

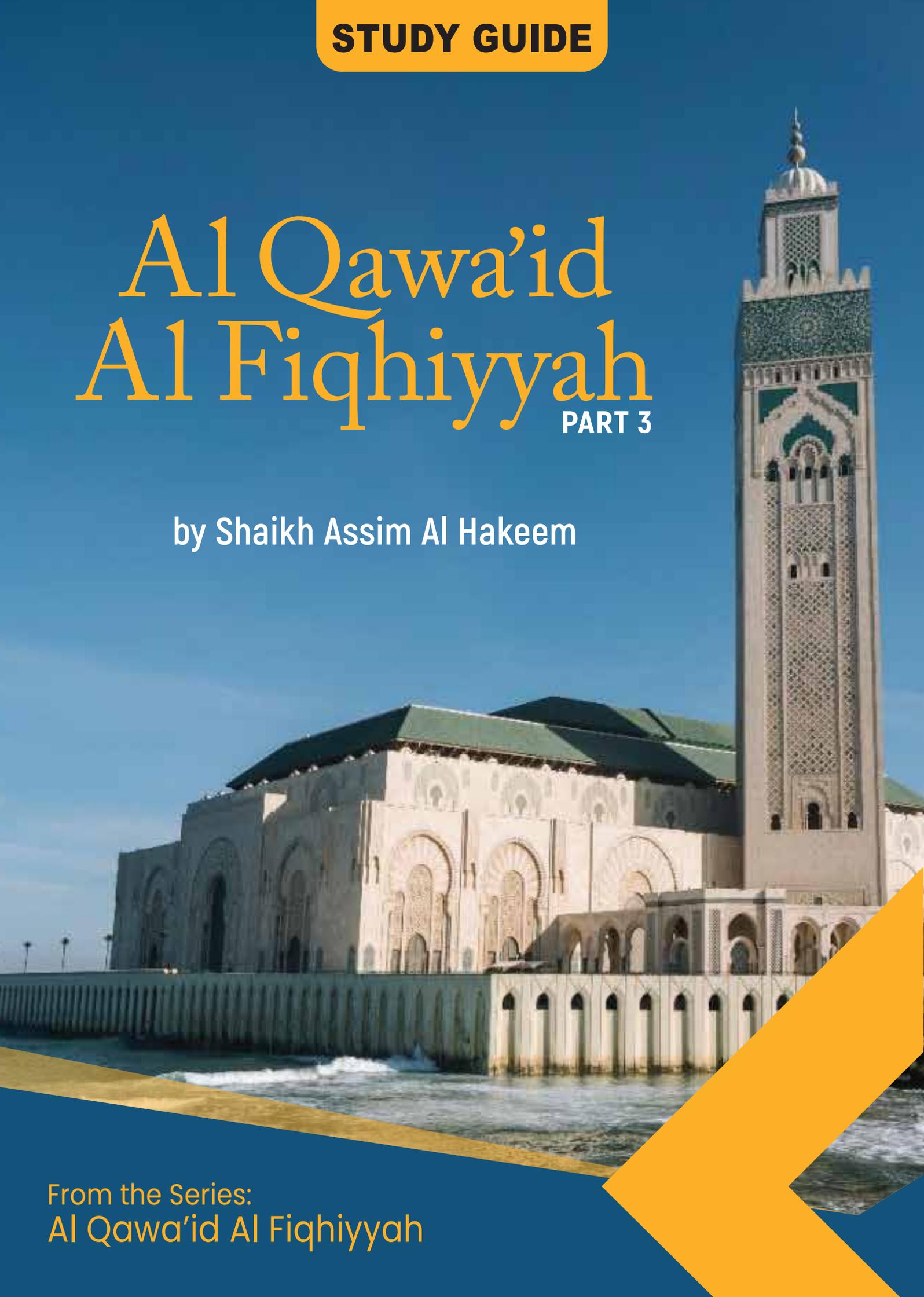
STUDY GUIDE

Al Qawa'id Al Fiqhiyyah

PART 3

by Shaikh Assim Al Hakeem

From the Series:
Al Qawa'id Al Fiqhiyyah





COURSE OUTLINE

Course Topics

1. Sub-rules to the rule 'Al Yaqeen Laa Yazoolu Bish Shakk'
2. Religion of Islam promotes ease and not hardships
3. Types of hardships
4. Rukhsah and its types
5. Hardships that warrant for concession
6. Sub-rules to the rule 'Al Mashaqqatu Tajlibut Tayseer' – I
7. Sub-rules to the rule 'Al Mashaqqatu Tajlibut Tayseer' – II
8. Conditions for applying the rule 'Ad Dharuraat Tubihul Mahzoorat'

Course Objectives

1. To understand about the different rules of Shariah
2. To understand Rukhsah and its types
3. Learn about the conditions for applying the rule 'Ad Dharuraat Tubihul Mahzoorat'



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 – 45 min

Assessment – 10 min

Total Duration – 3 hours 15 min

LESSON 1

The Second Major Rule

CERTAINTY IS NOT REMOVED BY DOUBT

PART 6





1

Sub-rules to the rule 'Al Yaqeen Laa Yazoolu Bish Shakk'

I

Al Aslu Fil Abdaa' At Tahreem - The default in sexual intercourse and what precedes or follows it, is prohibition

Is it permissible for a man to have sexual relations with any woman he pleases?

No. When anything that precedes sexual intercourse, such as chatting, socializing, flirting, or what comes afterwards is Haraam (prohibited), then how can sexual intercourse be Halaal (permitted).

The only two legal ways through which one is permitted to have such a relationship is marriage and women of right-hand possession (prisoners of war).





“Who abstain from sex; Except with those joined to them in the marriage bond, or (the captives) whom their right hands possess, - for (in their case) they are free from blame.”

Al Qur'an 23:4-5





For example, you propose to one of your uncle's daughters, but a woman comes along and says that she suckled you along with one of your uncle's daughters, but she doesn't remember which daughter she suckled. Apply the rule 'Al Aslu Fil Abdaa' At Tahreem', so all the daughters of your uncle are Haraam (prohibited) for you to marry because you do not know which one you suckled with.

PROHIBITED

NB: An important point to note in the application of this rule is that it is something that is limited. It can be quantified or measured, and there are availability of other possibilities. You do not prohibit the women of an entire area or a city due a similar confusion.



II

Laa Yunsabu Ila Saakitin Qawl, Wa laakinnas Sukoota Fi Ma'ridil Haajah ilal Bayaan Bayaan – A statement should not be attributed to anyone who is silent, rather silence is only considered an explanation in case where an explanation is necessary

If you are accused of killing a man and a judge confronts you with the accusation, but you remain silent and do not reply. The above rule applies herein; your silence does not mean admission of guilt, and you cannot be accused of saying something you have not done unless your silence means approval.

Silence can be understood as approval is in the case of marriage of a Biker (virgin girl), but not in the case of marriage of a Thayyib (matron).





The Prophet (pbuh) said:

“A matron should not be given in marriage except after consulting her; and a virgin should not be given in marriage except after her permission.” The people asked, “O Prophet of Allah! How can we know her permission?” He said, “Her silence (indicates her permission).”





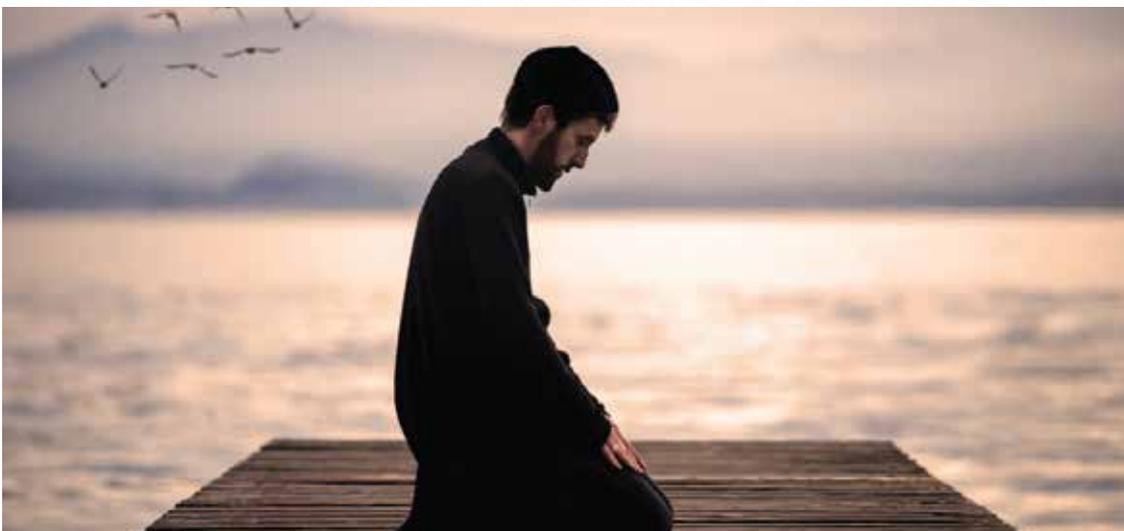
III

Laa Ibrata Bit Tawahhum – No consideration should be given to mere imagination

Imagination does not remove certainty, because certainty is not removed or changed by anything except certainty.

For example, someone travels to a foreign country and when it's time for Salaah, he does not ask anyone for the Qiblah directions, or check the sun to determine the directions. He imagines the Qiblah to be in a certain direction and completes his prayer. If later he is informed that the direction of the Qiblah is different from the direction he prayed in, he must repeat his prayer because he didn't do his due diligence. Therefore, the rule 'Laa Ibrata Bit Tawahhum' is applied in such cases.

If you try your best to find the direction of the Qiblah and yet after your prayer you discover that your prayer was in the wrong direction, you are not required to repeat your prayers because you did what you almost thought was certain and not based only on your imaginations.





IV

Laa Ibrata Biz Zannil Bayyini Khata'uhoo – No consideration should be given to a doubt which is clearly incorrect

If after completing a certain action, you discover that your action was wrong, then according to the above rule, your action has no merit or basis to it, and hence it should be given no consideration.

For example, you find a bucket of water, and after confirming with people and believing the water to be pure, you make Wudhu and pray. After you complete your prayer, someone informs you about the water being impure because of the presence of Najasah (impurity) in it and you too discover it to be true.

According to the above rule 'Laa Ibrata Biz Zannil Bayyini Khata'uhoo' because you are certain that the water was impure, you must make Wudhu (ablution) again and perform your prayers.





V

Al Mumtani'u 'Aadatan Kal Mumtani'u Haqeeqah – What can't happen usually is likely as impossible to happen

For example, when an orphan reaches the age of 18, the judge instructs his trustee to transfer the money to him. Though the trustee claims that he spent all the money on the orphan ensuring his upbringing is good, but looking at the boy, the judge finds him to be not taken care of adequately.

This is something unusual, because if you claim that you have spent money on the orphan, he should have been in a better situation, but when he has nothing, and he has nothing to show, it is an indication since his condition under normal circumstances would have been much better if the trustee would have spent all his money for his upbringing, it is likely impossible to happen that he has spoken the truth.



LESSON 2

The Third Major Rule:
**HARDSHIPS WARRANT
CONCESSION**
PART 1





2 Religion of Islam promotes ease and not hardships

The Major Fiqhi rule 'Al Mashaqqatu Tajlibut Tayseer – Hardships warrant concessions' explains the concept of Rukhsah (concession) and making something easier in religion when faced with difficulties and hardship.

A common misconception among people is that Islam promotes hardships and difficulties. You hear people saying, 'I will perform Hajj this year on foot because I want more reward.'



“He has chosen you and has imposed no difficulties on you in religion.”

Al Qur'an 28 : 78



“Allah does not burden a person beyond his scope.”

Al Qur'an 2 : 286





The Prophet (pbuh) said:

“The religion (of Islam) is easy, and whoever makes the religion a rigour, it will overpower him. So, follow a middle course (in worship); if you can't do this, do something near to it and give glad tidings and seek help (of Allah) at morning and at dusk and some part of night.”

What people fail to realize is that Allah (swt) has made the Deen easy, He does not want man to be burdened or harmed. In fact, even in things of benefit, the Prophet (pbuh) kept the ease of his Ummah in mind and didn't order us with anything that would have been difficult upon us.





The Prophet (pbuh) said:

“Had I not feared that I would burden my Ummah, I would have ordered them to use the Siwaak with every Salaah.”

A lot of the Muslims misinterpret this rule when faced with a choice, choose the easier route (sometimes even Haraam).

But choosing the easy option does not mean that one can even indulge in Haraam if it is the easier option of the two.

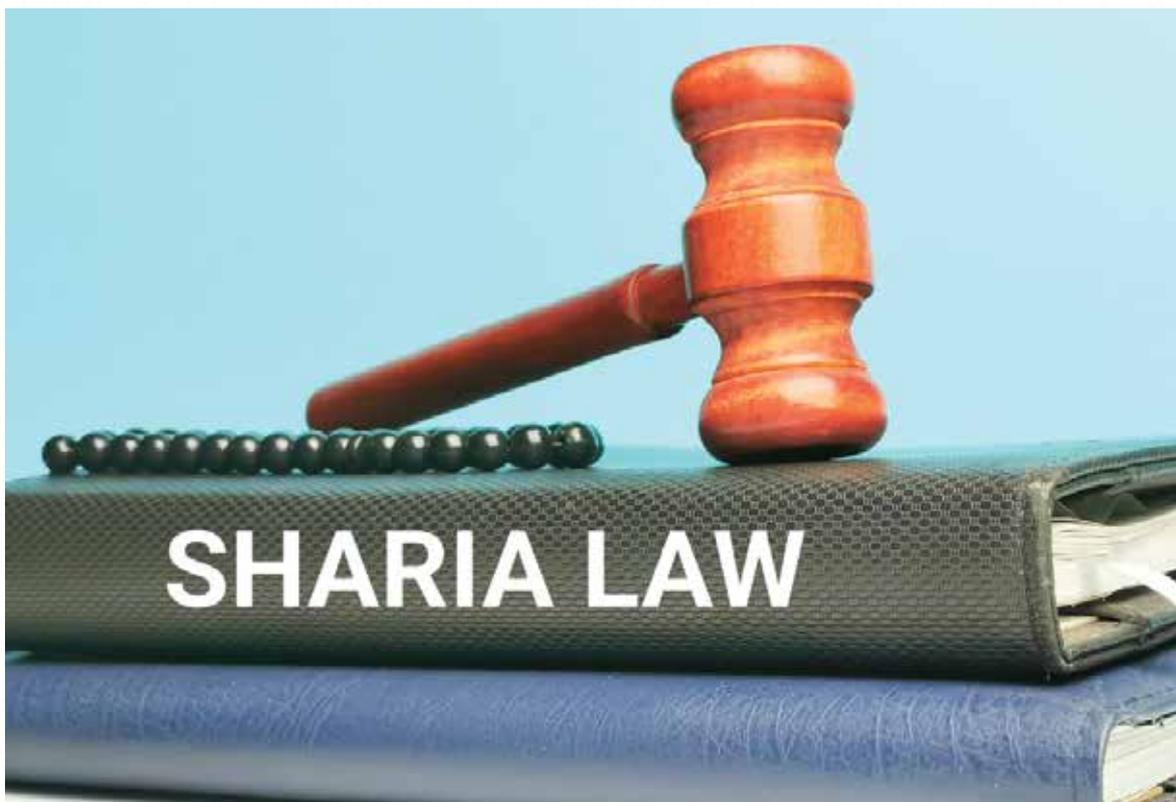




'Aisha (ra) narrates:

“Whenever the Prophet (pbuh) was given the choice of one of two matters, he would choose the easier of the two, as long as it was not sinful to do so, but if it was sinful to do so, he would not approach it.”

Therefore, you must choose the easiest option provided that the Shariah allows you to do so, not because you like it.





3 Types of hardships

Scholars have divided hardships into two types:

I Normal or regular hardships

Hardships that are normal and faced in regular life but would not harm a person.

For example, making Wudhu in winters. It is a hardship, but it would not harm you. This kind of hardship is accepted.



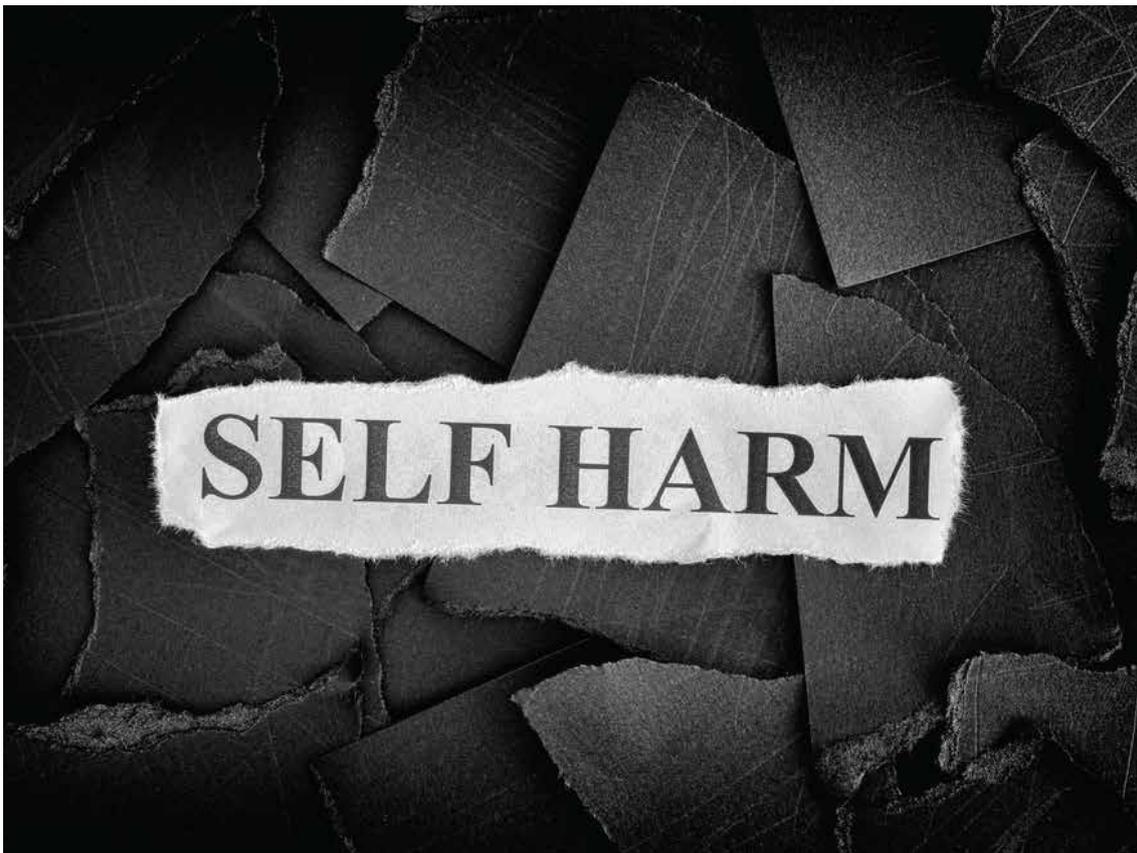


II Hardships that would cause harm

These are hardships that would cause harm to a person or be a risk to his life.

For example, a sick or an old person having to do Wudhu with cold water in severe cold weather. It would be harmful to their health or even a cause of their death.

This kind of hardship is unacceptable, and Allah (swt) has given Rukhsah (concession) for us.



LESSON 3

The Third Major Rule:
**HARDSHIPS WARRANT
CONCESSION**
PART 2





4 Rukhsah and its types

Rukhsah (concession) is basically performing or abstaining from performing actions which are Haraam (prohibited) generally but have been considered Halaal (permitted) due to certain hardships or difficulties in certain situations.

Among the types of Rukhsah are:

I Rukhsatul Isqaat – The concession to dismiss

When one is not able to fulfill a certain duty or perform an action due to a certain hardship or difficulty, Islam dismisses that action or duty for you.

For example, someone who is not financially capable of fulfilling the obligation of Hajj. Even though it is one of the five pillars of Islam and obligatory under normal circumstances, Islam has exempted you from the obligation of Hajj if you are in difficulty and not financially capable of going for Hajj.





II

Rukhsatut Tanqeess – The concession to lessen

This concession deals with reduction in obligations in times of difficulty or hardship.

For example, during Safar (traveling), Allah (swt) has given concession to reduce the number of Raka'ahs. The 4 Raka'ah prayers becomes 2 Raka'ah prayers (Zuhr, 'Asr, and Isha').





III

Rukhsatul Ibdaal – The concession to replace

In certain obligations, Allah (swt) gives concession to replace an obligation with another in cases of hardship and difficulty.

For example, if you do not have water to perform Wudhu (ablution) for prayers, Allah (swt) has given the concession to perform Tayammum and pray.





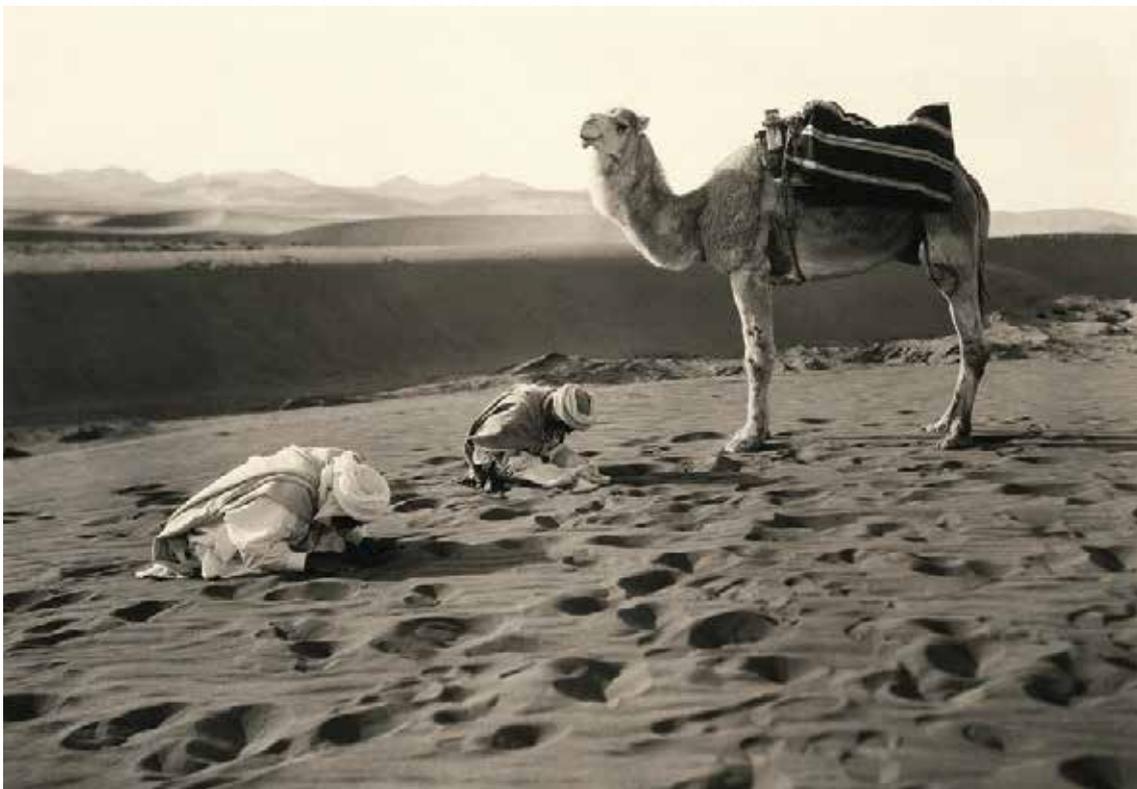
IV

Rukhsatut Taqdeem – The concession to prepone

Certain types of obligations and acts of worship must be performed in their specific timings as obligated by the Shariah. They are unacceptable if performed before or after their time.

In times of necessity or hardship, the Shariah also provides the concession to hasten or perform that act of worship prior to its stipulated time.

For example, one is permitted to combine his 'Asr prayer with his Zuhr prayer, or Isha' prayer with his Maghrib prayer while he is travelling.





V

Rukhsatut Ta'kheer – The concession to postpone or delay

Similar to the above rule, the Shariah also provides the concession to delay or perform an act of worship after its stipulated time.

For example, one is permitted to delay his Zuhr prayer and perform it with his 'Asr prayer, or his Maghrib prayer with his Isha' prayer while he is travelling.





VI

Rukhsatul Idtiraar – The concession of necessity

In cases of real hardship or need, Allah (swt) gives you a concession to save your life and your property.



“He has only forbidden you dead meat, and blood, and the flesh of swine, and that on which any other name hath been invoked besides that of Allah. But if one is forced by necessity, without willful disobedience, nor transgressing due limits,- then is he guiltless.”

Al Qur'an 2 : 173

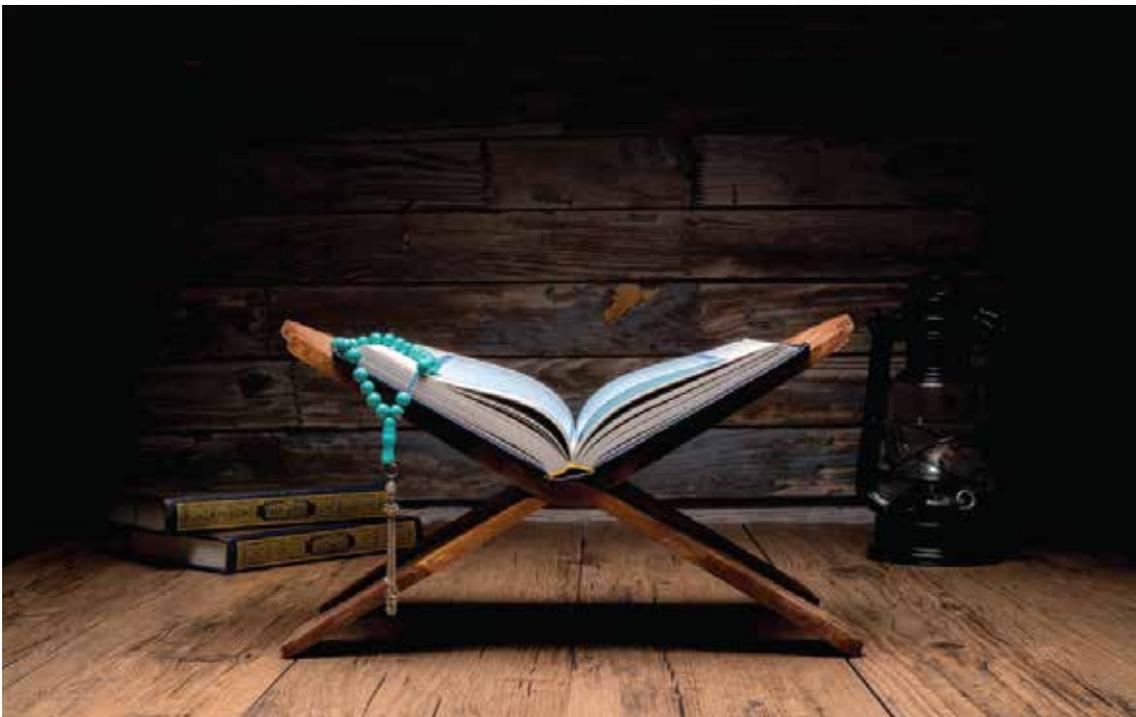


For example, if someone forces you to commit Kufr or say something that is blasphemous, else they would kill you, the Shariah gives you the concession to say it for the purpose of saving your life.



“Whoever disbelieves in Allah after his belief... except for one who is forced [to renounce his religion] while his heart is secure in faith. But those who [willingly] open their breasts to disbelief, upon them is wrath from Allah, and for them is a great punishment.”

Al Qur'an 16 : 106





VII The concession to change

In certain situations of hardship and difficulty, Allah (swt) gives one the concession to change the way an act of worship is performed, but the change is also described by the Shariah, and one isn't supposed to make up changes according to their thinking and desires.

For example, in times of war, Muslims are supposed to perform Salaatul Khauf (the prayer of fear) on the battlefield in a specific manner instead of performing prayers normally as performed during times of ease.

In this prayer, you pray two Raka'ah instead of four, and pray in the direction of the enemy even though the Qiblah may be behind you. You may bow and prostrate with your eyes because you're holding the gun and cannot ask the enemy to wait until you perform your Sujood (prostrations).



LESSON 4

The Third Major Rule:
**HARDSHIPS WARRANT
CONCESSION**
PART 3





5 Hardships that warrant for concession

Among the reasons under which hardship warrants concession are:

I Ignorance

Whenever ignorance is there, there are concessions. Therefore, if someone does something due to ignorance, Allah (swt) forgives them.

But in such cases, concession has two types of consequences:

A You are forgiven, but you must give an expiation for it

If you forget to do something obligatory (making Ihraam from Meeqaat for Hajj, performing Tawaaf Al Wada') due to ignorance, Allah (swt) forgives you for your ignorance, but you must expiate for it because you have missed an obligatory act.





B You are forgiven without any expiation

Forgiveness without any expiation is in cases of not staying away from prohibitions due to ignorance.

For example, wearing perfume in state of Ihram is prohibited, but if someone applies it due to ignorance, Allah (swt) forgives them without the need for expiation. This is for indulgence in prohibition due to ignorance.





II Forgetfulness



“Our Lord, do not impose blame upon us if we have forgotten or erred.”

Al Qur'an 2 : 286

Allah (swt) doesn't burden you or hold you to account for something you forget.

It is a part of concessions in Islam that if one forgets something, they are forgiven for it.

For example, if one forgets to perform prayer on its time, they are forgiven for the delay, but they must make up for their missed prayer when they remember it.





III Compulsion

From the concessions in Islam is that Allah (swt) forgives a person who indulges in Haraam (prohibition) under duress and compulsion. But it is important to note that the compulsion must be justified in having a person indulge in Haraam or prevent him from doing an obligation.

If the compulsion poses no danger or harm to you, you are not permitted for the concession.

For example, in the story of Ammar (ra), when he was tortured and forced to speak against the Prophet (pbuh), the Shariah permitted him to say it for the sake of saving his life and himself from that torture.



“Whoever disbelieves in Allah after his belief... except for one who is forced [to renounce his religion] while his heart is secure in faith. But those who [willingly] open their breasts to disbelief, upon them is wrath from Allah, and for them is a great punishment.”

Al Qur'an 16 : 106



IV Travelling

Travelling too is considered as a hardship, and the Shariah has given concessions for a person who is travelling.



“So every one of you who is present (at his home) during that month should spend it in fasting, but if anyone is ill, or on a journey, the prescribed period (Should be made up) by days later. Allah intends every facility for you; He does not want to put to difficulties.”

Al Qur'an 2 : 185





V Illness

Similar to travelling, the Shariah has also provided concessions for an ill person too, because Islam is about providing ease and not making things hard upon humans.



“So every one of you who is present (at his home) during that month should spend it in fasting, but if anyone is ill, or on a journey, the prescribed period (Should be made up) by days later. Allah intends every facility for you; He does not want to put to difficulties.”

[Al Qur'an 2 : 185](#)





VI

Al Usrr Wa Umoomul Balwa – Difficulty or unavoidable prevalence

This refers to difficulties and hardships upon which man has no control.

For example, an old person who has constant leaking of urine droplets, and it is not in his control to stop it. The Shariah provides concession to humans in such situations too because it is not in your control to prevent it from occurring.





VII An Naqs – Shortage

Someone who is insane has a shortage of understanding, and since this shortage is a hardship, the Shariah has given concessions for such situations.



The Prophet (pbuh) said:

“The Pen has been lifted from three: from the child until he reaches puberty, from the sleeper until he wakes up and from the insane until he regains his sanity.”



LESSON 5

The Third Major Rule:
**HARDSHIPS WARRANT
CONCESSION**
PART 4





6

Sub-rules to the rule 'Al Mashaqqatu Tajlibut Tayseer' – I

I

Izaa Dhaaqal Amr Ittasa'a –
When a matter constricts, it is eased



“So, verily, with every difficulty, there is relief.
Verily, with every difficulty there is relief.”

Al Qur'an 96 : 4-5





Allah (swt) promises man that no matter how long a hardship is, he shall be met with ease after it. But man is hasty and impatient and wishes to find solutions to all his problems at the first instant.

For example, if a woman travels for Hajj with her husband and while in Makkah, her husband passes away. She wishes to return home, but the Shariah obligates that a woman cannot travel without a Mahram.

In such situations, the rule 'Izaa Dhaaqal Amr Ittasa'a' is applied, because as she has no means to support herself and staying back in a foreign country would make matter more difficult for her, the restrictions are eased, and she has the concession to travel back home though she has no Mahram accompanying her.





II

Ad Darooraat Tubeehul Mahzuraat – Necessities permit the unlawful – I



“But if one is forced by necessity, without wilfull disobedience, nor transgressing due limits, - then is he guiltless.”

Al Qur’an 2 : 173

To apply the concessions of this sub-rule, one must fulfill the following two conditions:

- A** The deed should be without wilful disobedience
- B** No transgression of due limits

For example, someone is stranded in the desert with no food to eat, and the only food available to him is dead meat or pork, and if he doesn't consume it, he faces death. The Shariah allows him the concession to consume dead meat or the pork if he has no other Halaal options to save himself, but only in the quantity that would be necessary for his survival, and not fill up his stomach.



LESSON 6

The Third Major Rule:
**HARDSHIPS WARRANT
CONCESSION**
PART 5





7

Sub-rules to the rule 'Al Mashaqqatu Tajlibut Tayseer – II

I

'Ad Darooraat Tuqaddaru Bi Qadarihaa – Necessities should be evaluated by itself

The rule, 'Ad Darooraat Tubeehul Mahzuraat – Necessities permit the unlawful' requires another rule 'Ad Darooraat Tuqaddaru Bi Qadarihaa – Necessities should be evaluated by itself' to govern it, otherwise everyone could claim a necessity and try to indulge in a Haraam.

One would deal with a Riba (interest) based bank and consume interest claiming that it's a necessity and since necessities permit the unlawful, he is allowed to deal with Riba (interest).

But not every necessity allows you to do unlawful things. For example, someone is stranded in a desert with only Haraam food, but he isn't hungry. In such a case, he isn't allowed to consume the Haraam food because it isn't a necessity. You need to evaluate the needs and measure whether it really is a necessity or not.



8

Conditions for applying the rule 'Ad Darooraat Tubeehul Mahzooraat'

There are certain conditions that must be applied before one can apply the concessions given by the rule 'Ad Darooraat Tubeehul Mahzooraat – Necessities permit the unlawful'.

I

Necessity can be warded off by doing the unlawful thing

If the necessity cannot be warded off by doing the unlawful deed, then one isn't permitted to perform the Haraam act. It is unlawful for them to act on the concession and do the unlawful deed.

For example, if someone is choking and unable to breathe, and hypothetically speaking, there is no liquid around him except a bottle of wine. It is permissible for him to drink the wine, to help stop the choking and save his life.





II

There is no other means of warding off the necessity except by performing the unlawful deed.

If there are other means than the unlawful means to warding of the necessity, then one is not allowed to perform the unlawful deed or action.

For example, if a woman wishes to get a medical check-up, in case of the availability of a female doctor, the woman is not permitted to go to a male doctor for the check-up, because there are lawful means available to her to ward off her necessity.





III The unlawful should be less than the necessity

The unlawful act must be lesser than the necessity, it cannot be equal or more than it.

For example, if someone threatens you to kill someone or else they would kill you, you are not allowed to kill the other person because it is not a necessity but transgression on the rights of someone else, and your life is equal to the life of any other person which makes it Haraam.

But, if he tells you to steal his money or you die, you are permitted to steal because money is less valuable than your life and therefore the concession can be applied in this situation.



QUESTION & ANSWER





Q1

Can a person trying to get rid of his alcohol addiction perform his Salaah, or should he just let the time pass by?

Answer

Even though one is trying to get over their addiction, but when in the state of intoxication, they should sit down rather than praying because when one is in state of intoxication, they do not know what they say. He/she might recite the Qur'an wrongly or say words of Kufr unknowingly.



The Prophet (pbuh) said:

“Whenever one wants to pray the night prayer, he should pray as long as he is conscious.”

But if a person is sleepy, he should not pray and go to bed because he may ask Allah (swt) for Du'a, and instead curse himself. Instead of saying: 'O Allah forgive me', he would say, 'O Allah curse me', because he's asleep. And in the case of intoxication, it is even worse. And this is a punishment for drinking alcohol.



Q2 Can women watch men playing sports?

Answer

As for the Hadith of Aa'ishah (ra) that she watched men playing with their spears, the norm is that whenever there is a Hadith or an Aayah, we do not say that it is specifically for the Prophet (pbuh) and his companions.

The rule in Usool Al Fiqh is 'Al Ibratu Bi Umoomil Lafz Laa Bi Khusoosis Sabab', that what counts is the general text and not what it was revealed specifically for.

Similarly, the ruling for women looking at men is not similar to that of men looking at women, because men are easily affected by women and not the other way around, and that is why men do not wear the Hijaab.

So, the general answer would be that if a woman is not afraid of Fitnah of being tempted, it is permissible for her to watch a presenter on TV, to watch someone walking and not order to lower her gaze unless there is Fitnah.

For the man, it is the other way around. Even if there is no Fitnah, you have to lower your gaze because this is in man's human nature that he is affected and attracted to women easily.

Q3

Can a matron's silence be considered as her approval for a marriage proposal?

Answer

No, a matron's silence is not considered as her approval for the marriage proposal because the Prophet (pbuh) said:



"A matron should not be given in marriage except after consulting her; and a virgin should not be given in marriage except after her permission." The people asked, "O Prophet of Allah! How can we know her permission?" He said, "Her silence (indicates her permission)."

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