base and establish your knowledge on a strong foundation to make sure you do not have doubts and misguidance from the Satan. And by learning this Fiqhi rule that 'the default in forms of worship is prohibition', you can simply answer them by saying that the evidence is the lack of evidence.



Lesson 4

THE SECOND MAJOR RULE: CERTAINTY IS NOT REMOVED BY DOUBT – PART 4





05 CRITERIA FOR AN ACT OF WORSHIP TO BE VALID

01 IT MUST BE STIPULATED

There must be a stipulation from Allah or His messenger to do that act of worship.

02 IT HAS TO BE THE TYPE

Every act of worship has a type, and that type of the deed should be in compliance with the Shariah.

03 THE QUANTITY

If Islam has fixed a certain quantity, one has to stick to it, you cannot introduce more or less.

04 HOW IS IT PERFORMED

The act of worship must be coinciding with the way Islam has laid it down.

05 THE TIME

The act of worship must be in compliance with the time which Islam has prescribed.

06 LOCATION

The act of worship must be in compliance with the location prescribed by the Shariah.



i It must be stipulated

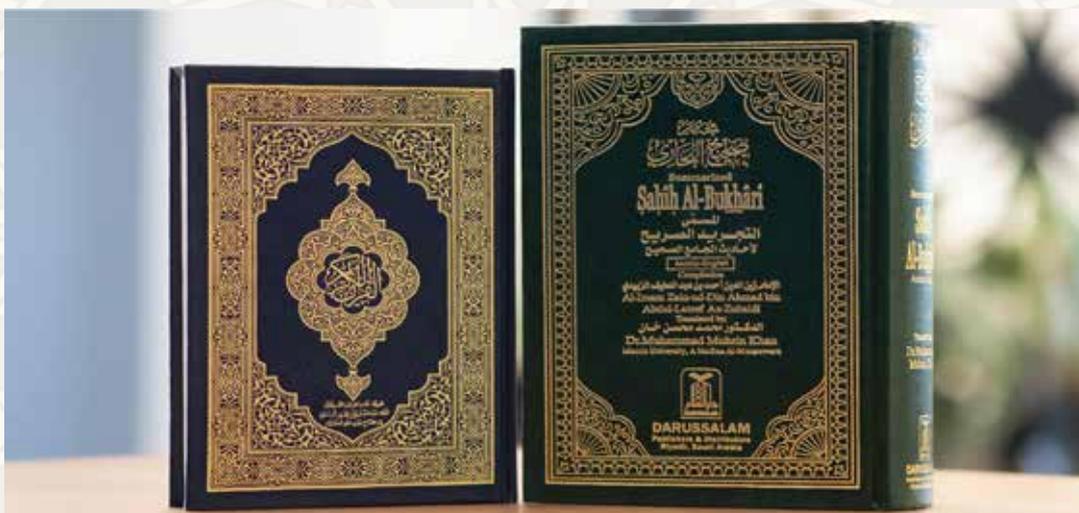
There must be a stipulation from Allah or His messenger to do that act of worship.

For example, a person, every time he enters his house, he prays 2 Raka'ahs Tahiyyah.

What would the ruling be on praying this 2 Raka'ahs Tahiyyah?

We look into the Qur'an and Sunnah, did the Prophet (pbuh) do it?

The Prophet (pbuh) used to enter his house daily, but do we have any narrations that support this act of worship. If not, then this act is an innovation (Bid'ah), because even though the cause was present at the time of the Prophet (pbuh), he did not do it.





It has to be the type

Every act of worship has a type, and that type of the deed should be in compliance with the Shariah.

For example, we have Udhiyah – the type in Udhiyah is sheep, cow or camel. If someone says, I will make Udhiyah with my horse, the Udhiyah won't be accepted of him because it is not in compliance with the type that the Prophet (pbuh) or the Shariah has set for us.

The quantity

If Islam has fixed a certain quantity, one has to stick to it, and should not introduce more or less.

For example, if someone wants to make Wudoo, instead of washing the arm three times, he/she decides to wash it four times. This is adding to the quantity prescribed by Islam, and it is prohibited and is an innovation.



iv How is it performed

The act of worship must be coinciding with the way Islam has laid it down.

For example, if someone wants to pray, he cannot prostrate first and then make Rukoo'. It is not permissible because it is not in compliance with the Sunnah.

v The time

The act of worship must be in compliance with the time which Islam has prescribed.

For example, one cannot decide to keep the fasts of Ramadhaan in Shawwal, as this is unacceptable and void.





vi Location

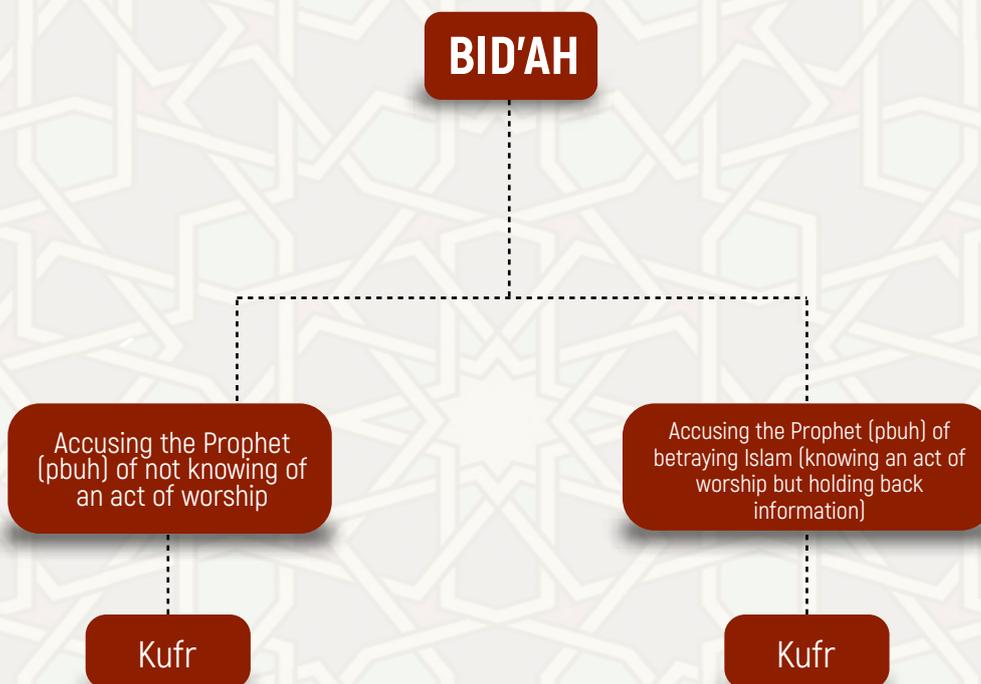
The act of worship must be in compliance with the location prescribed by the Shariah.

For example, you cannot stand the Day of 'Arafah for your Hajj in Makkah, it is unacceptable.





06 BID'AH AND IT'S DANGERS



The act of innovation (Bid'ah) is a very serious issue, to the extent that a lot of those who fall into it cannot leave it. It is a form of accusation on the Prophet (pbuh) whereby you're either accusing the Prophet (pbuh) of not knowing of an act of worship, or you are accusing him of betraying Islam (knowing an act of worship but holding back information). Both these accusations lead to Kufr.



The Prophet (pbuh) said:

“Allah has blocked repentance from every innovator.”

A sinful person (someone doing a major sin), does it admitting that his act is Haraam, and deep down he hopes that he will repent. On the contrary an innovator thinks that the act he is doing is something good that would get him closer to Allah (swt), and that is why innovators rarely repent.



Lesson 5

THE SECOND MAJOR RULE: CERTAINTY IS NOT REMOVED BY DOUBT – PART 5





07

SUB-RULES TO THE RULE ‘AL YAQEEEN LAA YAZOOLU BISH SHAKK’



Al Aslu Baraa’atuz Zimmah – The default is acquittance from liability or responsibility

When someone is accused of something, the default is the acquittance of liability or responsibility.

By having this rule in place, Islam has made it easy upon the courts, because anyone can accuse anyone of an act, and if the doors are opened and people are held to be guilty by default for such accusations, the courts will always be full.

For example, if someone accuses anyone of robbery, he/she has to do it with evidence and proof. If you do not have proof, then the default is that the accused is not guilty and should be acquitted of the charges.

And this is the norm in Islam, that everyone who is accused is innocent until proven guilty.



ii Al Aslu Fil 'Umoori Al 'Aaridah Al 'Adam – The default in incidental matters is assuming their absence

Something that happens or comes up incidentally, when actually it should not have come up, the default in such matters is to assume that it does not exist, until proven otherwise.

For example, you go and buy a car from the showroom, and while leaving the showroom everything looks fine and good. But, when you reach home, you discover that something is wrong with the car's engine and that there is a scratch in the paint.





In such cases, if you go to the court of law to claim back the money, you are supposed to provide evidence and prove that it is the fault of the showroom, because by default this is an incidental fault. When you collected the car from the showroom, you had no objections about anything in the car, but now you are accusing the salesman of selling you something defected.

Thus, you either prove your point or the default in such matters is their absence (absence of any fault from the showroom's side).



Al Aslu Izaafatul Haadis Ilaa Aqrabi Awqatih – The default is to relate an incident to its closest times.

For example, a woman hits another pregnant woman, who suffers a miscarriage after the incident. The default would be attributing the fault to the closest incident (the woman who hit her), unless there are another evidence that point to a different cause.



iv Al Aslu Fil Ashyaa' Al Ibaahah – The default in matters is permissibility.

When it comes to matters of daily life or anything that isn't related to religion, the default in such circumstances is that it is permissible unless there is something that shows otherwise.

For example, if someone asks what is the ruling on driving a motorcycle? or what is the ruling on sleeping on the back? It's permissible because there isn't anything that proves otherwise.



QUESTION & ANSWER BUCKET





01

Does following the Prophet (pbuh) in the Sunnatul 'Aadah with the intention of Sawaab for following the Prophet's 'Aadaat have any significance? Is one rewarded for it?

Answer

It is an issue of dispute whether one would be rewarded or not. Some scholars agree that you are rewarded for your intention, while others are of the opinion that there is no special significance and reward for it.

The question the latter group of scholars ask; is it something that the Prophet (pbuh) encouraged us to do? The answer is No.

But it was also reported in some narrations that some of the companions (ra) would stop at certain places while travelling, get off their camel and go near a rock, pretend to urinate, and return without urinating, trying to imitate the action of the Prophet (pbuh) when he had travelled with them.

Therefore, even though some scholars say that if your intention is to follow the footsteps of the Prophet (pbuh), you may be rewarded for it, but logically speaking since this is not something that the Prophet (pbuh) ordered us to do, it is not recommended to do it.



02

Among the prohibitions in clothing is to imitate the Kuffar (unbelievers). Are there any exceptions to this rule? Is a woman allowed to wear such clothing for her husband's pleasure in privacy with him?

Answer

If a woman wants to please her husband by wearing clothes that are specifically worn only by the disbelievers, it is prohibited. But if these clothes are revealing and worn by other Muslim women in general then it is permissible to wear it in privacy with her husband, and the same goes for the clothing of males.



03

As per the rules of Bid'ah, every innovation (Bid'ah) is misguidance, but during the times of the Khulafaa Rashideen they introduced the practice of 20 Raka'at of Taraweeh and the second Adhaan for Jumu'ah. Are these acts permissible?

Answer

The introduction of the second Adhaan, the practice of 20 Raka'at of Taraweeh and the things that the companions of the Prophet (pbuh) introduced to the religion are not considered as a Bid'ah, because it was the Prophet (pbuh) who said: "Follow my Sunnah and the Sunnah of the rightly guided caliphs [Abu Bakr, Umar, Uthman and Ali (ra)]."

So, the Prophet (pbuh) himself ordered us to follow the teachings of the rightly guided caliphs.

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