

Al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah.

The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations

Foundation -8

**By Sh. 'Abdur Rahmaan ibn Naasir As-Sa'di (rahimahullaah)
(d. 1376 A.H./1956 C.E.)**

Discussion based upon:

- 1-Sh. Ibn Sa'di's original explanation**
- 2-Our Sh. Muhammad ibn Saalih Al-'Uthaimin's Commentary, and**
- 3-Full explanation by our Sh. (Dr.) Sami ibn Muhammad As-Sghair (summer 1427 A.H./2006 C.E.)**

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Basic Rulings and Foundations of Fiqh-8

All Praise is due to Allaah, and may the *salaah* and *salaam* be on Prophet Muhammad, his household, the noble companions and those who follow them until the Day of Resurrection. This is a continuation of the explanation of *The Basic Rulings and Principles of Fiqh – The Beneficial, Eloquent Classifications and Differentiations* by Imam ‘Abd ar-Rahman ibn Naasir as-Sa’di (*rahimahullaah*).

Foundation eight is entitled:

The basic and practical rulings are established only after fulfilling the conditions and in the absence of impediments.

This is a great foundation that covers all of the rulings, including both the universal (*kawnee*) and legal (*shar’ee*) types.

Examples of the Application of Foundation 8

Regarding *aayat al-kursi* (Surah al-Baqarah 2:255) the Prophet (ﷺ: *sallallaahu ‘alayhi wa sallam*) affirmed the statement:

“Whenever you go to your bed, recite *aayat al-kursi* for then a guardian from Allaah will be guarding you, and Satan will not approach you till dawn.”¹

Similarly, the Prophet (ﷺ) said concerning the *dua’* made upon engaging one’s wife in sexual intercourse:

*“If anyone of you on having sexual relations with his wife said (and he must say it before starting) ‘In the name of Allaah. O Allaah! Protect us from Satan and also protect what you bestow upon us (i.e. the coming offspring) from Satan,’ and if it is destined that they should have a child then, Satan will never be able to harm that offspring.”*²

Someone can make this *dua’* and still have a child who is from the *shayateen* of mankind. As such, we apply this foundation. The person may have performed the cause, but an impediment existed. For instance, he may have said this remembrance without certainty in it. Many people recite *dua’* and *ruqaah* (incantations from the Qur’aan) as an experience or test. That is why you may find two people making *ruqyah* on an ill person using the same remembrance, with only one of their incantations having any effect. It is said:

“The sword is by its striker.”

¹ Reported in *Saheeh al-Bukhaari* (English translation vol. 4, *hadeeth* no. 495, and vol. 6, *hadeeth* no. 530).

² Reported in *Saheeh al-Bukhaari* (English translation vol. 1, *hadeeth* no. 143, and vol. 4, *hadeeth* no. 493) and in *Saheeh Muslim* (English translation no. 3361, book 8).

Give a sword to a brave person, and it is clear what he will accomplish. In contrast, if the sword is given to a coward, it will be like a piece of wood. Therefore, the existence of the impediments stands as a barrier, hindering the effectiveness of the cause (e.g. the remembrances or *ruqaah*).

This foundation also applies to the texts, such as *al-wa'eed* (the texts of threat). Allaah (ﷻ: *subhaanallaahu wa ta'aalaa*) said (in the translation of the meaning):

﴿And whoever kills a believer intentionally, his recompense is Hell to abide therein.﴾ Surah an-Nisa' (4:93)

However, we know that the believer will not be in Hell forever. Thus, the killing of the believer is not *kufir*³; the killing is a cause related to this textual threat, but there may be a barrier that prevents its implementation. Hence, all of the universal and legal rulings are not established except with the existence of the conditions and the lack of impediments.

Examples of the application of this foundation to the legal rulings include:

1. A person prayed without *tahaarah* (ritual purity). His *salaah* is invalid due to the non-existence of a condition.
2. A person prayed with *tahaarah* but before the prescribed time. His *salaah* is also invalid as the cause is not fulfilled.
3. A person prayed during the prohibited times without a cause. His *salaah* is invalid since an impediment existed.
4. The *kaafir* relative of a Muslim dies; he can not inherit him as there is a legal impediment, namely the opposition in creed.
5. A Muslim dies, and a person is screened from inheritance by another relative. As such, that person is blocked from inheriting by an impediment.
6. If someone's neighbor dies, he is prevented from inheriting from him since there is no cause or condition.

al-Wa'ad and al-Wa'eed

We know that the Prophet (ﷺ) said:

*“The luckiest person who will have my intercession on the Day of Resurrection will be the one who said sincerely from the bottom of his heart ‘None has the right to be worshipped but Allaah.’”*⁴

³See further explanation on page 5.

⁴Reported in *Saheeh al-Bukhaari* (English translation vol. 1, *hadeeth* no. 98).

However, if a person does not pray and when he is commanded to pray he says, “*La ilaaha illa Allaah*,” then there is an impediment to the acceptance of his statement; the same also applies to threats. The Prophet (ﷺ) said:

*“No one who severs the ties (ibn ‘Umar said, ‘meaning severs the ties of kinship’) will be admitted to Paradise.”*⁵

This is a threat (*wa’eed*), and the threats and promises (*wu’ood*, singl. *wa’d*) are numerous in the texts. In all of them, the existence of conditions and the lack of impediments must be established. Through this foundation and its understanding, many issues that may appear problematic will be resolved, including the examples previously mentioned.

The entrance to Paradise has been mentioned in many texts, dependant on certain sayings and actions, and we must believe in all of these texts in the Qur’aan and authentic *Sunnah*. These sayings and actions are insufficient alone, and there must be certain criteria established including: faith, performing other actions that The Legislator commanded, not practicing any of the nullifiers of actions, etc.

The Affirmation that Good and Evil can both be in the Same Person Simultaneously

It is the way *Ahl al-Sunnah* to affirm that in the same person, there could exist qualities of *iman* (faith) and qualities of *kufr* (disbelief) or hypocrisy, good and evil, necessitations of reward and necessitations of punishment, as established in many textual evidences. For example, from the qualities of hypocrisy is lying. The Prophet (ﷺ) said:

*“There are four (characteristics), whoever has all of them is a complete hypocrite, and whoever has some of them has some element of hypocrisy, unless he gives it up: when he speaks, he lies; when he makes a treaty, he betrays it; when he makes a promise, he breaks it; when he quarrels, he resorts to insults.”*⁶

Similarly, concerning insults, the Prophet (ﷺ) said:

*“Insulting a Muslim is fusuq (disobedience) and fighting him is kufr (disbelief)”*⁷

The *kufr* in this *hadeeth* is practical *kufr*, and does not take that person out of the fold of Islam. Therefore, those who have such qualities are described as *moominoon bi imanihim wa faasiqoon bi fisqihim* (believers due to their faith and a *faasiq* due to their sins); the one of them is not given the perfect title of “believer.” The case of the person who dies on this is left to Allaah (ﷻ); if Allaah (ﷻ) wishes to punish him, then He punishes him, and if He wills not to, then He forgives him.

⁵ Reported in *Saheeh Muslim* (English translation no. 6199 & 6200, book 32).

⁶ Reported in *Saheeh al-Bukhaari* (English translation vol. 1, *hadeeth* no. 33) and in *Saheeh Muslim* (English translation no. 111 & 112, book 1).

⁷ Reported in *Saheeh al-Bukhaari* (English translation vol. 1, *hadeeth* no. 46).

The Requirement of the Particularity of the Impediment in Cases Except Hajj

There must be a **particular** impediment to nullify these matters; particularity is stressed in order to be cautious in cases where the forbiddances are general and may not nullify the worship.

Examples:

1. If someone prays in a place he acquired illegally by force, then the fact that this place was taken through aggression is *haraam* in general. However, his *salaah* there is still valid, but he is sinful; that is because the prohibition in this case is not particular to the *salaah*.
2. If a person prays with *naajasah* (filth) on him, then his *salaah* is invalid since the prohibition is particular to the *salaah*.
3. If someone eats deliberately while fasting, then his fasting is invalid.
4. While fasting, someone backbites and lies. His fasting is valid because the *tahreem* (prohibition) is general, although he is still held sinful.

This is applicable in all situations except Hajj. If someone does something particularly *haraam* during Hajj deliberately, then his Hajj is not nullified, but he is rendered sinful.

Example:

A person shaved his head deliberately during Hajj when he was in a state of *ihraam*. His Hajj is still valid, but he is held sinful.

The Intentional Killing of the Believer

The *Salaf* (pious predecessors) differed regarding the verse where Allaah (ﷻ) said (in the translation of the meaning):

﴿And whoever kills a believer intentionally, his recompense is Hell to abide therein, and the Wrath and the Curse of Allaah are upon him, and a great punishment is prepared for him.﴾ **Surah an-Nisa' (4:93)**

The first opinion is that this verse is applicable to the person who considers it permissible to kill the believer. However, when this opinion reached Imam Ahmad (*rahimahullaah*), he said:

“If he considers it permissible to kill the believer, then he commits *kufir* even though he did not kill him.”

His statement weakens this view.

The second opinion is that this verse is from *al-wa'eed* (threats). While it is blameworthy for the promises to not be fulfilled, it is permissible in the case of threats.

The third opinion is that the *khulood* (abiding) in this verse means a lengthy stay because Allaah (ﷻ) did not say (in the translation of the meaning) “abide therein forever.”

The fourth opinion is that this verse is a cause for the admittance to Hell. This cause may not be fulfilled in the case of impediments, including, a sincere *tawbah* and great righteous deeds as in the case of the people of the Battle of Badr, concerning whom Allaah (ﷻ) said:

“*Do what you wish, for I have forgiven you.*”⁸

The fourth opinion is the closest one. Imam ibn al-Qayyim (*rahimahullaah*) elaborated that: With respect to the killer, there are three rights attached: the right of Allaah (ﷻ), the right of relatives, and the right of the victim. As to the right of Allaah (ﷻ), this is waived by sincere *tawbah*. As to right of the relatives, this could be lifted through the blood money or by the killer surrendering himself to them and their asking for the penalty upon him. As to the right of the victim, on the Day of the Resurrection, Allaah (ﷻ) knows the truthfulness and sincerity of the killer, and Allaah (ﷻ) will make the victim content such that he lifts his right.

Additional branches of this foundation:

1. *Salaah* is invalid until the establishment of its pillars, conditions, and obligations as well as the removal of its invalidators.
2. It is required for the validity of fasting that all conditions are fulfilled and no impediments exist, specifically the *mufattirat* (the invalidators of fasting, including, eating, drinking, and having sexual intercourse during the day).
3. Following the second *adhan* on the day of *Jumu'ah*, trade is invalid due to an impediment. Similarly, regarding all transactions and donations, all conditions must be fulfilled, and impediments removed.
4. *Nikaah* (marriage) is not valid until all conditions are met and the impediments removed.

⁸ Part of a *hadeeth* reported in *Saheeh al-Bukhaari* (English translation vol. 4, *hadeeth* no. 251 & 314, vol. 5, *hadeeth* no. 702, and vol. 6, *hadeeth* no. 412) and in *Saheeh Muslim* (English translation no. 6087, book 31)

Conclusion

The eighth foundation in Imam ‘Abd ar-Rahman ibn Naasir as-Sa’di’s book, *al-Qawaa'id wal-Usool al-Jaami'ah wal-Furooq wat-Taqaaseem al-Badee'ah an-Naafi'ah* (The Basic Rulings and Principles of *Fiqh* – The Beneficial, Eloquent Classifications and Differentiations), is entitled:

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