Introduction to Hanbali Usool

Explanatory Notes on Ibn 'Uthyameen's *al-Usool min 'Ilm al-Usool*

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Foreword

These are my complete notes on the book as taught to us by **Ust. Ahmad Zayn al-'Abidin** in Arabic. Sh. Ibn 'Uthyameen's work is a very useful book to get an introduction to Hanbali *usool*. There are not enough good books in the English language on Hanbali *fiqh* and *usool* and this is my modest attempt to introduce the *usool* of the school to English speakers. Please note that I did not write down every single thing that Ust. Ahmad mentioned but only that which I personally found beneficial and felt was sufficient for the explanation of the text.

Sh. Ibn 'Uthyameen at times differs with the Hanbali school and Ust. Ahmad did point out those differences to us. At times, I noted in the notes that Sh. Ibn 'Uthyameen is differing with the school on this issue and at other times, I just note down the official (*mu'tamad*) Hanbali position on the issue and do not mention Sh. Ibn 'Uthyameen's opinion. However, there are very few instances of this occurring in the text and the vast majority of it agrees with the school.

Usool al-Fiqh is important to study because it gives the person the psychology of the school. How does the school derive its rulings? How is evidence weighed? What should be done in instances of conflict between different verses and hadiths? What sources are used to derive law? How do we know something is forbidden or obligatory as opposed to just disliked or recommended? All such types of questions and more are answered in *Usool al-Fiqh*.

The class was entirely in Arabic and since the study of *usool* does require some proficiency in the Arabic language due to much reliance on Arabic grammatical rules, I have tried my best to explain it in the English language. I am sure that I have not done justice to it. If any mistakes are found, I humbly request the reader to contact me so that I may correct it.

About Ust. Ahmad Zayn al-'Abidin:

He has been studying the Hanbālī *Fiqh* and *Usool* for about 7 years.

He has memorised Zād al-Mustaqni', along with thoroughly studying all other abridged texts of the Madhhab. He has completed studying Kashf al-Mukhaddarāt, Hidāyah al-Rāghib, Al-Rawd al-Murbi', and Hāshiyah Ibn 'Awad.

For the past two and a half years he has been doing a comparative study of the Al-Muntahā and Al-Iqnā' and their commentaries, Al-Ghāyah and its commentary, books of Al-Mardāwī and Ibn Muflih's Al-Furū'; all under Sh. Hamad b. Sālih al-Marrī (Qatar).

In terms of *Usool* (legal theory), he has studied Ghāyah al-Sūl and its commentary, thoroughly studied Al-Tūfi's Mukhtasar al-Rawdah and its commentary along with Al-Muwaffaq's original Rawdah al-Nādhir. He has studied Mukhtasar al-Tahrīr along with Al-Futūhi's own commentary and it's original Al-Tahbīr. After that he moved onto a comparative study of the *Usool* of the Jumhūr.

He is a Pharmacy graduate from the University of Al-Azhar.

Introduction

I. This is an introductory level text on *Usool al-Fiqh*

II. *Usool al-Fiqh* is a science in which you study how Islamic laws are deduced from the evidence

    A. So it is a very important and noble science

    B. All of Islamic jurisprudence (*fiqh*) is derived from and based on *Usool al-Fiqh*

    C. This science is used to understand the will of Allah and His Messenger (pbuh)

III. The following four sources are generally agreed on that they are used to derive Islamic laws:

    A. Qur'an, Sunnah, *ijmaa* (consensus), and *qiyaas* (analogical deduction)

        1. Each will be explained later in the book insha'Allah

IV. There are other sources about which the scholars differ if they can be used to derive Islamlic laws or not:

    A. Ex: Statement of a companion, Istihsaan, Istishaab, etc.

    B. These will be explained later in the book insha'Allah

V. This science is a communal obligation (*fardh kifayah*) on the ummah

    A. Meaning a portion of the ummah is required to learn this science

VI. Those who intend to do ijtihad or those who are jurists (*fuqaha*) or wish to be jurists are individually required (*fardh 'ayn*) to learn this science because you cannot derive laws without the knowledge of this science

    A. One who lacks this science cannot truly be considered a jurist (*faqeeh*)

VII. The first person to write on the topic of *Usool al-Fiqh* as an independent science was Imam Shafi' with his famous book Al-Risaalah

    A. The science of *usool* did exist before him but he was the first to compile it in one single book dedicated exclusively to the topic

VIII. The science of *Usool al-Fiqh* contains various methods and tools to derive its knowledge, some examples include:

    A. Arabic language: By delving into linguistic concepts such as general, specific, metaphor, literal, absolute, restricted, etc.

    B. Fiqhi concepts: permissible, obligatory, forbidden, recommended, etc.

    C. Logic

IX. Why this particular book was chosen to study introductory *usool*

    A. It's written by one of the great scholars of our times who was quite exceptional

    B. It's written in a very easy to follow style which is helpful to the student

    C. It's written in a brief style but has deep and detailed meanings

    D. It is specifically designed for a beginner level student to the science

    E. We will mainly use the text to study Hanbali *usool* because it mostly abides by it

        1. At times the author goes against the Hanbali school and those points will be clarified in light of the official position of the Hanbali school (*mu'tamad*)

            a) The author mainly abides by the opinions of Ibn Taymiyyah

X. Why we chose the Hanbali school to study and follow over others

    A. Imam Ahmad was the most knowledgeable about the Qur'an, Sunnah, statements of the companions and their students in comparison to the other imams

        1. You will hardly find a statement from Imam Ahmed that goes against the text of the Qur'an and Sunnah because he was the most knowledgeable about them

            a) He had memorized thousands of narrations and reports

2. Even when Imam Ahmad differs from the other imams over an issue, we find that Imam Ahmad's opinion is the most preferred (*raajih*) because he was very knowledge about the different opinions, actions, statements, etc. of the imams of the earlier generations before him

B. Imam Ahmad was an imam in fiqh as stated by Imam Shafi'

Definition of al-Usool al-Fiqh

I. The term al-Usool al-Fiqh is defined in two ways:
- A. **Individual approach**: each word is defined individually on its own
    1. al-Usool
        - a) Linguistically it means that which other things are based off of it
            - (1) Ex: the root of the tree is its *asl* from which it branches out
            - (2) The various rulings of permissibility, prohibition, etc. are based on certain principles (al-Usool) by which such rulings branch out from the evidence
                - (a) The sources from where these rulings are derived, such as the Qur'an, Sunnah, *ijmaa*, etc. are part of al-Usool
    2. al-Fiqh
        - a) Linguistically it means understanding
        - b) Technically it means knowing of legal rulings with their detailed evidence
            - (1) Knowing (*ma'rifah*) is of two types: knowledge (*'ilm*) and assumption (*zann*)
                - (a) Recognition of *fiqhi* rulings could be based on 100% certainty, known as *yaqeen* or *'ilm* according to the scholars of Usool, or more than 50% but less than 100%, known as *zann*. If it is most likely to be correct but still not 100%, then it is known as *ghalabat zann*
                - (b) Most of the rulings of *fiqh* come under *zanni* type of knowing
                    - (i) Rulings on the details of how to pray, fast, transactional law, etc.
                    - (ii) This is why much difference of opinion occurs among scholars in this category because different scholars weigh the evidence and then conclude on a ruling which they feel is most likely to be correct (*ghalabat zann*) and closest to the will of Allah and His Messenger
                - (c) Fiqh also contains rulings based on *yaqeeni* type of knowing
                    - (i) The obligation of the five daily prayers, obligation of zakkah, obligation to fast in Ramadan, etc.
                    - (ii) This is why no difference of opinion occurs in this category among the scholars
            - (2) Fiqh deals with studies related to Islamic legal rulings (*shari'*), such as, obligation, prohibition, recommendation, etc. and Islamic legal acts, such as, prayer, fast, hajj, zakkah, marriage, divorce, business deals, criminal punishments, etc.
            - (3) Fiqh excludes the following:
                - (a) Rulings extracted from reason
                    - (i) Ex: the whole is greater than its part
                - (b) Rulings extracted from habit
                    - (i) Ex: Light rain on a wintry night despite the atmosphere being clear during the day. Meaning people in a particular

area may expect light rain on a wintry night because that is what usually occurs in their area on a wintry night

        (c) Rulings related to theology (*aqeedah*)

            (i) Allah's Names and Attributes, His Oneness (*tawheed*), articles of faith, etc.

    (4) Fiqh deals with the detailed evidence behind the rulings

        (a) Ex: what is the evidence that it is required to have wudu before prayer, what is the evidence that we are required to fast in Ramadan, etc.

        (b) This is one of the things which distinguishes a jurist (*faqeeh*) from the masses. A jurist knows and can utilize the evidence to extract the rulings, whereas, the masses only know the rulings without their evidence

            (i) Ex: people in general know how to perform the five daily prayers but only a jurist knows the evidence behind why the prayer is prayed the way that it is

        (c) al-Usool al-Fiqh however studies only the general evidence

B. **Compound approach**: the two terms are defined collectively

    1. In this approach the two words al-Usool al-Fiqh are defined together as a study of the general *fiqhi* evidence, how to extract rulings from them, and the conditions related to the *mujtahid* (one qualified to do *ijtihaad*)

        a) Ex: It answers questions such as what is the sunnah, what are the types of sunnah, how are rulings derived from the sunnah, what is the Qur'an, how are laws derived from the Qur'an, what is *ijmaa*, how is *ijmaa* utilized to derive rulings, what are the sources of deriving laws, who is qualified to do *ijtihaad*, who is a *muqallid*, how do we know something is a command from the sources, how do we know something is forbidden from the sources, etc.

        b) Conditions related to the *mujtahid* are important because we are trying to understand the will of Allah and His Messenger through the rulings so we must assure that the one doing *ijtihaad* is qualified to do so

    2. Arabic language is a huge part of al-Usool, therefore, it must be studied beforehand to properly understand the science because many linguistic tools are used to understand rulings from the Qur'an and Sunnah

        a) Also because it is the language of the Qur'an and Sunnah

II. Words are defined in two ways

    A. Categorical definition (جنس)

        1. This is when a word is defined in a way that would include everything associated with that word in that definition

        2. Ex: the word علم (knowledge) in general includes all types of knowledge under it

    B. Dissociated definition (فصل)

        1. This is when the definition is restricted by adding exclusions to a general word

        2. Ex: what we discussed above about the word *fiqh* and its exclusions

III. Benefits of al-Usool al-Fiqh

    A. Better understanding of the source texts

    B. Ability to extract legal rulings from the evidence based on sound fundamentals

Rulings

I. Linguistically al-Ahkaam means judgement
II. Technically it means a communication from Allah, relating to the acts of those persons who are subject of law (مكلف), by way of demanding them to do or not to do (طلب) something or giving them a choice for its performance or declaring a thing to be the cause or condition or impediment or *azimah* and *rukhsah*, or valid, invalid or void
   A. The communication from Allah is coming through the Qur'an and Sunnah
      1. Not everything in the Qur'an and Sunnah is related to rulings so we are referring to only those verses and hadiths which relate to Islamic rulings
      2. Other sources of deriving Islamic law like analogical deduction, *ijmaa*, etc. branch out of the Qur'an and Sunnah. Meaning their basis is the Qur'an and Sunnah because we have verses and hadiths which teach us, directly or indirectly, to derive rulings from other sources
         a) In fact, the Qur'an is the main basis for all the sources because even the obligation to follow the Sunnah itself is derived from the Qur'an
         b) These other sources will be discussed later in the book insha'Allah
   B. The term 'acts' of the *mukallif* (مكلف) in the definition excludes beliefs of the *mukallif* because we do not study issues related to theology in al-Usool al-Fiqh
      1. *Mukallif* refers to one who is **pubescent** and **sane**
         a) This is the person that the Islamic rulings are generally directed towards. Those who are not *mukallif* are not the target of Islamic rulings in general because they are incapable of taking on responsibility
            (1) They may be subject through other means, such as, their wealth being taxed with zakkah through a guardian
   C. The demand to do or not to do something could be in statement or action
      1. Statement example: command to recite Fatiha in the prayer
      2. Action example: command to pray five times a day
   D. Islamic rulings come under one of two categories
      1. al-Hukm al-Taklifi (defining law)
      2. al-Hukm al-Wadi' (declaratory law)
   E. In the Hanbali school, if all of the conditions (شروط), pillars (أركان), and obligations (واجبات) of a legal act are met, then it is considered complete, valid and accepted by Allah insha'Allah. If not, then it is considered incomplete, invalid and unacceptable to Allah
      1. There is a difference of opinion among the scholars over this issue but this is the official position of the Hanbali school
      2. Ex: A Muslim couple are considred married once all the requirements for the marriage contract have been fulfilled, thus, they may both sexually enjoy each other

III. al-Hukm al-Taklifi (Defining Law)
   A. Means when the communication is made in the form of a **demand** to do or not to do something or it is left optional
      1. Ex: praying five times a day (do something), abstaining from adultery (not to do something), eating vegetables (left optional), etc.
   B. All actions of a *mukallif* can be categorized into the following five al-Hukm al-Taklifi (الحكم التكليفي) categories:

1. Obligatory (وجوب) - whatever Allah has commanded to be done and has made it obligatory
   a) An order given by Allah (the Lawgiver) for which you deserve punishment if you abstain from it and reward if you fulfill it
   b) Ex: praying five times a day
2. Recommended (استحباب) - whatever Allah has commanded to be done but has not made it obligatory
   a) An order given by Allah for which you do not deserve punishment if you abstain from it but reward if you fulfill it
   b) Ex: the sunnah prayers
3. Permissible (إباحة) - whatever is neither connected to obligation nor prohibition
   a) Something you are neither commanded to do nor prohibited from doing. It carries neither reward nor punishment for doing or abstaining from it
   b) Ex: eating vegetables
   c) Something that originally carries the ruling of *ibaahah* can change to something else in particular situations due to other factors
      (1) Ex: driving your car to the mosque for *Jumu'ah* prayer is *ibaahah* (permissible), but if you will miss it and the only way to catch the *Jumu'ah* prayer on time is to go in your car, then it becomes *wajib*; walking for women is permissible but it becomes disliked if they walk to the graveyard because it is disliked for women to visit graves, etc.
4. Disliked (كراهة) - whatever Allah has prohibited but has not made it obligatory to abandon it
   a) A prohibition from Allah for which you do not deserve punishment if you do it but reward if you abstain from it
   b) Ex: taking and giving with the left hand, women visiting graves, removing armpit and pubic hair after forty days, etc.
5. Prohibition (تحريم) - whatever Allah has prohibited and has made it obligatory to abandon it as well
   a) A prohibition from Allah for which you deserve punishment if you do it and reward if you abstain from it
   b) Ex: disobeying your parents, committing adultery, other major and minor sins

IV.   al-Hukm al-Wadi' (Declaratory Law)

A. Whatever the Lawgiver (Allah) has placed as signs for something to be confirmed, absent, come into effect, or nullified
   1. Meaning this type of law enacts something through a cause (سبب), a condition (شرط) or a hindrance (مانع) to the defining law
      a) Ex: the setting of the sun being a *cause* for the obligation of praying Maghrib, wudu being a *condition* for prayer, murdering a close relative being a *hindrance* for inheriting from their wealth, etc.
         (1) The setting of the sun, prayer, and murdering a close relative are signs for the al-hukm al-wadi' (الحكم الوضعي) associated with them to come into effect
   2. It answers questions like how can we confirm that a deceased's property can be transferred to his inheritor? The answer is the Lawgiver has made blood relations a *cause* for inheritance

a) The blood relation in this example is a *sign* for the ruling of inheritance to take effect

3. Coming into effect or becoming nullified are referring to sale transactions. If a sale contract is valid, then it will be put into effect, if not, then it will be voided
   a) Ex: in order for a sale contract to be valid, it must fulfill certain conditions. Those conditions are *signs* for the transfer of the property from the seller to the buyer
      (1) Examples of such conditions: the seller must own the property, both parties agree to the sale, the price is known, etc.

B. This type of law generally falls into one of the following five categories:
   1. Cause/Reason (سبب)
      a) Its existence requires the existence of the ruling and its absence requires the absence of the ruling
         (1) Ex: the sun setting is a cause that obligates Maghrib prayer, hence, it is not allowed to be prayed before sunset because the absence of the cause (i.e. sunset) necessitates the absence of the ruling (i.e. obligation to pray Maghrib)
   2. Condition (شرط)
      a) A prerequisite whose absence necessitates the absence of the ruling but its presence does not obligate the ruling
         (1) Ex: wudu is a prerequisite for the validity of the prayer but just because you have wudu does not mean you must pray
   3. Impediment or obstacle (مانع)
      a) Something that prevents the ruling from being applied even if the cause is found and the condition is met
         (1) Ex: a son who killed his father will be prevented from inheriting from that parent, difference of religion between family members will be an obstacle to inherit from each other, times of prohibition prevent from performing general supregatory prayers, the second *adhaan* of Friday prayer prevents buying or selling for those on whom Friday prayer is obligatory, etc.
      b) It is the opposite of condition (شرط)
   4. Azima and Rukhsah (العزيمة والرخصة)
      a) The Shaykh did not explain this one but I found the following from another source:
         (1) Azima (العزيمة)
            (a) The Lawgiver (Allah) may indicate that a ruling is to be considered as obligation imposed initially as a general rule
         (2) Rukhsah (الرخصة)
            (a) An exemption from the general rule
               (i) Ex: consuming pork is prohibited as a general rule (العزيمة), but under duress one is permitted to consume it (الرخصة)
   5. Valid and Invalid (الصحيح والفاسد/الباطل)
      a) In general, it means that an act that is obligatory, recommended or permissible may be required to be performed in a certain manner by the Lawgiver (Allah). If the act is performed properly it is deemed as valid (الصحيح) otherwise it is null and void (الفاسد/الباطل)
      b) Valid (الصحيح)

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        (1) Linguistically it means to be safe from illness

        (2) Technically it means whatever ensues the consequences of an action whether in worship or a contract

            (a) In the context of worship, it means whatever frees the *mukallif* from the obligation and drops the requirement from him

                (i) Ex: praying Asr prayer drops the obligation from the *mukallif*. Meaning once he has completed the prayer, the obligation to pray Asr prayer is dropped from him

            (b) In the context of a contract, it means the consequences of the contract come into effect

                (i) Ex: the ownership of a commodity transferring to the buyer in a valid (الصحيح) sale contract

        (3) As long as all the conditions (شروط), pillars (أركان), and obligations (واجبات) for the act are completed and there are no obstacles (المانع) in place that prevent the ruling from taking effect, the act is considered valid

            (a) If the conditions, pillars or obligations are not met or there are obstacles in place, then the act is considered invalid (الفاسد) and must be repeated to drop the obligation

                (i) Ex: a person who purposely eats during the day in Ramadan must make up the fast because the eating invalidated the fast, a person who prays without wudu must repeat the prayer, a person who sells something he does not own invalidates the sale and the commodity goes back to the original owner, etc.

    c) Fasid (الفاسد)

        (1) It is the opposite of valid

        (2) Linguistically it means going to waste and loss

        (3) Technically it means whatever does not ensue the consequences of an action whether in worship or a contract

            (a) In the context of worship, it means whatever does not free the *mukallif* from the obligation nor drop the requirement from him

                (i) Ex: praying before the time for prayer has entered. If someone did so, the prayer would be considered invalid and it must be repeated in its appropriate time

            (b) In the context of a contract, it means the consequences of the contract do not come into effect

                (i) Ex: a buyer selling something unknown. For example, he says, "I will sell you a random car for $10,000." This would invalidate the sale because in order for the sale to be Islamically valid, the specific commodity must be known

        (4) All invalid acts in worship, contracts, or conditions are considered prohibited because they are transgressions against the restrictions set by Allah and taking them as a joke

            (a) Provided the person knows that the act is invalid

            (b) Ex: someone selling something that they do not own without the owner's permission, eating while Fasting in Ramadan, praying

without wudu, etc. are all prohibited if the person committing them knew that such acts are invalid

(5) Fasid (الفاسد) and Batil (الباطل) both mean the same thing, which is invalid, except in two cases:

    (a) While in the state of ihraam for Hajj

        (i) *Fasid* (الفاسد) - If someone has sex <u>before completing the first stage</u> of Hajj

            (a) This invalidates their Hajj but they must still continue with the rest of the rites of Hajj. They are also required to make up Hajj the following year

        (ii) *Batil* (الباطل) - If someone aposticizes from the religion while in the state of ihraam at Hajj and then repents

            (a) This invalidates his whole Hajj and he must start over and cannot just continue with the rest of the rites. If it's too late to start over, then he must make it up the following year

    (b) Marriage contract

        (i) *Fasid* (الفاسد) - if something is done over which the scholars differ if it invalidates the marriage contract or not

            (a) Ex: getting married without the permission of a bride's guardian

        (ii) *Batil* (الباطل)- if something is done over which the scholars are agreed that it invalidates the marriage contract

            (a) Ex: marrying a woman who is still in her waiting period (عدة) due to a divorce or recently becoming a widow

Knowledge

I. In this chapter, we discuss the Islamic theory of knowledge
   A. We look into questions such as: What is knowledge? What are its types? What are the sources of obtaining knowledge, etc.
II. Def: Knowledge (علم) is a definitive realization of something based on its true reality
   A. Not having any realization or understanding of something is referred to as **plain ignorance**
      1. Ex: if someone asks you when the battle of Badr took place and you respond, "I don't know"
   B. Realization or understanding of something based on a false reality is referred to as **compound ignorance**
      1. Ex: if someone thinks that the battle of Badr took place in the year 3 AH. This is false because it took place in the year 2 AH
   C. **Definitive realization** means that there is no doubt about it. The reality of the issue is exactly as one understands it to be true and there is no possibility of it being something different
      1. Ex: the sun rises from the East and sets in the West. There is no doubt about this fact, it is a definitive form of knowledge
      2. If an understanding of something is based on giving preference to one opinion over another based on the evidence, then it is called **assumption (ظن)**
         a) The weaker opinion of the two is called **delusion (وهم)**
      3. If two opinions are equal in evidence and there is no way to give preference to one over the other, then it is called **doubt (شك)**
III. Based on the above, we can categorize the understanding of something into six categories:
   A. Knowledge
      1. A definitive understanding of something based on its true reality
   B. Plain ignorance
      1. Complete ignorance of something. Meaning you do not know anything about it
   C. Compound ignorance
      1. False understanding of something. Meaning you believe it to be true but it is actually false
   D. Assumption
      1. Understanding of something by giving preference to one opinion over another based on the evidence with the **possibility** of the weaker opinion being true
      2. **Most** rulings of fiqh come under this category because different Muslim jurists evaluate the evidence and then give **perference** to one opinion over others based on the **evidence**
         a) The other opinions also have the possibility to be right because they have evidence behind them as well, this is why it is not considered sinful to follow other legitimate opinions of Muslim jurists
      3. The verses and hadiths which criticize assumption (ظن) are speaking about the type that is not based on evidence but just rumors and guesses
   E. Delusion
      1. Understanding of something based on a weaker opinion with the possibility of the preferred opinion being true
   F. Doubt

1. Understanding of something with the possibility of the two opinions not being equivalent

IV. Modality of knowledge

    A. How knowledge is derived can be divided into two types:

        1. **Essential knowledge**: something arrived at without speculation or inference

            a) Meaning the reality of this type of knowledge is so obvious that there is no reason to speculate or infer it from something else

                (1) Our intellect immediately realizes the truthfulness of it

                (2) Ex: a whole apple is greater in size than half an apple, fire is hot, ice is cold, etc.

            b) This type of knowledge can further be subdivided into the following three types:

                (1) **Natural**: what we realize and know innately

                    (a) Ex: a whole of something is greater than its part

                (2) **Sensory**: what we realize and know through the five senses (sight, smell, touch, hearing, and taste)

                    (a) Ex: fire is hot, ice is cold, the sun is bright, sugar is sweet, etc.

                (3) **Continuous succession (tawaatur)**: reports of the message of the Prophet Muhammad (pbuh) and his miracles transmitted to us through contiuous reports generation after generation from numerous people of various backgrounds all over the world that it is impossible for them to all have agreed upon a lie

                    (a) This is the strongest form of essential knowledge

                    (b) The truthfulness of the Prophet Muhammad (pbuh) has reached us through this method

                    (c) Prophetic miracles have also reached us through this method: when a prophet of God is given a miracle that is indicative of the truthfulness of his prophethood

                        (i) Moses splitting the sea, Jesus bringing the dead back to life, etc.

                        (ii) Directly witnessing a prophetic miracle is also a form of essential knowledge

        2. **Speculative knowledge**: something arrived at through speculation and inference after evaluating the various evidence

            a) It is the opposite of essential knowledge

            b) Some opinions are given preference over others based on the evidence

                (1) Goal is to try to arrive at the truth to the best of your ability based on the evidence

            c) Ex: wudu is required for prayer, etc.

Speech

I. This chapter introduces some of the linguistic aspects of Arabic language and expression
    A. Linguistic aspects of the Arabic language are essential to learn in order to properly understand the Qur'an and Sunnah because they are in Arabic

II. Linguistically speech (الكلام) means articulation of a subject in a meaningful way
    A. In other words, the expression articulated has some sort of meaning that can be understood
    B. So this excludes sounds that come out of mouths that have no meaning
        1. Ex: blah blah blah

III. Technically it means a useful articulation of something
    A. Ex: Allah is our Lord, Muhammad (pbuh) is our prophet, etc.
    B. So this excludes saying words that are not useful though they may be understandable
        1. Ex: it was said, Zayd, it was eaten, etc.
            a) It doesn't tell you anything useful to make sense out of it
    C. The linguistic meaning is more general than the technical one
        1. So something could be linguistically considered speech but not technically
            a) Ex: it was eaten

IV. The least amount necessary in a sentence for it to be considered technically speech is either:
    A. A sentence with two nouns
        1. Ex: محمد رسول الله
    B. A sentence with a verb and a noun
        1. Ex: استقام محمد

V. Every single word in a speech carries a unique meaning and is either a noun, a verb, or a particle
    A. Noun: a word that indicates a meaning by itself without note to time
        1. In other words, a noun carries a meaning on its own and its meaning and form do not change based on time as with verbs in Arabic. It carries one and the same meaning the whole time
            a) Ex: the name Muhammad carries a meaning on its own in a sentence and will not change based on time
        2. Noun is of three types:
            a) That which utilizes generality (عموم)
                (1) This includes all individuals under it that fit the criteria
                (2) Ex: relative pronoun - "**Those** who live in a green house will be given $100."
                    (a) This means **all** those who live in a green house will get $100
            b) That which utilizes absolutes (إطلاق)
                (1) This is when one person that fits the criteria **suffices** the rest, thus, the rest are not included
                (2) Ex: indefinite nouns - "Give this gift to **a student** in the class."
                    (a) This means you can give it to **any** student in the class but **not** all students
            c) That which utilizes particulars (خصوص)
                (1) This is when a **specific** thing or person is mentioned by name
                (2) Ex: "**Khalid** ate the apple."

(a) From this we understand that it is Khalid who at the apple and no one else

B. Verb: a word that indicates a meaning by itself but its formation is dependent on time
   1. In the Arabic language verbs can change form and fall into one of three types:
      a) Past tense
         (1) Ex: He understood (فهم)
      b) Present/future tense
         (1) Ex: He understands (يفهم)
         (2) Ex: He will understand (سيفهم)
      c) Command form
         (1) Understand! (إفهم)
   2. Verbs utilize absolutes (إطلاق) and not generalities (عموم)
      a) Ex: If someone says in command form, "Eat an apple!", they mean **any** apple and **not** all apples

C. Particle: a word that indicates a meaning through other means and not by itself
   1. Examples from the Arabic language:
      a) The letter و
         (1) Means 'and' and is a conjunction
         (2) It includes participation from both sides of the conjunction in the ruling and does not necessitate a particular order by default
            (a) Ex: "Thank Zayd and Muhammad"
               (i) It means thank them both and it doesn't matter in which order
            (b) If there is evidence to suggest a particular order, then that is how it will be understood
               (i) Ex: "Thank Zayd and Muhammad. Start with Muhammad."
                  (a) In the first sentence we do not necessitate a particular order but due to the second sentence, we understand that we must begin in a particular order
      b) The letter ف
         (1) Means 'then' and is a conjunction
         (2) It includes participation from both sides of the conjunction in the ruling but with a particular order by default
            (a) Can be utilized in two ways
               (i) To indicate immediate execution one after the other
                  (a) Ex: "Thank Muhammad then Zayd."
               (ii) To indicate a particular order but not immediately after
                  (a) Ex: "The rain watered the field, then the plants came forth."
                     (i) The plants didn't come immediately after but took a while
         (3) It is also used to indicate causality or to explain something
            (a) Ex: "Do not transgress the limits of Allah [because] then you will receive His wrath."
               (i) Transgressing against Allah is the cause to His wrath
      c) Laam al-Jaarah (لام الجارة)
         (1) Has multiple meanings. The ل could indicate:

(a) Explanation

(b) Ownership

    (i)   Ex: الكتاب لزيد (The book belongs to Zayd)

(c) Permissibility

    (i)   Ex: أنت و مالك لأبيك (Hadith: You and your wealth are permissible for your father)

        (a) Books of fiqh discuss the details but in brief it means that it is permissible for the father to take from his son's wealth whatever is customarily acceptable

d) Alaa al-Jaarah (على الجارة)

    (1) It has multiple meanings and among them is the meaning of obligation

        (a) Ex: عليك كذا بكذا (You are obligated with such and such)

VI. Types of Speech

A. There are two types

    1. Khabar (خبر)

        a) Whatever is possible to be described as truth or false on its own

            (1) Ex: "I met your father yesterday", "I have a new car at home", etc.

                (a) Meaning you can confirm if such reports are true or not and label them as such

        b) It is of three types

            (1) That which is impossible to be described as false

                (a) Ex: whatever Allah reported to us in the Qur'an or whatever reached us authentically from the Prophet Muhamamd (pbuh)

            (2) That which is impossible to be described as truth

                (a) Could be Islamically impossible

                    (i)   Ex: someone claiming to be a prophet of God after Muhammad (pbuh)

                (b) Could be logically impossible

                    (i)   Ex: something moving and being still at the same time

            (3) That which is possible to be described as either true or false. It could come in two forms:

                (a) They could both be equal

                    (i)   Meaning there is a 50-50 chance of it being either true or false. There is no way to give one preference over the other

                (b) One of them can be given preference over the other

                    (i)   Meaning some factors could indicate if a report is more likely to be true or false

    2. Inshaa (إنشاء)

        a) Whatever is not possible to be described as true or false

            (1) Ex: "O Allah forgive me, O Allah provide for me", "Bring me water", "Don't go into that store", etc.

                (a) It includes supplications, commands and prohibitions

B. Speech could come in the form of a khabar and inshaa both from different perspectives

    1. Ex: "I sold a car"

a) From the perspective of the seller, it is khabar. However from the perspective of ensuing the contract, it is inshaa

C. Speech could come in the form of a khabar but actually intend by it inshaa and vice versa to bring some sort of benefit to the speech

1. Khabar but intend inshaa example

a) وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ

"Divorced women remain in waiting for three periods" (Quran 2:228)

(1) It is written like a khabar but a command (inshaa) is intended. The benefit of it to do it this way is to give emphasis to the command. It is a form of eloquence (بلاغة)

2. Inshaa but intend khabar example

a) وَقَالَ الَّذِينَ كَفَرُوا لِلَّذِينَ آمَنُوا اتَّبِعُوا سَبِيلَنَا وَلْنَحْمِلْ خَطَايَاكُمْ

"And those who disbelieve say to those who believe, "Follow our way, and let us carry your sins"" (Quran 29:12)

(1) In Arabic the phrase "let us carry (وَلْنَحْمِلْ)" is written like a command (inshaa) but khabar is intended

VII. Actuality and Metaphor

A. Actuality (حقيقة)

1. Def: when a word is used to denote its actual meaning

a) Ex: using the word 'lion' for the actual predator animal

2. It can be divided into three types:

a) Linguistic - when a word is used with the linguistic meaning imposed on it

(1) Ex: the word 'salah' (صلاة) in Arabic linguistically means supplication

(2) Utilized by linguists

b) Islamic - when a word is used with the Islamic meaning imposed on it

(1) Ex: the word 'salah' (صلاة) in Arabic Islamically means the specific way of performing the Muslim prayer from *takbeer* to *tasleem* as done with the five daily prayers

(2) Utilized by Muslim jurists and books of fiqh

c) Cultural - when a word is used with the cultural meaning imposed on it

(1) Ex: the word 'daabah' (دابة) in Arabic culturally means any animal on four legs but linguistically it refers to any living creature on Earth whether man or beast

(2) Utilized by the general public in an area

(3) There are two types of cultural meanings

(a) General culture

(i) How a word is used among the masses in an area

(b) Specific culture

(i) How a word is used among a certain group of people or under a specific subject/science

(ii) Ex: doctors, scientists, specialists, medicine, engineering, etc.

3. How do we know if a word is being used in a linguistic, Islamic or cultural sense?

a) We determine it based on the context and who is using it

           (1) Ex: in books of fiqh or in the speech of jurists we will determine it to be an Islamic meaning, in books of language or in the speech of linguists we will determine it to be a linguistic meaning, etc.

B. Metaphor (مجاز)

    1. Def: when a word is used to denote other than its actual meaning

        a) Ex: using the word 'lion' to refer to a brave man

    2. Words in general are understood to be actual in meaning unless there is evidence to indicate that a metaphorical meaning is intended

        a) We determine it based on the context of the speech

            (1) Ex: "There is a lion holding a sword on the battlefield"

                (a) This is clearly referring to a brave person and not the actual animal

    3. In order to properly use metaphor, there must exist some sort of connection or relationship between the actual and the metaphorical meanings

        a) If there is a resemblance in the connection, then it is a figure of speech (استعارة)

            (1) Ex: Lion being used to refer to a brave man because a lion is also considered brave

        b) If there is no resemblance but some sort of other connection, it is called either:

            (1) Transmitted metaphor (مجاز مرسل)

                (a) When the metaphor is done in the words by transferring meaning of words to other words

                    (i) Ex: If a farmer says, "We pasteurized the rain"

                        (a) In reality, the 'rain' means 'grass'. So the statement means that we took the animals out to graze the grass

                (b) This type sometimes can come with addition or deletion of words

                    (i) Addition example (لَيْسَ كَمِثْلِهِ شَيْءٌ)

                        (a) The ك is additional to emphasize negating anything similar to Allah

                    (ii) Deletion example (وَاسْأَلِ الْقَرْيَةَ)

                        (a) The word أهل is missing but is intended by it

            (2) Intellectual metaphor (مجاز عقلي)

                (a) When the metaphor is done in the attribution by attributing an action to other than its doer

                    (i) Ex: "The rain made the grass grow"

                        (a) In reality, it is Allah that made the grass grow

C. We need to know these things because the Qur'an and Sunnah both use actual and metaphorical language, therefore, we must know these things to properly be able to understand them

D. Most Muslim jurists of the later period acknowledge the existence of actual and metaphorical language in the Qur'an and outside of it

    1. This is the official position (*mu'tamad*) of the Hanbali school as well

    2. Some scholars say that there is no metaphor in the Qur'an

        a) They don't like the idea of the Qur'an intending one thing but saying something else

    3. Some scholars say there is no metaphor at all neither in the Qur'an nor outside of it

a) Scholars who hold this view: Ibn Taymiyyah, Ibn Qayyim, Abu Ishaaq al-Isfrayeeni, Muhammad Ameen Shanqeeti, Ibn 'Uthyameen, etc.

Command

I. Def: A statement that contains a demand for action coming from a place of ascendancy
   A. Ex: when Allah tells us in the Qur'an to "Establish the salah and give the zakkah"
   B. It must be an actual statement and cannot be something that is just alluding to a command
   C. There must be a demand to initiate some sort of action with the limbs, thus, this excludes prohibitions because they demand abandoning an action and not initiating one with the limbs
   D. Place of ascendancy means that the command is coming from a higher authority
      1. This means it will exclude statements that sound like commands but actually are not such as:
         a) Requests: it is usually an optional demand that does not require an action
         b) Supplications: they are done by inferiors (humans) to someone superior (Allah)

II. Command Formulations
   A. Commands are formulated generally in Arabic in the following four formats:
      1. Imperative verb (فعل الأمر)
         a) Ex: اتْلُ مَا أُوحِيَ إِلَيْكَ مِنَ الْكِتَابِ وَأَقِمِ الصَّلَاةَ
      2. Noun imperative verb (اسم فعل الأمر)
         a) Ex: حي على الصلاة
      3. Verbal noun being used as an imperative verb (المصدر النائب على فعل الأمر)
         a) Ex: فَإِذَا لَقِيتُمُ الَّذِينَ كَفَرُوا فَضَرْبَ الرِّقَابِ
      4. Present tense verb connected with *laam* of command (لام الأمر)
         a) Ex: لِتُؤْمِنُوا بِاللهِ وَرَسُولِ
   B. Demand for action can also come in the form where it is not formulated like any of the four above, however, it is understood to be a demand for action:
      1. Examples include:
         a) Declaring an action to be *fardh*
            (1) Ex: "Allah has made the five daily prayers *fardh* on you"
         b) Declaring an action to be *waajib*
            (1) Ex: "Showering on Friday is *waajib* on every pubescent Muslim"
         c) Recommending an act
            (1) Ex: "If I did not fear hardship for my ummah, I would command miswak before every prayer"
         d) Obedience to someone
            (1) Ex: "Whoever obeys my *ameer* has obeyed me", "Obey Allah and His Messenger"
         e) Praising a doer of an act
            (1) "May Allah have mercy on the one who prays four units of prayer before Asr"
         f) Criticizing abandonment of an act
            (1) Ex: "If anyone abandons archery after becoming an adept through distaste for it, it is a blessing he has abandoned"
         g) Indicating a reward for doing an act
            (1) Ex: "Whoever sends upon me a salah, Allah will send upon him ten"

h) Indicating a punishment for not doing an act
   (1) Ex: "Whoever abandons three Jumu'ahs out of disdain, Allah will place a seal over his heart"

III. What Does a Command Necessitate?

A. Formulation of an absolute command necessitates the following two things:
1. The command becoming an obligation
   a) Meaning it is an order given by Allah for which you deserve punishment if you abstain from it and reward if you fulfill it
   b) However, this is given the condition that there is no context restricting the obligation in some way or another text indicating it to be just recommended. This is why it is said that an actual command comes in an absolute form
      (1) Ex: hadith about visiting graves is seen as recommended even though it comes in a command form
2. Acting on it immediately
   a) General principle is that whatever is obligatory, then rushing to fulfill it immediately is also obligatory. Similarly, whatever is recommended, then rushing to fulfill it immediately is also recommended

IV. Sometimes words come in a command form but do not really intend a command by them. It is a form of metaphor. We determine this by the context or other proofs outside of that text. Instead, such commands either mean:

A. Recommendation
1. Ex: "And **take witnesses** when you conclude a contract" (Quran 2:82). This verse seems to suggest a command but we know from the sunnah that the Prophet (pbuh) bought a horse but did not take witnesses, thus, it is understood to be a recommendation

B. Permissibility
1. Such type mostly comes after a prohibition is mentioned or as an answer and clarification to the one who imagines something to be forbidden
2. Ex: "But when you come out of *ihraam*, **then hunt**" (Quran 5:2) is understood to be indicating permissibility only and not obligation because the verse before it says, "hunting not being permitted while you are in the state of *ihraam*" (Quran 5:1); when various companions were asking the Prophet (pbuh) if certain hajj rites were permissible to perform before others

C. Threat
1. Ex: "The truth is from your Lord, so whoever wills - let him believe; and whoever wills - **let him disbelieve**" (Quran 18:29). Obviously Allah is not commanding us to disbelieve but the context makes it clear that it is a form of threat to those who choose to disbelieve

V. Some commands do not require immediate fulfillment but can be delayed

A. Ex: making up missed Ramadan fasts after the holy month
1. You have an entire year to make them up
2. We derive this from a hadith from Aisha where she would delay her missed Ramadan fasts during the Prophet's (pbuh) time
   a) If it was forbidden, then the Prophet (pbuh) would have said something to her, thus, his silence is an approval that they do not need to be made up immediately

VI. Principle: The Means Take the Same Ruling As the End

    A. Meaning any means that lead to fulfilling an obligation also become obligatory and any means that lead to a prohibition also become prohibited

        1. Ex: covering the *awrah* is obligatory, thus, any means that lead to covering it are also obligatory (going to the store, purchasing the clothes, putting them on, etc.). Similarly, *zina* is prohibited, thus, any means that lead to it are also forbidden (getting into the car, driving to meet the person, being alone with the person, touching them, etc.)

    B. The same goes for recommended acts: all means that lead to fulfilling a recommended act also become recommended

Prohibition

I. Def: A statement that contains a demand to refrain from an act from a place of ascendancy through the use of the prohibitive *laa* (لا الناهية)

    A. Ex: وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ كَذَّبُوا بِآيَاتِنَا وَالَّذِينَ لَا يُؤْمِنُونَ بِالْآخِرَةِ

        "And **do not** follow the desires of those who deny Our verses and those who do not believe in the Hereafter" (Qur'an 6:150)

    B. It must be a direct statement and not something alluding to it

    C. Commands are not included because they demand an action from the limbs and not a demand to refrain from one as discussed in the previous chapter

    D. From a place of ascendancy means that the prohibition comes from a place of higher authority, thus, it excludes requests, which are optional, and supplications, which are done by someone inferior (human) towards someone superior (Allah)

    E. Technically, in Arabic it is only considered an actual prohibition if it is written with the prohibitive *laa*

        1. However, demand to refrain from an act can also be indicated in other ways:

            a) Describe something to be forbidden, dangerous or ugly

                (1) Ex: "Forbidden to you are your mothers in marriage"

            b) Dispraising the doer of an act

                (1) Ex: when Allah in the Qur'an dispraises the one who backbites

            c) Indicating a punishment for doing an act

                (1) Ex: hadith about the two men being punished in the grave because one used to not save himself from urine drops while the other spread malicious gossip (*nameemah*)

II. What Does a Prohibition Necessitate?

    A. Formulation of an absolute prohibition necessitates the following two things:

        1. The act itself becoming prohibited

            a) This is the **al-hukm al-taklifi** side

                (1) Meaning it is a prohibition from Allah for which you deserve punishment if you do it and reward if you abstain from it

                    (a) Ex: buying and selling is prohibited after the second *adhaan* of Friday prayer for those for whom it is obligatory to pray it

        2. Invalidity of the act (فساد)

            a) This is the **al-hukm al-wadi'** side

                (1) Meaning the act is considered invalid

                    (a) Ex: the sale is invalid for those who buy or sell after the second *adhaan* of Friday prayer for those for whom it is obligatory to pray it

            b) Important Hanbali principles on this issue:

                (1) If the prohibition occurs directly **in the act itself** or one of its **conditions**, then it invalidates that **whole** action

                    (a) Ex: fasting on the day of Eid will invalidate the fast because it is prohibited in itself; a man wearing clothes made out of silk will invalidate his prayer because he is covering his *awrah*, which is a condition for prayer, with a prohibited type of cloth, etc.

(2) If the prohibition occurs **outside of the act** and is **not** directly related to the **act itself or its conditions**, then it does **not** invalidate the action

(a) Ex: if a man wears a gold ring during prayer, it will not invalidate his prayer even though he is wearing something forbidden on his finger, because it is neither related to the essence of the prayer nor one of its conditions; if someone sells something through deception by hiding some of the defects of the product, then it will not invalidate the sale because it is neither directly related to the act of selling itself nor one of its conditions (even though the act of deception is still forbidden in this case), etc.

III. Sometimes words are used in a prohibitive form but do not actually mean prohibition. It is a form of metaphor. We determine this by the context or other proofs outside of that text. Instead, such prohibitions either mean:

A. Dislikeness (الكراهة)
1. Ex: "Do **not touch** your penis with your right hand while urinating"
   a) The majority of the scholars understood this to mean that it is disliked and not prohibited because it is only a part of a human being. They said the purpose of the hadith is to emphasize excluding the right hand from such acts

B. Advice/guidance (الإرشاد)
1. Ex: "O Mu'adh, by Allah, I love you and advise you **not** to miss supplicating (لا تدعن) after every prayer by saying: 'اللهم أعني على ذكرك وشكرك، وحسن عبادتك' (O Allah, help me remember You, expressing gratitude to You and worship You in the best manner)"
   a) This is just an advice from the Prophet (pbuh) to Mu'adh and not a prohibition

IV. Whom Do the Commands and Prohibitions Apply to?

A. All of the commands and prohibitions are directed towards the *mukallaf* (المكلف)
1. *Mukallaf* is the one who is **pubescent** and **sane**
2. By commands we mean obligations and recommendations because they are both demands for action
3. By prohibitions we mean prohibited acts and disliked acts because they both demand abstaining from an action

B. Pubescent
1. A child is not considered sinful nor held responsible for fulfilling commands and avoiding prohibitions until he/she reaches the age of puberty
   a) However, they will be commanded to perform certain acts of worship like the five daily prayers and prevented from committing sins when they reach the age of *tamyeez* (7 yrs old) in order to train them and build a habit
2. Signs of puberty
   a) Any one of the following signs indicates that the person has reached the age of puberty:
      (1) Wet dream or release of semen
      (2) Hair around the pubic area
      (3) Reach 15 years of age in lunar years
   b) There is another sign for a girl:
      (1) Begin menses

C. Sane

1. A person who has no sanity is not considered sinful nor held responsible for fulfilling commands and avoiding prohibitions
    a) However, such a person's guardian will prevent him from transgressing against others or causing other types of harm in society
2. If an insane person fulfills a command, it will be considered invalid due to the absence of intention for obedience to Allah
    a) Ex: if he prays or fasts then it will not be counted
    b) Being sane is one of the conditions for an act of worship to be considered valid
D. There are some commands that apply to everyone, including children and the insane
    1. Ex: zakkah on wealth
        a) This is because the ruling in this case is connected and directed towards the wealth and not the person. The obligation to give zakkah applies to all wealth that reaches the minimum amount necessary to obligate zakkah (نصاب). Thus, if the wealth of a child or an insane person reaches that amount, then it is obligatory to pay zakkah from it
            (1) It is the application of **al-hukm al-wadi'** and not *al-hukm al-taklifi*
E. Non-Muslims who are pubescent and sane
    1. The Muslim scholars differed over this issue and whether non-Muslims who are *mukallaf* are responsible for the Islamic commands and prohibitions or not
        a) The official Hanbali position is that they are also responsible even though they do not follow nor believe in our religion
            (1) Meaning they will be held responsible, considered sinful, and punished in the afterlife for not performing their obligations nor abstaining from prohibitions in the Qur'an and Sunnah
                (a) Proof: Qur'an 74:42-47
                (b) If they convert to Islam, then they are not required to make up whatever they've missed. They can start anew
            (2) If they performed Islamic duties while remaining non-Muslims, it will neither be valid nor accepted from them by Allah because being a Muslim is a condition for Islamic duties being valid and accepted. This is because Allah Says, "The only thing that prevents what they give from being accepted is the fact that they defy God and His Messenger" (Qur'an 9:54)

V.   Obstacles to Taklif
A. The following three things prevent the *mukallaf* from being held responsible, thus, he would not be considered sinful if he abstained from an obligation or acted on a prohibition in the following cases:
    1. Ignorance
        a) It is the absence of knowledge. This is when someone does not know about something at all
        b) There is no sin on the *mukallaf* if he did something prohibited while not knowing that it was prohibited
            (1) Ex: he spoke during the salah
        c) Whoever abstained from an obligation (واجب) while not knowing that it was an obligation is not required to make it up if it's time has passed

(1) Ex: someone did not know that reciting Bismillah before ablution is obligatory (واجب) and then realized after he was done, In this case, he is not required to redo his ablution

    (a) If he realized while making ablution, then he should say it and continue and does not need to repeat it from the beginning

(2) Acts of worship contain conditions (شروط), pillars (أركان), obligations (واجبات), and recommendations (سنن). **Obligations** are **overlooked** in cases of **ignorance** and **forgetfulness** but not pillars and conditions, which must be made up

    (a) Pillars example: if someone forgot to recite Surah Fatiha in a unit of prayer (ركعة), even if due to ignorance or forgetfulness, must repeat that unit; if someone forgot to wash his face during ablution, even if due to ignorance or forgetfulness, must repeat the ablution, etc.

        (i) Surah Fatiha is a pillar of prayer and washing the face is a pillar of ablution

    (b) Conditions example: if someone prayed without ablution thinking that it was not required, even if due to ignorance or forgetfulness, must make up the prayer, etc.

2. Forgetfulness
    a) This is when someone knows about something but forgets
        (1) Ex: someone breaks his ablution but then forgets and thinks that he is still in a state of ablution
    b) There is no sin on the *mukallaf* if he did something prohibited out of forgetfulness
        (1) Ex: he eats while fasting in Ramadan
    c) Whoever abstained from an obligation (واجب) out of forgetfulness is not liable as long as he remains forgetful, however, he must do it as soon he remembers
        (1) Ex: he forgets to pray Asr because he was busy and lost track of time and now it's Maghrib, someone overslept and missed Fajr prayer, etc.
            (a) As soon as he remembers that he did not pray, he should do so immediately in such cases

3. Force
    a) This is when someone is forced to do something he does not want
    b) There are two conditions for something to be considered forced:
        (1) The one forcing has the ability to enforce it
        (2) The force occurs in the five necessities: religion, life, intellect, honor, and wealth
            (a) Meaning the enforcer threatens the person in one of these five things
    c) Whoever is forced to do something prohibited is not considered sinful
        (1) Ex: someone forced verbally to reject Islam but in their heart they still believe
    d) Whoever is forced to abstain from an obligation, then he is not considered sinful as long as he is being forced
        (1) However, he must make it up once he is no longer forced
            (a) Ex: if someone is forced to miss a prayer, then he must make it up once he no longer is in a position of being forced

                    (i)   Even if the time for the prayer has passed
B. These obstacles only apply to the rights of Allah but not to the rights of creation
    1. Meaning if someone wronged another person in some way, even out of ignorance or forgetfulness, then the former is still held responsible and must make up for it. The obstacles apply to the rights of Allah only, because He is Most Forgiving and Most Merciful
        a) Ex: If someone forgetfully broke someone's car window or broke a window that he thought was his, then such a person will be held responsible for it and must either replace it or pay for the damage
        b) The only exception is if the one who is wronged forgave the person
    2. If someone tries to force you to kill another human being, then you are not allowed to do so because life is sacred. In this case, it is better to lose your own life than to take another's
        a) It is the only case where even if forced you are not allowed to do so

The General (al-'Aam)

I.   Linguistically al-'Aam (العام) means inclusive or comprehensive

II.   Technically it is a word that encompasses all individuals underneath it without restriction

    A. Ex: Indeed, the **righteous** will be in pleasure (Qur'an 83:22)

        1. Here the word 'righteous' is general and means that all those who are righteous will be in pleasure

    B. It excludes texts that put some sort of restrictions on the individuals

        1. Ex: "The first 100 boys can eat for free"

           a) This means not all boys just the first 100, thus, it is not considered general

III.   It is the opposite of specific (الخاص) and absolute (المطلق)

    A. Specific specifies one particular thing by name

        1. "Thank Ahmed" means thank him specifically and only

    B. Absolute suffices with anyone that fits the description

        1. "Thank a student" means any one student and not every student

IV.   The meaning of general (العام) in the Arabic language can occur in the following seven ways:

    A. Words used that intend all individuals without exception by themselves

        1. Ex: every (كل), everyone (جميع), all (كافة), all without exception (قاطبة), general (عامة)

           a) Ex: "Allah created **every**thing" means all creation without exception

    B. Conditional sentences

        1. Ex: "**Whoever** does righteousness, he does so for himself" means all those who do righteousness do so for themselves without restriction

    C. Interrogative pronouns

        1. Ex: "if your water was to become sunken [into the earth], then **who** could bring you flowing water?" means that **no one** can bring it to you

           a) It is negating all individuals

    D. Relative pronouns

        1. Ex: "And **those** who strive for Us - We will surely guide them to Our ways" means **all** those who strive in Allah's way will be guided by Him

    E. Indefinite in the context of negation, prohibition, condition, or a negative interrogative

        1. *Indefinite with negation*: "There is **no god** (إله) except Allah" means there is no god at all anywhere except Allah

           a) God here is indefinite

        2. *Indefinite with prohibition*: "Worship Allah and do **not** ascribe partners to him in **anything** (شيئا)" means do not worship anything with Allah without exception

           a) 'Anything' is indefinite

        3. *Indefinite with condition*: "**If** you reveal **anything** (شيئا) or keep it hidden, Allah has knowledge of all things" - means it does not matter whether we do things secretly or openly, Allah knows all of them without exception

           a) Sentence starts with the condition 'if' and the word 'anything' is indefinite

        4. *Indefinite with a negative interrogative*: "**what deity** (مَنْ إِلَهَ) other than Allah (غير الله) could bring you light?" means there is no deity at all that could do so except Allah alone

           a) Word 'deity' in the sentence is indefinite

    F. Genitive construction (singular or plural)

        1. Singular genitive: "And remember the **blessing of Allah** (نعمت الله) upon you"

a) Means all blessings without exception
2. Plural genitive: "So remember the **favors of Allah** (ءالاء الله)"
a) Means all favors without exception

G. The definite article أل is of two types:
1. The type that carries the meaning of general and includes all individuals underneath it
a) This is known as أل الاستغراقية
b) Ex 1: "And **mankind** (الإنسان) was created weak" means all human beings without exception
(1) The word mankind here is definite and intends by it all human race
c) Ex 2: "And when your **children** (الأطفال) reach the age of puberty, let them seek permission ˈto come inˈ, as their seniors do" means all children who reach puberty without exception
(1) The word for children here is definite and intends by it all children that have reached puberty
2. The type that can carry both the general and the specific meaning, depending on the meaning intended by the word to which the article is attached
a) This is known as أل العهدية
b) Whether the word to which the article is attached is being used with a general or specific meaning is decided by the context or clues from the surrounding discussion
(1) Ex: if someone studying a text authored by Imam Ahmad said, "The author (المؤلف) said…", then we understand from it that it's referring to Imam Ahmad specifically and not every author, because it is understood in the context of the text being studied
c) Example when used as general
(1) "When your Lord said to the **angels** (لِلْمَلَائِكَةِ), "Indeed, I am going to create a human being from clay. So when I have proportioned him and breathed into him of My [created] soul, then fall down to him in prostration. So **the angels** (الْمَلَائِكَةُ) prostrated - all of them entirely"
(a) The word for 'the angels' is definite and the context defines that it is referring to all angels without exception
d) Example when used as specific
(1) "Indeed, We have sent to you a Messenger as a witness upon you just as We sent to Pharaoh a messenger. But Pharaoh disobeyed **the messenger** (الرَّسُولَ), so We seized him with a ruinous seizure"
(a) Here 'the messenger' in the second instance is referring to Prophet Musa specifically because the verse before it clarifies to us that a messenger was sent to Pharaoh, and we know from his story from other parts of the Qur'an that it was no other than Musa
e) However, the definite article (أل) used to express gender does not intend general (العام) by it
(1) Ex: "The men (الرجال) are better than the women (النساء)"
(a) This does not mean every man is better than every woman, because there are women who are better than most men
(b) The expression is meant in general terms. If we get into specifics, then many other factors would need to be considered

V. Ruling on Acting on the General Texts

    A. It is obligatory to act on the general wording of the text even if the text is specific unless there is evidence to the contrary

        1. Meaning if a command or prohibition come to us through a general text, we are obligated to act on it even though it may have been revealed by Allah in the Qur'an or said by the Prophet Muhammad (pbuh) in a particular context

            a) Ex: The verses in the Qur'an about the *dhihaar* type of divorce came down due to a situation of one person, however, the ruling of it applies to all until the day of Judgement and was not restricted just to him

        2. Similarly, if a general text came due to a specific reason or circumstance, then it is still obligatory for us to act on it as well unless there is evidence to suggest that it is only to be applied when we find the same reason(s) or circumstances(s)

            a) Because generally the lesson contained in a general text is not restricted to the reason for its coming about

            b) Example of when a text is only to be applied in a similar situation

                (1) When the Prophet (pbuh) said, "There is no righteousness in fasting while traveling"

                    (a) He said this because he was traveling with some companions and some of them were fasting but it was too difficult for them so they were suffering. However, we know that the Prophet (pbuh) used to fast and travel sometimes. Thus, we can deduce from these two instances that fasting while traveling is allowed but if it is difficult for someone, then he should not do so

                        (i) Here we are restricting the text to be applied only when similar circumstances are at play (i.e. fasting is difficult for the traveler)

                        (ii) However, Sh. Uthyameen here is disagreeing with the Hanbalis on this matter. The official position of the Hanbali school on this issue is that the hadith about not fasting while traveling is general and applies in all cases, whether it is difficult for the person or not, and the fact that the Prophet (pbuh) fasted while traveling only shows that it is permissible to do so but it is disliked

The Specific (al-Khaas)

I. Linguistically, al-Khaas (الخاص) is the opposite of the general discussed in the previous chapter

II. Technically, it is a word that indicates restriction on a person or number

    A. Ex: names of specific people, particular number, specific indication, etc.

        1. Ex: Tell Zayd such and such, give this to 10 people, thank this person, etc. - all of these specify certain individuals or numbers and are not general

III. Related term

    A. Specification (التخصيص)

        1. Technically, it means the removal of some individuals from the general (العام) category

            a) All general rulings in the Qur'an and Sunnah allow exceptions

        2. It's an action done by Allah, meaning that He alone decides who can be excluded from the general category

IV. The evidence for specification is of two types:

A. Connected Specification

        1. This is متصل (connected)

        2. Def: whatever is not independent by itself

            a) Meaning when the evidence for it is dependent in that the verse or hadith which is making التخصيص comes as part of the same verse or hadith mentioning العام or it's mentioned in that same context

                (1) This is why we are able to immediately understand it

        3. Types

            a) **Exception**: removal of some of the individuals from the general category by use of the word إلا (except) or one of its sisters

                (1) Ex: "Verily, all mankind is in loss. **Except** for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience"

                    (a) Those mentioned after the word "except" are exceptions to the general rule that all mankind is in loss

                (2) It's sisters are words that give the same meaning as إلا:

                    (a) Ex: حاشا, خلا, عدا, سوى

                (3) Conditions for a valid form of exception to be acted upon are two:

                    (a) **The exception from it is either an actual exception or a judgemental exception**

                        (i) Actual exception (حقيقة): that which comes immediately after without any form of separation

                            (a) Ex: "All of Zayd's sisters are divorced except Fatima"

                                (i) The exception for Fatima came immediately after

                        (ii) Judgemental exception (حكم): that which comes with a separation between it but is not significant enough to effect the validity of it

                            (a) Ex: "All of Zayd's sisters are divorced *cough* except Fatima"

- (i) The exception came after the person coughed, which is a form of separation, but it does not effect the validity of the exception
- (b) If the exception came after a type of separation that is significant enough to effect the validity of it, then the exception would be invalid and cannot be acted upon
  - (i) Ex: "All of Zayd's sisters are divorced *changes topic/silence* except Fatima" - This would be invalid and we would assume all sisters are divorced
  - (ii) Silence is considered a type of separation that will invalidate the exception. This is the official Hanbali position on it
- **(b) The exception should not exceed more than half of its value or members**
  - (i) Ex: "Ali has $10 except $6" - This is an invalid exception, thus, he would still be considered to have $10
    - (a) This is because it exceeds more than half
  - (ii) It can be half or less but nothing more
  - (iii) However, this is only when it is related to numbers because if it relates to **attributes**, then it can be half or more (even complete exception) and still be considered a valid form of exception
    - (a) Ex: "Indeed, My servants - no authority will you (Iblees) have over them, except those who follow you of the deviators"
      - (i) Those who follow Iblees are more in number yet the exception still applies because it is based on their attribute of following Iblees

b) **Condition**
  - (1) Def in this context: attachment of something based on something else's existence or absence with the conditional إن or one of its sisters
    - (a) Ex: "**if (إن)** you pass the exam, then you will be rewarded"
      - (i) Meaning you will only be rewarded if you pass the exam, which is the condition
        - (a) "Then you will be rewarded" is the **answer** to the **conditional question** "if you pass the exam"
    - (b) The condition could come either before or after the answer to the conditional question (جواب الشرط). Regardless, it would indicate a specification
      - (i) Before ex: "But **if (إن)** they should repent, establish prayer, and give zakah, **let them [go] on their way**"
        - (a) Letting them go on their way is the answer to the conditional question "if they should repent,

establish prayer, and give zakkah", which is mentioned in the beginning. Thus, letting them go on their way, which is general, is only for those who repent, establish prayer, and give zakkah

        (ii) After ex: "And those who seek a contract [for eventual emancipation] from among whom your right hands possess - then **make a contract** with them **if (إن)** you know there is within them goodness"

            (a) Making a contract for freedom with the slave is the answer to the conditional question "if you know there is within them goodness", which is mentioned at the end. Thus, making a contract for freedom with slaves, which is general, is only for those in whom the owner finds goodness

  (2) Sisters of conditional إن are those words which can be utilized to give the same meaning in a sentence

      (a) Ex: من، ما، أي، مهما، متى، أين، أنى، حيثما، إذ ما

c) **Attribute**

  (1) Def in this context: whatever specifies some individuals from the general due to a certain description (نعت), substitution (بدل) or status (حال)

      (a) Meaning those who contain a particular attribute, *badal* or status will alone be excluded from the general ruling

      (b) Ex due to description: "then [he may marry] from those whom your right hands possess of believing slave girls"

         (i) The exception to marry among female slaves is only for **believing** slave girls. This is their attribute that they must be Muslims

      (c) Ex due to substitution: "And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way"

         (i) The obligation is only for those who are **able** to do it among the people, which is their attribute

      (d) Ex due to status: "But whoever kills a believer intentionally - his recompense is Hell, wherein he will abide eternally"

         (i) The recompense to Hell is only for those who do so **intentionally**, which is their attribute

B. Disconnected Specification

1. This is منفصل (disconnected)
2. Def: whatever is independent by itself and comes through either the senses, reason or Islamic law (الشرع)

    a) Meaning the evidence for it's التخصيص is independent from the العام and comes through either the five senses, reason or Islamic law

    b) Some scholars disagreed and do not recognize التخصيص coming from the senses or reason. They said in such cases the speaker never intended the التخصيص from the العام in the first place

      (1) Ex: when Allah said that He destroyed everything to punish the people of 'Ad, He didn't literally mean everything because there were other people

on the planet that were not destroyed. Scholars who hold this view say that Allah never intended all people by this general statement to begin with

        (2) This is a very minor and insignificant dispute

3. Ex of specification through the **senses**

    a) When Allah said about the wind that was sent to the people of 'Ad: "[It] Destroying everything by command of its Lord"

        (1) Through our senses we know that it did not destroy literally everything in the heavens and earth because we can still see the world around us

            (a) Such type of expressions are used in the Qur'an to draw fear into the souls of the Arabs and display the anger of Allah towards those who disobey His commands

4. Ex of specification through **reason**

    a) "Allah is the Creator of everything"

        (1) From reason we can conclude that Allah Himself is uncreated because if He created everything, then logically no one created Him

5. Ex of specification (التخصيص) through **Islamic law**

    a) This is when either the Qur'an, sunnah, *ijmaa* (consensus), or analogical deduction specify the العام

        (1) Ex of the Qur'an doing التخصيص of the Qur'an

            (a) This is when some verses of the Qur'an make التخصيص of other verses

            (b) The verse in **Surah Baqara**, "*Divorced women remain in waiting for three periods*," is general and the verse in **Surah Ahzaab**, "*O You who have believed, when you marry believing women and then divorce them before you have touched them, then there is not for you any waiting period to count concerning them*" is a التخصيص of it

                (i) So in general a divorced woman's waiting period is three periods. But there is an exception to this rule for those women who never consummated their marriage, because they have no waiting period

        (2) Ex of the sunnah doing التخصيص of the Qur'an

            (a) This is when a general rule is mentioned in the Qur'an and then the sunnah makes التخصيص of it

            (b) Ex: The verse in the **Qur'an**, "*Allah instructs you concerning your children: for the male, what is equal to the share of two females*." The **hadith** "*A Muslim does not inherit from a disbeliever and vice versa*" is a التخصيص of it

                (i) So in the verse it seems to suggest that it is the case in all familial situations. However, the sunnah explains it and specifies that when the inheritance is between a Muslim and a non-Muslim, then it does not apply

        (3) Ex of *ijmaa* doing التخصيص of the Qur'an

            (a) This is when *ijmaa* specifies something mentioned in general in the Qur'an

(b) Ex: The verse in the **Qur'an**, "*And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes*" is general and seems to suggest that this is the case for all accusers. However, there is consensus that if the accuser is a slave, then he/she is lashed only forty times due to [Qur'an 4:25](#)

(4) Ex of analogical deduction doing التخصيص of the Qur'an

    (a) This is when analogical deduction specifies something mentioned in general in the Qur'an

    (b) Ex: The verse in the **Qur'an**, "*The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes.*" However, because there is a [Qur'anic verse (4:25)](#) specifying that a female slave is to be given half the punishment (50 lashes) for the same crime, we can make the **analogical deduction** that it also applies to male slaves in a similar situation

    (c) How can analogical deduction do التخصيص of the Qur'an?

        (i) Because its root (الأصل) is based in the Qur'an and we're just applying the already established Qur'anic rule to a similar situation

(5) Ex of the Qur'an doing التخصيص of the sunnah

    (a) This is when the Qur'an specifies something mentioned in general terms in the sunnah

    (b) Ex: the **hadith** "*I have been commanded to fight the people until they bear witness that there is no deity worthy of worship except Allah and that Muhammad is the messenger of Allah…*" is general and the **Qur'anic** verse, "*Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the jizyah willingly while they are humbled*" makes التخصيص of it

        (i) So the hadith makes it seem no one is spared but the Qur'an specifies that the Jews and Christians who pay the jizyah are spared

(6) Ex of sunnah doing التخصيص of the sunnah

    (a) This is when a hadith makes التخصيص of another hadith

    (b) Ex: the **hadith** "*Whatever is watered by rain, then 1/10th of its produce is to be paid in zakkah*" is general and the **hadith** "*There is no zakkah on less than five awsuq*" makes التخصيص of it

        (i) So the first hadith makes it seem that all that is watered owes 1/10th on it but the second hadith specifies that those who produce less than five awsuq are excluded

(7) Ex of *ijmaa* doing التخصيص of the sunnah

    (a) This is when *ijmaa* makes التخصيص of a hadith

    (b) Ex: the **hadith** "*No zakah is due from a Muslim on his slave or his horse*" is general and makes it seem there is never zakah due on

a horse, however, there is ***ijmaa*** that if a horse is used as commodity in a business, then there is zakkah due on it

(8) Ex of analogical deduction doing التخصيص of the sunnah

    (a) This is when analogical deduction makes التخصيص of a hadith

    (b) Ex: the **hadith** "*(If) a virgin (commits illegal sexual intercourse) with a virgin, (the punishment is) one hundred lashes and exile for one year*" is general. However, we can apply the ruling of a slave woman receiving half the punishment and use **analogical deduction** to apply it in this case as well because both situations are similar. Thus, a virgin slave who commits illegal sexual intercourse will be lashed 50 times only

Absolute and Restricted (al-Mutlaq and al-Muqayyad)

I. Absolute (المطلق)
   A. Linguistically, it is the opposite of restricted (المقيد)
   B. Technically, it means whatever indicates the actuality of something without restriction
      1. Ex: A verse in the Qur'an states, "And those who pronounce *thihar* (a form of divorce) from their wives and then [wish to] go back on what they said - then [there must be] the freeing of **a slave** before they touch one another"
         a) The slave here is absolute in the sense that it can be any one slave and is not restricted to a particular type of slave
      2. The absolute differs from the general (العام) in that the latter includes everything underneath it, whereas, the former restricts it to **any one** type that fits the criteria, thereby, sufficing the rest
         a) Ex: "Thank a student in the class" means any one student and not every student, whereas, "Thank the students in the class" means all of the students. The former is absolute and the latter general

II. Restricted (المقيد)
   A. Linguistically, it refers to anything in which a restriction is made
   B. Technically, it means whatever indicates the actuality of something with restriction
      1. Ex: "Thank the tallest student in the class"
         a) This restricts it to a particular type of student and not just any student
      2. Ex from the Qur'an: "And whoever kills a believer by mistake - then the freeing of a **believing slave**"
         a) The slave here is restricted to be Muslim and not just any slave

III. Ruling on acting on an absolute text
   A. It is obligatory to act on an absolute text without restriction unless there is evidence to suggest that it is restricted
      1. Because in general acting on the text of the Qur'an and Sunnah as-is is obligatory
         a) Meaning if the evidence suggests an absolute instruction, then that must be followed, if it suggests a more restricted instruction, then that must be followed, so on and so forth

IV. When there is an absolute and restricted text on similar rulings
   A. It can fall into one of two categories:
      1. When the ruling for both is one and the same
         a) In this case, the restricted text is given preference and the absolute is qualified using the restricted text
            (1) Ex: freeing of a slave is mentioned a few times in the Qur'an as a form of expiation for different violations. Even though the violations vary, the expiation is the **same** in all cases: to free a slave. However, in Surah Nisa (4:92), it is mentioned that the freed slave must be **Muslim**, thus, this will restrict all the other verses which speak about freeing any slave in that the freed slave must be Muslim
      2. When the ruling for both is not the same
         a) In this case, the texts are separated and each is acted on its own terms

(1) Ex: The Qur'anic verse "*[As for] the thief, the male and the female, amputate their **hands**"* and the Qur'anic verse "*O you who have believed, when you rise to [perform] prayer, wash your faces and your **hands** to the elbows"*

      (a) Is the second verse restricting the first absolute verse by saying that the hand is up to the elbow? Thus, we are required to amputate the hand of a thief up to the elbow? The answer is no. Because the first verse is speaking about **cutting** the hand while the other is speaking about **washing** it. These are two different rulings, therefore, we will apply each in its own place: we will cut off the hand up to the wrist for theft and wash up to the elbows for ablution

Vague and Clear (Al-Mujmal and Al-Mubayyan)

I. Vague (المجمل)
   A. Linguistically, it means incomprehensible or summation
      1. Ex: "Get me 10"
         a) Ten what? It's not clear, thus, requires clarification
   B. Technically, it refers to whenever the understanding of something's intention/goal is based on something other than it
      1. Meaning the statement itself is not clear on its own. It is ambiguous, thus, requires further clarification
         a) The clarification could be needed in its specification, description or amount
            (1) Specification example: "Divorced women remain in waiting for three *quru'* (قروء)"
               (a) The word قروء could mean menses or purity, thus, we need clarification with evidence as to which of the two is meant in the verse here
                  (i) This word قرء is a homonym, which means it has two possible actual meanings of equal strength. The sunnah specifies for us that the women wait for three 'menses' in this case
                     (a) This is the official Hanbali position on this matter though other scholars differ and argue for 'purity'
            (2) Description example: "And establish the prayer"
               (a) The word prayer is ambiguous here. What prayer? How do we establish it? We need clarification as to what is meant by 'prayer' in this verse
                  (i) Its description is found in the Sunnah
            (3) Amount example: "And give the zakkah"
               (a) How much zakkah are we required to give? We don't know by just looking at this verse. We require clarification
                  (i) This amount is provided in the Sunnah

II. Clear (المبين)
   A. Linguistically, it means clarified or appearance
   B. Technically, it refers to whenever the understanding of something's intention/goal is clear either by itself or after demonstration
      1. Meaning, it is the opposite of vague. The statement is either clear on its own or it becomes clear after demonstration/explanation and does not require further clarification. It comes in two forms:
         a) Clear by itself
            (1) Ex: sky, earth, mountain, truth, justice, oppression, etc.
               (a) These words are clear by themselves and we understand what they mean without needing any more details
         b) Clear after demonstration
            (1) Ex: "Establish the prayer and give the zakkah"

          (a) This words "establish" and "give" are vague on their own and we do not know what "establishing" and "giving" mean just on the basis of this verse, However, the Prophet (pbuh) demonstrated and explained to us what "establish the prayer" and "give the zakkah" mean through the Sunnah, thus, these words then **become** clear

III.   Acting on a vague text

    A. It is obligatory on the *mukallaf* to be **determined** to act on a vague text as soon as it is clarified to him

        1. Meaning he should have an intention that as soon as the vague text is clarified to him, he will act on it

            a) Ex: "Establish the prayer"

               (1) The meaning is not originally clear to the *mukallaf* on its own but as soon as it is clarified to him, he should intend, he will act on it

        2. The Prophet (pbuh) clarified the Islamic rulings to us and left nothing that requires further explanation/clarification

            a) He clarified these rulings to us through statements, actions or both

               (1) Statement example: "Give the zakkah"

                   (a) This is a vague verse on its own but the Prophet Muhammad (pbuh) explained to us the minimum amount required (نصاب) for different types of wealth before zakkah is due on them. He also explained how much to give

               (2) Action example: "And [due] to Allah from the people is a pilgrimage to the House (Hajj)"

                   (a) This is a vague verse on its own, but the Prophet (pbuh) showed us through his actions step by step on how to perform the Hajj

               (3) Both example: "Establish the prayer"

                   (a) This is a vague verse on its own, but the Prophet (pbuh) informed us through his words and actions how to pray the five daily prayers in detail

            b) For details of the above, you can refer to the books of fiqh

Apparent and Interpreted (al-Dhaahir and al-Mu'awwal)

I. Apparent (الظاهر)
   A. Linguistically, it means clear
   B. Technically, it means whatever indicates by itself the most likely (راجح) meaning with the possibility of it having a different meaning
      1. Meaning the word used in a statement will be understood to mean a most likely meaning despite its possibility of having a different meaning. The most likely meaning is determined through context and other indicators
         a) Ex: "Perform *wudu* for [consuming] camel meat"
            (1) The word '*wudu*' used in the hadith here will be understood to mean the ritual ablution that we all are familiar with and not just plain cleanliness, which is also a possible meaning
               (a) This is because *wudu* is most likely to have this meaning when mentioned in the Islamic texts unless there is some context or evidence which indicates that a different meaning is intended
         b) Ex: "I saw a lion today in the forest"
            (1) The word 'lion' by itself could mean the actual animal or a metaphor for a brave person, however, in this context it would be taken to mean the actual animal because that is most likely the case
   C. This differs from the explicit text (النص) which carries only one possible meaning
      1. It is the strongest linguistic form to indicate a meaning
      2. This is why you will not find a difference of opinion over the meaning of such words
   D. Acting on an apparent text
      1. It is obligatory to act on an apparent text unless there is evidence to suggest that the apparent meaning is not intended by the text
         a) This is the way of the pious predecessors
         b) It is also the safest path, thus, satisfies the heart lest one falls short in fulfilling an obligation

II. Interpreted (المؤول)
   A. Linguistically, it means to return
   B. Technically, it means whenever a word carries the less likely meaning
      1. Meaning the word appears to indicate a certain meaning, but there are evident indicators to suggest that the apparent meaning is not intended
         a) These evident indicators could be internal or external to the text
      2. It is of two types
         a) Valid
            (1) Whatever is inferred through evident context, thus, acceptable
               (a) Meaning there is evidence to suggest that the apparent meaning is not intended
               (b) Ex: The Prophet (pbuh) forbids something in one hadith but then is reported to have done it in another hadith
                  (i) The apparent meaning from the first hadith would seem to suggest that the action is prohibited, however, the second

hadith would be understood to clarify it, thus, we would interpret the first hadith to mean that the action is disliked

   (a) Here we are understanding the first hadith in light of the second one, thereby, we are reconciling between the two

(2) This is one of the ways in which Muslim scholars reconcile between seemingly apparent contradictory evidence

   (a) Ex: "And if you are ill or on a journey or one of you comes from the place of relieving himself or you have touched women and find no water, then seek clean earth and wipe over your faces and your hands"

      (i) The word 'touched' in the verse seems to suggest that merely touching a woman will invalidate the man's *wudu*, however, we have a hadith in which it is indicated that the Prophet (pbuh) used to kiss Aisha before leaving for prayer and did not used to repeat his *wudu*. Therefore, we can combine the two and interpret that the apparent meaning of merely being 'touched' is not what is meant by the verse, rather, it means if you touch her with desire

b) Invalid

   (1) Whatever is inferred without evidence, thus, rejected

      (a) Meaning there is no evidence to suggest that the apparent meaning is not intended

      (b) Ex: "The Most Merciful [who is] above the Throne established"

         (i) To interpret the apparent word 'established' in this verse to mean seize or take possession would be invalid. This is because there is no evidence to suggest that the apparent meaning is not intended. The correct methodology here would be to accept the apparent meaning without going into its modality

Abrogation (Naskh)

I. The *shari'ah* was sent down to us gradually in stages and did not come down all at once
   A. The *shari'ah* given to Musa and Eesa were sent down all at once
   B. There were some laws in Islam which were changed immediately but others were changed gradually
      1. Immediate ex: meat of domesticated donkeys was permitted in the beginning but later prohibited
      2. Gradual ex: wine was first permitted, then it was prohibited before prayer, and finally it was prohibited at all times
II. Linguistically, the word abrogation (النسخ) means removal or transfer
III. Technically, the word abrogation (النسخ) means lifting a ruling or its wording mentioned in an Islamic legal text on the basis of evidence from the Qur'an or Sunnah
   A. It is also sometimes defined as lifting of an established ruling based on an earlier address with a new ruling based on a later address
      1. The basic idea is that for some rulings, the later revelation replaces the ruling of the earlier revelation, thus, a new ruling is established
   B. The word 'lifting' in the definition means removing/changing the previous ruling
      1. Ex: changing a ruling from an obligation to permissible or vice versa, changing a ruling from permissible to prohibition or vice versa, etc.
      2. Absence of rulings due to missing conditions or existing obstacle do not count as abrogation
         a) Ex: not paying *zakkah* because you do not have the minimum amount necessary to obligate it, a woman not praying due to menses, etc.
   C. Permissibility of things before the *shari'ah* came down
      1. Before Allah sent down laws, everything was considered permissible
         a) Because the general rule is that everything is permissible unless there is evidence to indicate that it is prohibited
      2. When Allah's laws came down, they gave one of five legal rulings to things (*fardh, mustahabb, mubaah, makruh, haram*)
         a) However, this is not considered abrogation according to Hanbalis because abrogation deals with two Islamic legal rulings (*shari'*) and before the *shari'ah* came down, there were no *shari'* rulings
   D. The phrase 'wording' in the definition is referring to types of abrogation which will be discussed later below insha'Allah
   E. The abrogation can only come through the Qur'an or Sunnah and no other type of evidence is considered
      1. So we cannot use consensus (إجماع), culture, analogical deduction (قياس), etc. to show abrogation
         a) When scholars say that *such and such ruling is abrogated based on consensus*, they mean that the ruling on it is agreed upon to have been abrogated through a later revelation and not that the consensus itself caused the abrogation
IV. The validity of abrogation can be derived from reason and as well as the fact that it is explicitly mentioned in the Qur'an and Sunnah
   A. Reason

1. Commands and judgements belong to Allah alone, because He is the Lord and Master of all creation. He legislates for His slaves whatever His mercy and wisdom necessitate to be appropriate for them. Does reason prevent that the Master be able to command whatever he wants to his slaves?
    a) Allah's mercy and wisdom necessitate that He legislate for His slaves whatever He knows will lead to establishing benefits for them in their religious and worldly affairs. Benefits differ according to circumstances and times, therefore, the ruling in a particular circumstance or time may be the most beneficial for the slaves at that time and place, and a different ruling may be more beneficial in a different circumstance and time
        (1) Thus, it is perfectly reasonable to assume that Allah could send a new ruling replacing a previous one. Why? Because the first ruling was appropriate for its time and circumstance, and then the new ruling is more appropriate for the new time and circumstance
B. Qur'an and Sunnah
    1. Explicit mention of abrogation in the Qur'an
        a) "We do not abrogate a verse or cause it to be forgotten except that We bring forth [one] better than it or similar to it. Do you not know that Allah is over all things competent?" [Qur'an 2:106]
            (1) This verse came down when the disbelievers criticized the Prophet Muhammad (pbuh) saying, "Muhammad commands his companions to do something one day and forbids them it the next"
        b) "Now, Allah has lightened [the hardship] for you" [Qur'an 8:66]
            (1) In the beginning of Islam, a hundred Muslim soldiers were obligated to fight against a thousand enemy fighters and were not allowed to retreat, but later the ruling was modified to 200 enemy fighters for each 100 Muslim fighters through this verse
                (a) Meaning if the number increases to more than 200 enemy fighters for each 100 Muslim fighters on the battlefield, then the latter are allowed to retreat
        c) "So now, have relations with them" [2:187]
            (1) In the beginning of Islam, Muslims were not allowed to have sex with wives during the nights of Ramadan after Isha prayer but later this verse abrogated that ruling
    2. Explicit mention of abrogation in the Sunnah
        a) "I had forbidden you to visit graves, but now you may visit them" [Muslim]
V. Abrogation does not occur in the following:
    A. Reported news
        1. Abrogation only relates to rulings and not reported news
        2. Ex: reports about the incidents related to past nations mentioned in the Qur'an and Sunnah
            a) There is no abrogation in such reports because to accept abrogation in such reports would mean that the previous report was false, which is impossible to attribute to Allah and His Messenger
        3. Exception: if a ruling comes in the form of a report (خبر), as discussed in a previous chapter, then it can be abrogated because in essence it is a ruling
    B. Rulings which are of benefit in every time and place

1. Ex: prohibition of theft, *tawheed*, fundamentals of faith, fundamentals of worship, being truthful, chaste, courageous, generous, etc.
   a) Such things are never abrogated
2. Similarly, things which are repulsive in every time and place also never become abrogated
   a) Ex: prohibition of *shirk*, lying, fornication, stinginess, cowardliness, etc.
   b) The whole point of the *shari'ah* is to bring benefit and keep away harm

VI. Conditions for abrogation

A. Impossibility of combining between the two contradictory evidence
   1. If we are able to reconcile between the past and later revelations, then there is no need to resort to abrogation because we can act on both
B. Knowledge of the delay in the abrogating (ناسخ) text
   1. Meaning the jurist knows for certain that the evidence with the new ruling did indeed chronologically come after the other evidence
   2. This is either known through the text itself, a report from a companion, or by knowledge of history
      a) Text itself: this is when the Qur'an or Sunnah explicitly specify the abrogation themselves
         (1) Ex: "I used to permit you to do temporary marriages with women but Allah has now forbidden it until the Day of Judgement"
            (a) This hadith is very explicit
      b) Report from a companion: this is when a companion mentions that a particular ruling was replaced by a later ruling
         (1) Ex: when Aisha informed us in a report that the ruling on the number of breastfeedings required for a child to be considered your foster child was changed
      c) Knowledge of history: this is when we base a ruling through our knowledge of history
         (1) Ex: if a particular verse/hadith is known to be before the *hijrah* and another after it, then the latter's ruling will be considered the new one if the two contradict and there is no way to reconcile them
C. Verification of strength for the two contradictory evidence
   1. If one of the two reliable evidence is weaker than the other, then the stronger will be preferred
      a) Ex: a *mutawaatir* hadith vs an authentic *ahaad* hadith
         (1) The former will be given preference
      b) The majority of scholars, including the official Hanbali position, require that the abrogating text (ناسخ) be either the same level or stronger than the abrogated text (منسوخ)
         (1) Meaning the new ruling cannot be based on a weaker evidence
   2. If one of the two evidence is an unauthentic hadith and the other authentic, then there is no need to resort to abrogation because the former hadith would just be rejected

VII. Types of Abrogation

A. When it relates to the abrogated text (منسوخ), it is of three types:
   1. **Abrogation of recitation** - wording of the verse removed from the Qur'an but the ruling still remains

a) Ex: stoning to death of adulterers
- (1) There is a consensus over this that this verse's wording is abrogated but the ruling still applied
- (2) It is applied if there are either four witnesses, pregnancy, or there is a confession
b) The wisdoms behind removing the verse despite keeping the ruling are: testing Muslims to see if they abide by Allah's laws despite not found in the Qur'an and implementation of their faith

2. **Abrogation of the ruling** - wording of the verse remains in the Qur'an but the ruling is removed
   a) Ex: in beginning of Islam, fasting in Ramadan was optional and you could just feed the poor instead but later it was restricted to only the old and sick. The verse related to this is still in *Surah al-Baqarah*
   b) The wisdoms behind keeping the verse despite cancellation of the ruling are: reward for reciting it and reminding the Muslims of the wisdom behind abrogating it

3. **Abrogation of both** - Both the wording of the verse and the ruling are removed
   a) Ex: at first there was a verse saying that up to 10 breast feedings were required for a child to be considered your foster child but later the verse and the ruling both were removed

B. When it relates to the abrogating text (ناسخ), it is of four types:
1. **Qur'an abrogating the Qur'an** - this is when a verse of the Qur'an cancels a ruling of another verse
   a) Ex: the rulings related to alcohol in the Qur'an
2. **Sunnah abrogating the Qur'an** - this is when a sunnah cancels a ruling from the Qur'an
   a) This doesn't really exist
      - (1) Abrogation can **only** be done by either something of a similar level or a higher level than it but **never** by something of a lower level than it
        - (a) Both *mutawaatir* and *ahaad* hadiths are lower than the *mutawaatir* of the Qur'an in terms of strength, thus, can never abrogate it
3. **Qur'an abrogating the Sunnah** - this is when a Qur'anic verse cancels a ruling from the Sunnah
   a) Ex: The Sunnah established in the beginning of Islam to pray facing Jerusalem, but then later the Qur'an changed the *qiblah's* direction to the *Ka'bah*
4. **Sunnah abrogating the Sunnah** - this is when one hadith cancels a ruling from another
   a) Ex: When the Prophet Muhammad (pbuh) said he used to forbid going to the graveyards but now allows it
   b) It can only be done by either hadiths of a similar level or a higher level than it but **never** by a hadith of a lower level than it
      - (1) This means:
        - (a) *Mutawaatir* hadiths **can** do abrogation of other *mutawaatir* hadiths or of *ahaad* hadiths
        - (b) *Ahaad* hadiths **can** only do abrogation of other *ahaad* hadiths but **never** of *mutawaatir* hadiths

VIII. Wisdoms of abrogation

A. Consideration for the benefits of slaves by legislating what is most beneficial for them in their religious and worldly affairs

B. Development of legislation until it reaches perfection

C. Testing those liable (مكلفون) by preparing them to accept change from one ruling to another and being pleased by it
   1. Meaning to separate the true believers from the hypocrites. The true believers follow the commands no matter what they entail or how often they change. What matters to them is that Allah has commanded it and that alone suffices

D. Testing those liable by having them to be grateful when a ruling is changed to something easier and to be patient when a ruling is changed to something more difficult
   1. So we can split abrogation based on purpose into two types:
      a) **Ease**: when it is clear and obvious that the purpose of the new ruling is to bring ease
         (1) Ex: At first a 100 Muslim soldiers were obligated to fight against 1000 enemy fighters and were not allowed to retreat but later the ruling was modified to 200 enemy fighters for each 100 Muslim fighters
            (a) This was to bring ease
            (b) Meaning if the number increases to more than 200 enemy fighters for each 100 Muslim fighters on the battlefield, then the latter are allowed to retreat
      b) **Difficult**: when the new ruling comes with *takleef* (responsibility) or more *takleef*
         (1) Ex: In the beginning of Islam, it was obligatory to fast only on the day of *Ashoora* (10th of Muharram) and the month of Ramadan was optional. However, later the rulings were reversed
         (2) There is a benefit in such rulings even if we cannot see it

Reports (al-Akhbaar)

I. ## Qur'an
    A. The author, Sh. Uthyameen, did not cover a section about the Qur'an in the book, therefore, Ust. Ahmad covered it briefly on his own
    B. Def of Qur'an: verses which Jibraeel descended with and gave to the Prophet (pbuh) and it has reached us via *mutawaatir*
        1. It has reached us in seven ways of recitation and all of them are *mutawaatir*
    C. There are verses which have reached us but not via *mutawaatir*, thus, are considered odd (شاذ)
        1. These are those verses which conflict with the *mushaf* of Uthman, which he gathered in his lifetime in the dialect of the Quraysh
        2. Scholars differ if non-*mutawaatir* verses can be used as evidence or not
            a) Hanbali relied upon position is that it can be accepted as evidence for *fiqh* positions and for *tafseer* only but is **not** considered part of the Qur'an
                (1) This is given the condition that such a type of verse has a chain that **authentically** goes back to a companion, otherwise, it is not an evidence
    D. It is the source of all evidence
        1. Meaning all other sources of evidence like Sunnah, *ijmaa*, analogical deduction, etc. are derived from it
            a) The Qur'an teaches us to derive rulings from these things
    E. It is the strongest source of evidence
    F. We believe it is the literal speech of Allah
    G. It is miraculous in its wording, meaning and composition
        1. Allah challenges mankind and jinn to produce something similar to it
    H. According to the official Hanbali position, it is permissible to give a *tafseer* of the Qur'an through linguistic deduction (لغة)

II. ## Sunnah
    A. Technically, it means whatever is attributed to the Prophet Muhammad (pbuh) through his statements, actions, attributes, and tacit approvals
        1. Statements: things he verbally stated himself
        2. Actions: acts attributed to him
        3. Attributes: reports about his physical features and character
        4. Tacit approvals: things which were either said or done with his knowledge but he did not forbid them
    B. It is of two types
        1. Verbal based (قولية)
            a) These are reports which have reached us in which he verbally said something
            b) Much of the previous discussions on the general, specific, clear, metaphor, apparent, etc. deal with this type of Sunnah
        2. Action based (فعلية)
            a) These are reports which have reached us in which actions are attributed to him
            b) These fall into the following five categories:
                (1) Things which he naturally did

(a) These carry the ruling of **permissibility** in general but:

    (i) If he commands us to do it, then it could be obligatory or recommended

        (a) Ex: Eating with the right hand, eating *suhoor*, etc.

    (ii) If he forbids us to avoid it, then it could be prohibited or disliked

        (a) Ex: eating with the left hand, etc.

(2) Things which he did out of habit

    (a) Ex: types of clothes he used to wear, the common cultural things that all Arabs at that time used to do including him, types of foods he ate, etc.

    (b) These carry the ruling of **permissibility** in general

        (i) Meaning there is neither reward or punishment involved for doing or abstaining from it

(3) Things which are specific to him alone and **not permitted** to anyone other than him

    (a) Ex: fasting continuously for days without eating or drinking, marrying more than four wives, etc.

    (b) There must be evidence that a particular action of his is restricted to him alone, because the general rule is that his actions are followed

(4) Things which he did intending worship or closeness to Allah

    (a) In general, such actions are **obligatory** for him and for us to perform

        (i) This is the official Hanbali position on the matter

            (a) Sh. Uthyameen disagrees and views that they are recommended for him and us

    (b) It is also obligatory for him to convey these to us

(5) Things which he did in order to clarify and explain brief texts mentioned in the Qur'an and Sunnah

    (a) Such verses/hadiths are usually mentioned in a very brief format and without details, thus, he explains them through his actions. The ruling on such actions is **dependent** on the texts being explained, if the original text being explained is obligatory then so is the action, and if the original text being explained is recommended then so is the action

        (i) Ex: "Pray as you see me pray"

            (a) This hadith is brief in nature and does not tell us how to pray. However, the Prophet Muhammad (pbuh) showed us how to pray in detail through his actions, therefore, since this hadith carries the ruling of obligation, then following his actions in prayer are also obligatory

        (ii) Ex: "Take from the standing place of Abraham a place of prayer"

            (a) This verse in the Qur'an is brief and does not tell us what it really entails. However, the Prophet

Muhammad (pbuh) showed us through his actions that it means literally standing behind the station of Ibrahim to pray two units of prayer after completing *tawaaf* around the *Ka'bah*. Since this verse is understood to be only recommended, his actions here are also considered recommended for us to follow

C. Tacit approvals
　　1. As mentioned above, these are things which were either said or done with his knowledge but he (pbuh) did not forbid them, therefore, confirming their practice. The ruling is that such things are **permissible** for us to do
　　　　a) Things said in his presence example: when he asked a slave girl where Allah was and she responded, "Above the heavens"
　　　　　　(1) The Prophet (pbuh) confirmed it by not correcting her
　　　　b) Things done in his presence example: the companion who used to recite *Surah al-Ikhlaas* in every unit of prayer. He was asked why he did so and he responded because it describes the Most Merciful so he loves to recite it
　　　　　　(1) When this was reported to the Prophet (pbuh), he confirmed it by saying, "Inform him that Allah loves him"
　　2. If things were done during his lifetime and he was not aware of them, then such things are also considered **permissible** and are seen as a confirmation from Allah because He is aware of everything
　　　　a) Because if it was forbidden, then Allah would have revealed something against it, for example, Allah revealed verses forbidding certain hidden actions of the hypocrites who were doing things in secret to harm the Muslims and the Prophet (pbuh)
　　　　b) Ex: the companions used to practice *'azl* (عزل), a type of birth control, and no verses were revealed to forbid the practice, thus, it is considered a form of confirmation from Allah

D. Types of Reported Sunnah
　　1. They are divided into three types:
　　　　a) *Marfu'* (مرفوع) - reports that directly reach back to the Prophet Muhamad (pbuh)
　　　　　　(1) These direct reports could be his statements, actions, or tacit approvals
　　　　　　　　(a) These are known as مرفوع حقيقة
　　　　　　(2) If reports do not go directly back to him but a companion and the latter uses words like "it is the sunnah to do such and such", "we were commanded to do such and such", "we were forbidden from such and such", "during the prophet's time we used to do such and such", etc., then such reports take the ruling of *marfu'* as well
　　　　　　　　(a) These are considered حكم الرفع
　　　　b) *Mawqoof* (موقوف) - reports that directly reach back to a companion only and not the Prophet Muhammad (pbuh)
　　　　　　(1) These are reported statements and actions of the companions
　　　　　　　　(a) These could be their opinions, commentaries on verses, specific actions, etc.

(2) The official position of the Hanbali school is that statements of companions are regarded as evidence for rulings

(3) A companion is defined as one who met the Prophet Muhammad (pbuh) while in a state of *imaan* and died as a Muslim

c) *Maqtoo'* (مقطوع) - reports that directly reach back to a follower (*tab'i*) or those after them

(1) These are reported statements and actions of the followers or those after them

(2) A follower is defined as one who met a companion while in a state of *imaan* and died as a Muslim

E. Types of Chains for Reported Sunnah

1. This is an exclusive virtue of this *ummah* that we have verifiable chains going back to the Prophet Muhammad (pbuh) to report on his statements, actions, descriptions, and tacit approvals

   a) No other religion has this feature

   b) It is all meticulously assessed and graded to assure reliability

   c) It is a separate science by itself that is independently studied called *mustalah al-hadith*

2. Hadiths are reported in two types of chains:

   a) *Mutawaatir* (متواتر) - when the number of people that narrate a hadith at every level is so large that it is impossible to perceive that they all cooperated on a lie

      (1) It also requires that at the beginning of the chain, the companion must relate something from the Prophet Muhammad (pbuh) through the former's five senses

         (a) Meaning the companion must explicitly say that he/she heard/saw/smell/felt/tasted something related to the Prophet Muhammad (pbuh)

            (i) So it cannot be something based on their reasoning

      (2) Every level meaning in every generation of the chain

      (3) It is the strongest form of transmitted report

         (a) It is considered a form of definitive evidence

   b) *Ahaad* (آحاد) - this refers to any transmitted hadith that does not fulfill the requirements for *mutawaatir* hadith

      (1) It is of different types:

         (a) *Ghareeb* (غريب) - when there is only one narrator at any level of the chain

         (b) *'Aziz* (عزيز) - where there are only two narrators at any level of the chain

         (c) *Mashhoor* (مشهور) - where there are three or more narrators at any level of the chain but less than required for *mutawaatir*

F. Grades of Reported Sunnah

1. Sound (صحيح) - These are considered as a form of evidence. This is a hadith which fulfills the following criteria:

   a) All of the narrators in the chain are trustworthy in their religion and character

      (1) Trustworthy in religion means that they perform the obligatory duties and abstain from the prohibited matters

      (2) Trustworthy in character means that they abstain from going against the habits and ethics of people

   b) All of the narrators in the chain have good memory

      (1) Meaning they do not forget

      (2) Narrators fall into three categories in terms of their memory:

         (a) Those who are accurate

         (b) Those who make mistakes

            (i) These are considered weak narrators

         (c) Those who are in the middle

            (i) Meaning their accuracy and mistakes are about the same

            (ii) This type is hardly ever found

   c) There is a connected chain going all the way back to the Prophet Muhammad (pbuh)

      (1) Meaning each narrator of the chain must have met the narrator above him

      (2) According to Imam Ahmad, this can be proven with the following three conditions:

         (a) They both were contemporaries

            (i) For Imam Muslim, this condition alone suffices

         (b) Proof that they both met each other

            (i) For Imam Bukhari, these two conditions suffice

         (c) Proof that one actually heard from the other

            (i) This is why Imam Ahmad is considered the strictest in terms of grading hadiths to be sound

   d) The hadith is free of irregularities (شذوذ)

      (1) Meaning it does not contradict hadiths more authentic than it

   e) The hadith is free of any hidden defects

      (1) These are small problems that can be missed and overlooked and only become apparent after deep investigation. Hence, a hadith may seem that it is reliable yet may contain hidden defects

         (a) Ex: wording of the hadith relaying some historical errors, mixing up similar sounding names in the chain, particular narrator not being reliable after a certain age, particular narrator losing his books, etc.

            (i) This is a special skill by itself and requires a sharp mind and extensive study and research

2. Good (حسن) - this is a hadith which fulfils all of the conditions mentioned under sound hadith except that a narrator in the chain is slightly weaker in accuracy. These are also considered as a form of evidence

   a) In other words, the memory of one or more of the narrators in the chain is not as strong as those under sound hadith, it is slightly weaker

   b) If a good number of such level of hadiths on the same topic are reported from different paths, then by combining them it could rise to the level of sound hadith

      (1) This is known as sound due to outside factors (صحيح لغيره)

3. Weak (ضعيف) - this is a hadith which does not fulfill the conditions to be considered sound or good

a) These are of different types. Some are completely rejected due to the intensity of the weakness, for example, when a chain includes a narrator who is known to be a liar. However, others may be slightly weaker
b) If a good number of such level of hadiths on the same topic are reported from different paths, then by combining them it could rise to the level of good hadith
    (1) This is known as good due to outside factors (حسن لغيره)
    (2) The different paths combined together reduce the weakness of a weak hadith
    (3) It must be kept in mind that this cannot be done with hadiths that have liar(s) in the chain. Such hadiths are not considered
c) Sh. Uthyameen is of the opinion that weak hadiths cannot be used as evidence by themselves but only as corroborating evidence (شواهد) for other sound or good hadiths
    (1) However, this is against the Hanbali school. Imam Ahmad allowed the use of weak hadiths as evidence in the following cases:
        (a) Weak hadiths related to righteous actions
            (i) These are general good deeds that are not related to rulings. They are actions that already have a basis established in the Qur'an and Sunnah
                (a) Ex: being truthful, reciting Qur'an, making supplications, giving charity, good manners, etc.
        (b) When a weak hadith is the **only** thing mentioned on the topic
            (i) If there is nothing from the Qur'an or sound/good hadith on a topic except a weak hadith, then Imam Ahmad preferred it over an opinion based on analogical deduction that contradicts it
                (a) Ex: Imam Ahmad considers saying *Bismillah* before *wudu* as an obligation because there is nothing narrated on the topic except a weak hadith
                (b) If a weak hadith contradicts the Qur'an or a sound/good hadith, then we reject it

G. Modes of Delivering Hadiths

1. This section deals with how hadiths are transmitted between the narrators
    a) This is important for the sciences of hadith because it helps us determine the strength of the chain of narrators
2. Hadiths are transmitted from narrator to narrator in the following two ways:
    a) Reception (تحمل)
        (1) This is when a narrator obtains a hadith from someone
    b) Delivery (أداء)
        (1) This is when a narrator gives a hadith to someone
        (2) It is divided into four types:
            (a) *Haddathani* (حدثني) - He said to me
                (i) This is used by a narrator to indicate when the teacher reads the hadith to him
            (b) *Akhbarani* (أخبرني) - He informed me

(i) This is used by a narrator to indicate when the teacher reads the hadith to him or when he reads the hadith to the teacher

    (a) So it is more general than *haddathani*

(ii) Another example of it: a student reads the hadith to the teacher and the teacher listens and then repeats it back to the student

(c) *Akhbarani ijaazah* (أخبرني إجازة) - He informed me with permission

    (i) This is when a teacher permits someone to transmit a hadith or book on his authority without reading by any one

    (ii) It is also known as *ajaaza li* (أجاز لي) - He permitted me

    (iii) This is considered a lower level of transmission than the previous two

    (iv) If a narrator obtained transmission through this method but indicated as if it were one of the previous two, then he would be considered a liar

        (a) A narrator is required to tell explicitly and truthfully how the hadith was transmitted to him

        (b) Once a narrator is labeled a liar, then all of the hadiths in which he is a narrator are dropped and rejected

(d) *Al-'an'anah* (العنعنة)

    (i) This is when a hadith is narrated with use of the word عن between two narrators

        (a) It is used to indicate that established transmission methods, as indicated by terms such as *haddathani*, *akhbarani* or *sami'tu* (I heard), are not known to have occurred, or have not been observed, between the transmitters

            (i) Ex: a chain of hadith may read, "Ibrahim **from** Suhaib". It's not clear whether Ibrahim himself actually heard from Suhaib or not

    (ii) The word عن simply means 'from' but sometimes is translated as 'on the authority of'

        (a) It is very ambiguous and can be used to indicate a connected chain or a disconnected one

    (iii) The ruling on this is that if a narrator uses this word, then the chain would be considered connected unless the narrator who used this term was famous for *tadlis* (تدليس), in which case, the chain would be considered disconnected. However, if the known *mudallis* (one who practices *tadlis*) explicitly mentions whom he directly heard it from, then it would be considered connected

        (a) Meaning of *tadlis*

            (i) This is when a transmitter narrates a hadith from an authority whom he met but from whom he did not learn a particular hadith

but had learned it from someone else going through that authority. So he drops the name of the person from whom he heard it and goes directly above him

(ii) If a narrator does this but uses the word *haddathani* or *akhbarani*, then he would be considered a liar

(iii) There are different types of *tadlis* but those details are discussed in sciences of hadith books

(b) If the narrator was not known for practicing *tadlis*, and he had learned from the authority from whom he narrated though we do not know that he learned that particular hadith from him, or in case we have no positive proof of his learning, but there was a possibility of his learning as both lived in one city in one period, then it would be counted as a connected chain

Consensus (Al-Ijmaa)

I. Linguistically, it means determination and agreement
II. Technically, consensus (إجماع) means agreement of the Muslim *ummah's mujtahids* on an Islamic legal ruling after the Prophet Muhammad's (pbuh) death
    A. If there is disagreement by even one *mujtahid*, the ruling would not be considered a consensus
    B. Only the agreements of *mujtahids* are considered. The opinions of masses are not regarded as evidence of anything even if they agree
        1. *Mujtahid* is in reference to the people of religious knowledge, those who are well versed in the Qur'an and Sunnah
            a) They are of a higher level than even average *muqallid fuqaha* (jurists) whose opinions would also not be considered
        2. The masses lack the qualifications necessary to have an opinion on a religious matter
    C. The consensus of scholars from other communities, such as Christians or Jews, are not considered. We only look to the consensus that occurs among the *mujtahids* in the Muslim *ummah*
    D. There is no such thing as a consensus during the Prophet's time because the Prophet (pbuh) himself is an evidence through his actions, statements, and tacit approvals. Therefore, if a companion tells us that they used to do such and such during his time, we do not call this 'consensus' in a technical sense but an evidence through a tacit approval of the Prophet (pbuh)
    E. Agreement of scholars over things not related to Islamic legal rulings is also not considered 'consensus' in the technical sense
        1. Ex: agreement over rational or customary issues are not considered 'consensus'. For example, the agreement that a whole is greater than its part is not technically considered a 'consensus' because its subject relates to rationality

III. Did Imam Ahmad reject consensus?

    A. Imam Ahmad never denied the concept of consensus and held that if it is established, then it becomes binding
    B. The statements that are attributed to Imam Ahmad criticizing consensus can be explained as follows:
        1. He meant that if only one person alone is claiming consensus, then this is doubtful because if it were true, we would have others stating a consensus over the issue as well
        2. He did it out of piety and cautiousness because he felt that there might be a difference of opinion but it just has not reached him
            a) This is why he would prefer to use sentences like, "We do not know of any difference on this matter"
            b) To find consensus after the first three blessed generations is very difficult due to the increase in Islamic scholars and their spread throughout the world
                (1) You will find it predominantly in the time of the companions
        3. He may have said those statements as a refutation to the scholars of Mu'tazilah of his time, because they used to claim consensus on issues while being the least of people in knowledge of statements of the companions and the followers
            a) Imam Ahmad was aware of the difference of opinions on issues which the Mu'tazilah were claiming consensus

IV. Proofs for consensus

A. "Thus We have made you (Muslims), a *Wasat* (just) (and the best) nation, that you be witnesses over mankind" (Qur'an 2:143)
1. This witnessing will occur on the Day of Judgement when the Muslim *ummah* will testify on behalf of the prophets that were sent before it that they were indeed sent to their nations and delivered the message. Since the agreement of the Muslim *ummah* is a basis for accepting their judgement on the previous nations, it is a proof for the concept of consensus because it shows that collectively the *ummah*'s judgement is correct
B. "(And) if you differ in anything amongst yourselves, then return it to Allah and His Messenger" (Qur'an 4:59)
1. This means whatever the Muslim *mujtahids* agree on, then it is considered correct and sound. It shows that consensus is a definitive proof in and of itself, because we are directed to go to Allah and His Messenger when we disagree
C. Hadith: "My *ummah* will not unanimously agree on misguidance"
D. If the *ummah* unanimously agrees on something, it must be either true or false. If it is true, then it is proof. If it is false, how can this *ummah*, which is the dearest of nations to Allah since the time of its Prophet until the onset of the Hour, agree on something false with which Allah is not pleased? This is quite impossible
1. This is a form of rational proof
2. It is not possible that the same *ummah* that will testify against all the nations that preceded it on the Day of Judgement and its collective judgement accepted, it could agree on something false

V. Types of consensus

A. They are of two types:
1. Definitive (قطعي)
    a) This is that which is well known and established, such as consensus that the five daily prayers are obligatory and that *zina* (fornication, adultery) is prohibited. No one can deny that this type of consensus is proven and established, or that it constitutes proof in and of itself, or that the one who rejects it becomes a disbeliever, unless he is ignorant and may be excused for his ignorance
        (1) There are conditions before declaring someone to be a disbeliever which are discussed in the books of *fiqh*. It is only being mentioned in a general sense here
        (2) Those excused due to ignorance is referring to rare cases, such as, someone accepting Islam and living isolated from society, thus, is not able to obtain right knowledge
            (a) Ex: desert dweller, someone residing in jungles of South America, etc.
    b) These are also known by the phrase 'known from the religion by necessity'
        (1) Because they are so firmly and explicitly established in the Qur'an and Sunnah
    c) This type of consensus is very rare
2. Speculative (ظني)
    a) This is that which can only be known by means of research and study. The scholars differed over this type whether it is possible to prove it or not

(1) This is because it is based on speculative evidence which can be debated. Numerous scholars wrote books on rulings on which there is consensus, but later other scholars refuted some of their conclusions and said no consensus existed on the matter. These disputed rulings come under this type of consensus

(2) Hanbalis accept it and believe it is possible

    (a) Sh. Uthyameen and Ibn Taymiyyah restrict it only to the early generations, particularly the companions, because they feel it was not possible after their time due to emergence of numerous differences and spread of the scholars across different lands

        (i)   This is against the official Hanbali position

b) If no scholar is known to have disputed an Islamic ruling, then it is called a silent consensus (إجماع سكوتي)

(1) Def: when a *mujtahid* gives an Islamic ruling on something and it is well known and widespread, then enough of a period of time passes that an objection could have been made but no other *mujtahid* objects to it

(2) This type is also binding and a proof for Hanbalis

(3) It is a type of speculative consensus

(4) This is also the most predominant one out of all types

B. The *ummah* cannot agree on something that is contrary to an unabrogated, explicit, authentic text, because it can only agree on what is true. If you see consensus that you think is contrary to that, then it must be for one of the following reasons:

1. The text that you have in your mind is not authentic

2. The text that you have in your mind is abrogated

3. The text that you have in your mind is not explicit

4. There is a difference of opinion on the consensus of which you are not aware

    a) Meaning some scholars hold it to be a consensus while others disagree

VI. Conditions for establishing consensus

A. It should be soundly proven in the sense that it is either well known among scholars or transmitted by a trustworthy narrator who is considered very knowledgeable

1. The definitive type of consensus is a good example of things which are well known among scholars

2. Ibn Taymiyyah, Nawawi, Ibn Hazm, Imam Ahmad, etc. are good examples of trustworthy narrators who were very knowledgeable. If they claim consensus on something, then it will be taken more seriously

B. It should not have been preceded by a settled difference of opinion. If that was the case, then there is no consensus, because scholarly opinions are not invalidated by the death of their authors

1. Ex: if there is an established difference of opinion in one generation on an Islamic ruling being permissible or forbidden and then in the following generation all *mujtahids* of that time period agree on its permissibility, it would **not** be considered consensus because there already exists an established difference of opinion in the previous generation. The previous difference of opinion cannot be cancelled

    a) However, if there exists a difference of opinion among the *mujtahids* in one generation and then later the *mujtahids* of that **same** time period all come to agree on the same ruling, then it **does** become a consensus

2. So consensus does not cancel out a previous difference of opinion; rather it prevents differences of opinion from arising
   a) Ex: if a consensus is established in a generation, then no difference of opinion on the matter in later generations will be accepted
3. Some scholars view that a consensus could arise in a later generation despite there being a settled difference of opinion in a previous generation, but this is against the official position of the Hanbali school

VII. End of particular era required
A. According to the majority, it is **not** essential that those who unanimously agree all die when still holding this view for consensus to be established; rather consensus is established as soon as they (the scholars of a particular era) agree, and it is not permissible for them or anyone else to go against it after that
   1. This is because the condition for the establishment of consensus do not include any stipulation that the era (of the scholars who reached this consensus) should have come to an end with their passing. As consensus is established at the moment they agree (on a particular issue), there is nothing that could cancel it out afterwards
      a) So it becomes binding as soon as they all agree
      b) This is the majority view
   2. However, this is against the official position of the Hanbali school. The Hanbalis differ with the majority on this and say that the *mujtahids* of that particular era must all die, thus, if they all agreed on something and then later even one of them differed, then the consensus will not be considered to have taken place
      a) This is an exclusive Hanbali position in Usool
      b) Due to this reason, the Hanbalis differ with others on whether consensus is established or not on certain rulings
      c) Hanbalis base this on statements and actions of the companions
         (1) Ex: During the time of Umar, he made some rulings which no one differed with him in his lifetime, thus, it is as if they all agreed on it. After his death, Ali differed with him on two issues. Therefore, this shows that *mujtahids* can differ within the same era even after they all agreed on it at one point

Analogical Deduction (Qiyaas)

I. This is one of the tools that a jurist uses to derive rulings

II. Linguistically, the word *qiyaas* (قياس) means assessment and equality

III. Technically, it means giving a ruling concerning a new issue (i.e., one that is not directly mentioned in the Qur'an or Sunnah) the same ruling as the one on an initial issue (i.e., one that is directly mentioned in the Qur'an or Sunnah), on the basis of some common reasoning between them

    A. There are four things here that we need to be aware of:

        1. **New issue** (الفرع): this is the case we do not know the ruling on and want to find out

        2. **Initial issue** (الأصل): this is the case that we do know the ruling on

            a) **Ruling** (الحكم): this is the ruling on the initial issue which is mentioned in the Qur'an or Sunnah

        3. **Cause** (العلة): this is the reason for the ruling in the initial issue and is also the common factor between the new and initial issues

            a) This is a specific sub-science studied under Usool where scholars try to find reasons behind rulings

    B. Ex: The verse in the Qur'an, "Whether one or both of them reach old age [while] with you, say not to them [so much as], "uff," and do not repel them but speak to them a noble word"

        1. This indicates that it is forbidden to say even *uff* to your parents out of frustration

        2. New issue: ruling on hitting your parents which is not explicitly mentioned in the Qur'an or Sunnah

        3. Initial issue: saying *uff* to your parents out of frustration

            a) Ruling: this is forbidden based on the verse above

        4. Cause: the reason for it is that it hurts the parents

            a) Since hitting the parents will also hurt them, the ruling from the initial issue will be applied to the new issue, thus, it is also forbidden to hit your parents

IV. The Prophet Muhammad (pbuh) himself directed us towards the use of analogical deduction

    A. Hadith: Ibn Abbas said that a woman from Juhaynah came to the Prophet (pbuh) and said: My mother vowed to perform Hajj, but she did not perform Hajj before she died; can I perform Hajj on her behalf? He said: "Yes, perform Hajj on her behalf. Don't you think that if your mother owed a debt, wouldn't you pay it off? So pay off the debt owed to Allah, for Allah is more deserving of having debts owed to Him being paid off"

        1. Here the Prophet (pbuh) is using the principle of analogical deduction and highlighting the comparison of matters to others that are similar

            a) New issue: doing hajj for someone who has died

            b) Initial issue: paying off someone's financial debt

                (1) Ruling on initial issue: permissible

            c) Cause: common factor between the above two cases is that both include a person who owes something to someone

                (1) Ruling on the new issue: permissible

                    (a) The same ruling is applied from the initial issue to the new one based on the common reasoning that a person owes something to someone

V. Evidence for its use are in the Qur'an, Sunnah, and statements of the companions

A. Qur'an
   1. "It is Allah who has revealed the Book with the truth and the balance"
      a) The balance here is referring to the tool that will be used to weigh the affairs of the people. This weighing is a form of measurement, similarly, we measure/weigh the new issues against the previous ones
   2. "Just as We produced the first creation, 'so' shall We reproduce it"
      a) In this verse, Allah compares recreation with its first creation. He is using a form of analogical deduction to prove that if He can create the creation once, then He can do so again
   3. "And it is Allah who sends the winds, which then stir up 'vapour, forming' clouds, and then We drive them to a lifeless land, giving life to the earth after its death. Similar is the Resurrection"
      a) In this verse, Allah compares resurrection of mankind with the revival of the dead earth, when plants and trees come to life after rain. He is attaching an intangible issue (reviving the dead) with a sensory one (plants and trees coming to life). This comparison and appendation to prove a point is a form of analogical deduction

B. Sunnah
   1. The hadith discussed above about making up Hajj for a parent after his/her death
   2. "While we were with the Prophet, a man stood up and said: 'O Messenger of Allah, a black boy has been born to me.' The Messenger of Allah said: 'How did that happen?' He said: 'I do not know.' He said: 'Do you have camels?' He said: 'Yes.' He said: 'What color are they?' He said: 'Red.' He said: 'Are there any gray camels among them?' He said: 'There are some gray camels among them.' He said: 'Where do they come from?' He said: 'I do not know, O Allah's Messenger! Perhaps it is hereditary.' He said: 'Perhaps this is also hereditary'"
      a) The Prophet (pbuh) is doing a comparison between a camel's child with the man's newborn son. He is making the same assumption for the man's situation based on what happens with animals
         (1) He is saying just as it is possible that genes can be passed down from earlier camels to later ones so that a color may come on to them which does not belong to their parents, the human children may also go through a similar process
   3. The point here is that all of these verses and hadiths are presenting evidence based on analogical deduction by relying on and comparing something similar to it

C. Statements of the companions
   1. Umar wrote a book to Abu Musa Al-'Ashari, who was a judge in Yemen, in which he guided him on how to issue rulings based on the principles of the religion
      a) He said to him in this book that if cases are presented to him that are not in the Qur'an and Sunnah, he should then compare such cases with identical examples that he knows of and then make a judgement based on what he opines is closest to what Allah loves and closest to what resembles the truth
         (1) This is exactly what analogical deduction does

(2) Though it is not mentioned, analogical deduction comes after consensus in order of degree. We look for the ruling in consensus before moving onto analogical deduction

(3) The 'identical examples' are what is mentioned in the Qur'an and Sunnah

b) Ibn Qayyim said that this book was received with acceptance by the scholars

2. Al-Muzani, a student of Imam Shafi', related that jurists during the time of the companions up until his time all agree on the use of analogical deduction in *fiqh* to derive rulings

a) He is stating a form of apparent consensus on the matter

b) This shows that it is a legitimate way of deriving rulings in our religion

VI. Conditions for analogical deduction

A. The analogical deduction must not oppose an evidence stronger than it

1. Stronger forms of evidence than it include:

a) Qur'an

(1) If it contradicts an explicit verse, then the analogical deduction will not be considered

b) Hadith

(1) If it contradicts an explicit hadith, then the analogical deduction will not be considered

(2) Hanbalis also consider weak hadiths stronger than analogical deduction

(a) If we have a weak hadith and an analogical deduction which contradicts it, then we will prefer the weak hadith

c) Consensus

(1) Analogical deduction cannot contradict a consensus

d) Statement of a companion

(1) For Hanbalis, this is a form of evidence as well and stronger than analogical deduction

2. If an analogical deduction contradicts evidence stronger than it, then it will be considered invalid and unreliable (فاسد الاعتبار)

a) Ex: someone says that a woman who has reached the age of puberty can get married on her own without a guardian based on the analogical deduction that she is allowed to spend her wealth as she pleases without the permission of her guardian. The common reasoning being that both are a form of contract

(1) This would be rejected because it contradicts an explicit hadith of the Prophet Muhammad (pbuh) on the topic

B. The analogical deduction must be based on an established text from the Qur'an, Sunnah, consensus, or statement of a companion and not another analogical deduction

1. If an analogical deduction is based on another analogical deduction, then it will not be accepted

a) Ex: to say that interest (*riba*) can occur in corn due to analogical deduction that it can occur in rice, which itself is based on analogical deduction that interest can occur in wheat as mentioned in a hadith is invalid

(1) It is more appropriate to say that interest can occur in corn due to analogical deduction that it occurs in wheat as mentioned by the Prophet (pbuh). We have to go directly to the original issue. We cannot base it on an analogical deduced ruling

C. The reason (علة) for the original issue must be known
   1. This is necessary in order to combine between the original and new issues. If we do not know the reason, then we cannot identify the common factor to justify the same ruling onto the new issue
   2. When a reason is not known for a ruling in the texts, then it is considered devotional (تعبدي)
       a) Hanbalis use this term every time they cannot figure out why a certain rule is the way that it is
           (1) Ex: why do we not wash our heads in wudu like the rest of the parts? We don't know, it's just the way it is, hence, it is devotional. We just do it because Allah and His Messenger said so
       b) Analogical deduction cannot be based on an original issue for which we do not know the reasoning behind its ruling
           (1) Ex: if it is said that eating ostrich meat breaks wudu based on analogical deduction that it does so for camel meat. However, we will say this analogical deduction is invalid because we do not know the reason why camel meat breaks wudu, thus, it is considered a devotional matter
D. The reason (علة) must not be based on irrelevant descriptions than have no bearing on the ruling
   1. Meaning the reason must be based on a meaning that has relevance to the ruling, otherwise, it will be disregarded
   2. This is actually a condition for accepting the validity of the reason (علة)
   3. Ex: It is reported that a female companion divorced her black enslaved husband after she was freed during the Prophet Muhammad's (pbuh) lifetime
       a) If someone said, based on this report, that a Muslim woman may divoce her husband if the reason is that he is black, then this would be an invalid analogical deduction. This is because his skin color has nothing to do with the ruling, it is an irrelevant description to base a ruling on. She did not divorce her husband because he was black
E. The same reason (علة) must be present in the new issue as it is in the initial issue
   1. If the same reason is not present in the new issue, then the analogical deduction is invalid
   2. Ex: the reason why wine is prohibited is due to intoxication. If someone said that coffee is also prohibited based on the analogical deduction of wine, then this is invalid because coffee is not intoxicating
       a) The very reason why it is prohibited is not present in coffee so it makes no sense to apply the same ruling on it

VII. Types of analogical deduction
A. Clear (جلي)
   1. This can be divided into three types:
       a) When something from the texts explicitly tells us the reason behind the ruling
           (1) Ex: wine is prohibited because of intoxication. This is explicitly mentioned in a hadith
               (a) Analogical deduction can be made to apply the same ruling to intoxicating drugs
       b) When there is a consensus on the reason behind a ruling

(1) Ex: there is a consensus that a judge is forbidden to give a decree in a state of anger because his heart is distracted and he may not be able to judge fairly
  (a) Analogical deduction can be made to apply the same ruling to judges that have a personal opposition or rivalry with the defendant, judges that need to use the restroom, or those that are hungry, sleepy, etc. In all such cases, it can lead to an unfair judgement because the judge's heart is distracted and he is not focused
c) When the difference between the initial and new issues is not even considered because the reason is definitively recognized to exist in both
  (1) This is because the reason in the new issue is considered far greater than the reason in the initial issue
    (a) Ex: if hurting your parents is the reason for prohibiting saying *uff* to them out of frustration, then hitting them is even worse, thus, it is even more deserving of the same ruling

B. Hidden (خفي)
  1. This is when a reason behind a ruling is established through deduction and it is not definitively recognized to exist in both the initial and new issues
    a) There are many different ways of extracting reasons from initial rulings
      (1) It is discussed in more detail in other books
    b) Scholars differ over such conclusions, because there occurs a difference of opinion whether analogical deduction can be established or not
    c) Ex: Saltwort and wheat both are sold in measurements. We have a hadith which forbids interest (*riba*) in wheat, however, we do not know if the reason for the ruling on it is due to the fact that it is sold in measurements or not. Can we make analogical deduction and say that the same applies to saltwort?
      (1) Some scholars argue yes, however, it is legitimate for other scholars to disagree and say that the two are used for completely different reasons, thus, they cannot be compared. Saltwort is used to make soap, whereas, wheat is eaten
  2. Hidden analogical deduction is of two types
    a) Analogical deduction based on similarity (قياس الشبه)
      (1) This is when there is a new issue that can fit into two different initial issues with different rulings
        (a) Meaning the new issue is similar to both in some way
        (b) In this case, it is attached with the initial issue with which it has most likeness in comparison to the other
      (2) Ex: if a slave is given some wealth, does it belong to him based on the analogical deduction that he is a human being like others who are free or does it belong to his master based on the analogical deduction that he is property like an animal?
        (a) He resembles the free man in the following ways: he can be rewarded/punished, he is a rational human, he marries, he divorces, etc.

(b) He resembles the animal in the following ways: he can be sold, mortgaged, detained, given away, inherited, insured with payment, etc.

(c) In this situation, the slave has rulings more in common with animals, thus, the analogical deduction will be established based on rulings related to animals. This will result in the ruling that any wealth given to a slave will belong to his master

    (i) However, it should be mentioned that this is not a good example given by Sh. Ibn 'Uthyameen because we have an explicit hadith which tells us that slaves do not have property, thus, whatever is given to them belongs to their master

(d) This type of analogical deduction is considered weak, because it can only be established based on the greater number of similar rulings between the initial and new issues and the fact that another initial issue continues to dispute it

    (i) In other words, it is based on the *ijtihaad* of the scholar(s)

b) Analogical deduction based on the opposite (قياس العكس)

    (1) This is when the opposite ruling is established for the new issue than what is mentioned in the initial issue

        (a) This is because the opposite of the reason for the ruling in the initial issue exists in the new issue

    (2) Ex: It is mentioned in a hadith, "In the sexual act of each one of you there is a charity." They said, "O Messenger of Allah, when one of us fulfils his carnal desire will he have some reward for that?" He (pbuh) said, "Do you not see that if he were to act upon it [his desire] in an unlawful manner then he would be deserving of punishment? Likewise, if he were to act upon it in a lawful manner then he will be deserving of a reward"

        (a) The Prophet (pbuh) here is establishing a ruling based on the opposite reasoning of the initial issue (being punished for fulfilling desires in an unlawful manner) for the new issue (being rewarded for fulfilling desires in a lawful manner)

        (b) Initial issue: fulfilling desires in an unlawful manner

            (i) Ruling on it: prohibited and punishable

        (c) New issue: fulfilling desires in a lawful manner

            (i) Ruling on it: permitted and rewardable

                (a) This is the exact opposite of the original issue's ruling

Other Sources of Deriving Islamic Law

I. In this section, we discuss some other sources of law for Hanbalis which Sh. Ibn 'Uthyameen did not discuss in his book

II. The scholars of various schools differ over these types and whether they can be considered sources of Islamic law or not

III. Istishaab (Presumption of continuity)

A. Def: the continuation of what is established or the negation of what does not exist, i.e. it is the idea that the original ruling, negative or positive, continues until there is evidence of a change of state

1. This continuance is not proved by positive evidence, but by the absence of the existence of new evidence
   a) In other words, we assume that the original ruling continues to be in place until there is evidence to suggest that the original ruling has changed
2. Ex: the five daily prayers alone are obligatory and no new prayer was obligated, fasting in the month of Ramadan alone is obligatory and no other fast was made obligatory, etc.

B. It is a form of rational proof

C. This is a proof for the Shafis and Hanbalis

IV. Laws of those before us

A. These are specific rulings from the laws of those before us (Jews, Christians, etc.) that are mentioned in valid forms of evidence, such as, the Qur'an or Sunnah

1. Meaning such valid forms of evidence inform us of their laws
2. Ex: drawing lots are mentioned in the Qur'an in the story of Mariam when the various rabbis drew them in order to determine who would take care of her
   a) Permissibility of drawing lots was an established law in their shariah

B. We do not accept their laws when the people of those shariah mention them to us because they are not considered reliable. We only accept them when they are mentioned through our own acceptable forms of evidence like the Qur'an or Sunnah

C. Hanbalis accept this as a source of law to derive rulings as long as there is nothing that contradicts it in our laws

1. This is the opinion of the majority of scholars

V. Statement of a companion

A. Hanbalis accept this as a form of evidence to derive law if it was widely known among the companions and no other companion is known to have objected to it

1. This is a form of silent consensus as mentioned above

B. If the statement of a companion was not widely known and there is also no report of a companion objecting to it or providing an opposing view, then this is also accepted by the Hanbalis as a form of evidence and is preferred over analogical deduction

C. If there was a difference of opinion among the companions, then it is not considered a form of evidence for the Hanbalis

VI. Istihsaan (Juristic preference)

A. Muslim scholars differed over its definition

1. Depending on the definition, some scholars accepted it if it was defined in a certain way but not if it was defined in another way
B. Hanbali Def: Istihsaan (الاستحسان) is the abandonment of one legal ruling on an issue for another due to a specific legal evidence for that issue from the Qur'an, Sunnah or consensus
    1. So an issue may have one standard ruling, however, under certain circumstances it may be given a different ruling due to some factor(s) which prevents it from taking the standard ruling
        a) Ex 1: Some types of sale contracts appear to be valid but have hidden interest (*riba*) involved through subtleness or may be written in a way that it leads to interest, thus, we will say, "in general such contracts are valid but not when it has a hidden interest involved like in the case of this contract, therefore, it is prohibited due to istihsaan"
        b) Ex 2: In Hanbali fiqh, a person who performs *tayammum* is required to do *tayammum* for every prayer even if he did not break his wudu. Generally speaking, if a person is in a state of wudu, he is considered to be in that state unless he breaks his wudu, however, Hanbalis make an exception to this rule if someone uses *tayammum* to make wudu. This ruling is based on *istihsaan*

VII. Istislaah (Public Benefit)

A. It is also known as *maslahah mursalah* (مصلحة مرسلة)
B. Istislaah (استصلاح) denotes prohibition or permission of a thing according to necessity and particular circumstances, on the basis of whether it serves the public interest of the Muslim community
    1. So it involves the acquisition of benefit and repulsion of the harm to the public based on the benefit or interest that will be enjoyed by the public
    2. Generally, it is invoked particularly in cases that are not regulated by the Qur'an or Sunnah
    3. The concept is acknowledged and employed to varying degrees depending on the jurists and schools
C. It is of many types but we will cover mainly the following two types:
    1. That which is considered
        a) This is accepted
        b) These can be further divided into three types:
            (1) Essential (ضروريات)
                (a) These are those on which the lives of the people depend and their neglect leads to total disruption and chaos. These consist of preservation of the five essentials: religion, life, intellect, lineage and property. These must be promoted and protected
            (2) Needed (حاجيات)
                (a) These are those whose neglect leads to hardship in the life of the community although not to its collapse
                (b) Ex: concessions granted to sick people
            (3) Embellishments (تحسينيات)
                (a) These are those interests whose realization leads to improvement and the attainment of that which is desirable
                (b) Ex: the observance of general cleanliness in personal appearance and worship

2. That which is not considered
    a) This is invalid and rejected
    b) Ex: if a rich man break an oath, the jurist tells him that as an expiation he must fast for three days instead of the other options, because they are too easy for him. The jurist says this due to istislaah
        (1) The other options being feeding 10 poor people, clothing 10 poor people, or freeing a slave
        (2) However, this would be invalid because the Qur'an already has established an explicit rule on the matter that it must be done in a particular order as stated in verse 5:89 (i.e. fasting is the last option if he is not able to do the others, he must follow the order of the verse)
            (a) The verse applies to both the rich and poor

Contradictory Evidence

I. Def: this is when two forms of reliable evidence seem to contradict each other
   A. Ex: a verse of the Qur'an against another, one hadith against another, a verse of the Qur'an against a hadith or vice versa, etc.

II. These are divided into four types:
   A. When the contradiction occurs between two **general** types of evidence
      1. We have already discussed the general types of evidence under linguistic discussions in one of the previous chapters
      2. This can further be divided into four cases:
         a) When it is possible to reconcile between the two in a way that they no longer contradict each other. This is obligatory to do so if possible
            (1) Ex: One Qur'anic verse tells the Prophet Muhammad (pbuh), "*You certainly guide to the straight path*," while another states, "*You cannot guide whom you love*"
               (a) They seem to contradict but we can reconcile between them. The first verse is referring to delivering the message and giving *da'wah* to the people towards the truth and right guidance, whereas, the second verse is referring to changing of hearts, which is only in the Hands of Allah
            (2) The reason to obligate reconciling between them when possible is because in general all verses and hadiths necessitate acting upon them
         b) When it is not possible to reconcile between them, then the later period evidence will be considered abrogating the earlier one
            (1) This is based on the condition that we know the chronology of both evidence. If we do not, then we cannot resort to this
            (2) Ex: we have two hadiths in which one seems to suggest that a dead animal's skin becomes pure after tanning while the other suggests that it does not. We know from chronology that the second hadith was instructed by the Prophet (pbuh) a month or two before his death, therefore, it will be considered abrogating the previous hadith
         c) When it is neither possible to do reconciliation or chronology, then we resort to preference (ترجيح)
            (1) This is a vast subdivision studied under Usool where scholars evaluate contradictory evidence and try to figure out which one carries more weight
               (a) They study the evidence from various angles
            (2) Ex: There is a hadith which says that touching the penis breaks your wudu, whereas, there is another one which says that it does not
               (a) When scholars evaluated both hadiths, they found that the first one carries more weight because:
                  (i) It is more cautious than the second
                     (a) When we have a hadith that says that something breaks wudu and the other says that it does not, it is safer to follow the one that says that it does. This is important especially for worship

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- (ii) It is transmitted from more paths than the second
- (iii) More scholars have authenticated the first one than the second
- (iv) The first is moving away from the original rule, which is that wudu remains after performing it, whereas, the second is only affirming the original rule. An evidence that suggests moving away from the original rule is given preference because it is an indication of additional knowledge
- d) If it is not possible to give preference to one over the other after evaluation, then it is obligatory to halt on it
    - (1) This is extremely rare
        - (a) Sh. Ibn 'Uthyameen says that he could not find a valid example of it
    - (2) This is the case where the jurist will just say "I don't know" or "I don't have a statement on this matter"
- B. When the contradiction occurs between two **specific** types of evidence
    1. We have already discussed the specific types of evidence under linguistic discussions in one of the previous chapters
    2. This can also further be divided into four cases. It is very similar to the previous one:
        - a) When it is possible to reconcile between the two in a way that they no longer contradict each other. This is obligatory to do so when possible
            - (1) Ex: there is a hadith which says that the Prophet (pbuh) prayed Dhuhr prayer on the 10th of Dhul Hijjah in Mecca while another says that he did so in Mina
                - (a) These are specific pieces of evidence because they point out specific locations and prayers he performed
                - (b) It is possible to reconcile them and say that he performed Dhuhr in Mecca and then repeated it in Mina as well for his companions. There is nothing that forbids repeating the same prayer
        - b) When it is not possible to reconcile between them, then the later period evidence will be considered abrogating the earlier one
            - (1) This is based on the condition that we know the chronology of both evidence. If we do not, then we cannot resort to this
        - c) When it is neither possible to do reconciliation nor chronology, then we resort to preference
            - (1) We will follow the same procedure here as done in the previous section
            - (2) Ex: It is reported that Ibn Abbas said that the Prophet (pbuh) married Maymoonah while he was in the state of *ihraam*, however, Maymoonah herself reports that she married him while he was not in the state of *ihraam*
                - (a) In this case, we will prefer Maymoonah's version because it directly involves her own story and she is better equipped knowing the facts surrounding it. In addition, the companion Abu Raafi' supported her version and said that he was a messenger between the Prophet (pbuh) and her
                    - (i) All of these details bump Maymoonah's version above Ibn Abbas's in terms of strength and reliability

d) If it is not possible to give preference to one over the other after evaluation, then it is obligatory to halt on both

C. When the contradiction occurs between **general** and **specific** types of evidence
1. In this case, we will specify the general with the specific
2. Ex: a hadith says that the *zakkah* on things which grow from the earth and watered naturally is 10%, whereas, a different hadith says that *zakkah* on such items is not due until the collected produce reaches 5 *awsuq*
   a) We can combine between the first hadith, which is general, and the second hadith, which is specific, and conclude that *zakkah* is not due on such items until the collected produce reaches 5 *awsuq*. We have basically combined the two definitions and specified the general with the specific

D. When the contradiction occurs between two texts where one is **more general** than the other from one angle and **more specific** than the other from another angle. This category can further be divided into three cases:
1. When there is an outside evidence which directs us to specify the generality of one with the specification of the other
   a) Meaning we will qualify the generality of one with the specificification of the other based on an evidence outside of the two contradictory texts
   b) Ex: There is a verse in the Qur'an that says, "*And those who are taken in death among you and leave wives behind - they, [the wives, shall] wait four months and ten [days]*", whereas, another verse says, "*And for those who are pregnant, their term is until they give birth*"
      (1) Which verse is a wife to follow if she gives birth just a few days after her husband's death and wants to remarry?
         (a) The first verse seems **general** whether the wife is pregnant or not and **specific** with regards to a female widow, and the second verse is **specific** with regards to a pregnant wife and seems **general** with regards to a female widow or divorcee. In this case, we have another evidence which tells us that we should specify the first verse with the second, thus, a female widow's waiting period is four months and ten days unless she is pregnant, in which case, it will be as soon as she gives birth
            (i) The other evidence that we have is a report of a female companion who gave birth to a child a few nights after her husband's death. The Prophet Muhammad (pbuh) allowed her to get remarried
2. When there is no outside evidence which directs us to specify the generality of one with the specification of the other, we will resort to preference (ترجيح)
   a) Ex: There is a hadith which states that a person should not sit after entering a mosque until he has performed two units of prayer, whereas, there is another hadith which states that a person is not to pray after praying *Fajr* until the sun has risen and after praying *Asr* until the sun has set
      (1) What should a person do who enters a mosque after praying *Asr*?
         (a) The official position of the Hanbali school is that it is forbidden to pray any type of supregatory prayer during the forbidden times even *tahiyyah al-masjid* because it is safer. Hanbalis give preference to the safer and more cautious evidence

<li style="list-style-type: lower-roman;">In other words, Hanbalis give preference to the prohibitory commands over the obligatory ones because they are considered safer. Similarly, if there is a verse or hadith which is warning against something and another recommending it, then the former will be given preference when evaluating them during the preference process because it is safer of the two. Praying two units before sitting down in a mosque is a recommendation while not performing prayer after praying *Fajr* or *Asr* is prohibited, which is stronger in the strength of preference
<li style="list-style-type: lower-roman;">Sh. Ibn 'Uthyameen differs with the Hanbali position on this matter and opines that there is an exception for *tahiyyah al-masjid* type supererogatory prayers

3. When there is neither an outside evidence nor is there ability to give preference to one over the other, then we act on them both in situations where they do not contradict and halt in situations where they do contradict
   a) This is extremely rare because the jurists generally are able to either reconcile, abrogate, or prefer one over the other in some way
   b) This may occur sometimes due to a *mujtahid's* own lack of understanding or knowledge in some way
      (1) This is because the religion is not contradictory due to the fact that the Prophet Muhammad (pbuh) conveyed the message and explained it to us in clear terms

How Preference Among Contradictory Evidence is Done

I. This chapter discusses how to prefer one type of evidence over another if they contradict and cannot be reconciled or abrogated

II. There are four possibilities:
  A. All forms of evidence (Qur'an, Sunnah, consensus, analogical deduction, etc.) or just one of them agree on a ruling without any other evidence opposing it
    1. In this case, it is obligatory to affirm it and act according to it
  B. If the various forms of evidence contradict each other but we are able to reconcile between them
    1. In this case, it is obligatory to reconcile between them
  C. If the various forms of evidence contradict each other but we are unable to reconcile between them
    1. In this case, we resort to abrogation if it fulfills the conditions
      a) Rules related to abrogation have already been discussed in a previous chapter
  D. If the various forms of evidence contradict each other but we are neither able to reconcile between them nor resort to abrogation
    1. In this case, we resort to preference by evaluating the contradictory evidence and trying to figure out which one carries more weight
      a) How to prefer one evidence over another is a vast field of knowledge
        (1) Generally, it is of two types:
          (a) Preference due to factors outside of the contradictory evidence (external factors)
            (i) These are not discussed in this book
          (b) Preference due to factors within the contradictory evidence (internal factors)
            (i) Sh. Ibn 'Uthyameen restricts himself to this category in the book. He further restricts himself mainly to the contradictory evidence in the Qur'an and Sunnah and omits other types that also fall under this category
    2. The two contradictory forms of evidence have the following options in this case:
      a) We act on both of them together
        (1) This is not possible
      b) We abandon them both altogether
        (1) This is not possible and is a form of negligence towards them
      c) We act on one and abandon the other
        (1) We do this through investigation to conclude which one to act on and which one to abandon

III. How preference is given when something seems contradictory in the Qur'an and Sunnah and there is no way to reconcile them or resort to abrogation:
  A. Explicit text (نص) is given preference over apparent text (ظاهر)
    1. Explicit text is that which only carries one meaning
    2. Apparent text is that which carries the most likely meaning with the possibility of it having a different meaning
    3. Both of these terms were discussed in detail in a previous chapter

B. Apparent text is given preference over interpreted text (المؤول)
   1. Interpreted text means whenever a word carries the less likely meaning
      a) This was discussed in details in an earlier chapter
C. That which is spoken (منطوق) is given preference over that which is understood (مفهوم)
   1. That which is spoken means that the meaning itself is present in the articulation
      a) Ex: If someone says, "Go pray *Dhuhr*"
         (1) You understand from this that they are referring to the *Dhuhr* prayer because it is explicitly indicated in the expression
   2. That which is understood means that the meaning itself is not present in the articulation
      a) Ex: If someone says, "Go thank the *mujtahids*"
         (1) You understand from this that those who do not qualify as *mujtahids* should not be thanked. This is not indicated explicitly in the expression but is understood
   3. Result: That which is spoken is stronger than that which is understood, therefore, if two forms of evidence contradict in the Qur'an and Sunnah, where one ruling is explicitly mentioned in the text while the other is just understood, the former will take preference
D. That which is affirmed (مثبت) is given preference over that which is negated (النافي)
   1. Ex: if one companion says that the Prophet Muhammad (pbuh) did something and the other says that he did not, the former will be given preference
      a) Because it is possible that the latter was not aware of it
E. The evidence that transfers the ruling away from the original rule (الناقل عن الأصل) is given preference over the evidence that keeps the original rule (المبقي عليه)
   1. Ex: a hadith says touching the penis breaks wudu while another says that it does not
      a) The original rule is that wudu remains after performing it. The first hadith is moving away from the original rule while the second is only confirming it, therefore, the former will be given preference
         (1) Because evidence that suggests moving away from the original rule is an indication of additional knowledge
F. If the contradiction is between two general types of evidence, one of which is not restricted through specification while the other is, then the former will be given preference because it is stronger
   1. We've already discussed general and specific types of texts under linguistic discussions in a previous chapter
   2. Any general text that is either not restricted through another text or is restricted in a case or two alone will be stronger than a general text which is restricted in multiple cases
   3. Ex: There is a hadith which states that a person should not sit after entering a mosque until he has performed two units of prayer, whereas, there is another hadith which states that a person is not to pray after praying *Fajr* until the sun has risen and after praying *Asr* until the sun has set
      a) Both of these hadiths are general and seem to suggest that that is the case without exception, however, that is not the case at all
         (1) The first hadith is restricted by the hadiths which mention cases when a supererogatory prayer is not to be offered
            (a) There are multiple cases of its occurence
         (2) The second hadith is restricted by the hadith which allows exception for making up an obligatory prayer

(a) Since the number of restrictions for the this hadith are lower, it is stronger and will be preferred

G. When two hadiths contradict, then the one which has more conditions for its acceptability met is given preference over a hadith which has less conditions for its acceptability met

    1. Ex: a hadith is narrated from 10 different paths as opposed to a hadith narrated from five different paths, a hadith narrated with a grade of sound (*sahih*) as opposed to a hadith with a grade of good (*hasan*), a hadith that is irregular as opposed to a hadith which is not irregular, etc.

        a) These details were discussed in a previous chapter

H. When two hadiths contradict, then the one in which the narrator himself is part of the story is given preference than the one in which the narrator is not part of the story

    1. Ex: It is reported that Ibn Abbas said that the Prophet (pbuh) married Maymoonah while he was in the state of *ihraam*, however, Maymoonah herself reports that she married him while he was not in the state of *ihraam*

        a) In this case, we will prefer Maymoonah's version because it directly involves her own story and she is better equipped at knowing the facts surrounding it

IV. How preference is given when something seems contradictory in consensus

A. This is extremely rare because most of the apparent contradictions occur either in the texts of the Qur'an and Sunnah or between different analogical deductions

B. The definitive consensus is given preference over the speculative consensus

    1. Both types were discussed in detail in a previous chapter

V. How preference is given when something seems contradictory in analogical deduction

A. This is a very vast chapter where one studies how to weigh different types of analogical deductions in order to give preference to one over another

    1. Sometimes it is due to the initial issue, sometimes due to the reasoning factor, sometimes due to ways in which the reasoning factor is affirmed, sometimes due to ways in which the reasoning factor is affirmed in the new issue, etc.

        a) Ex: analogical deduction that is based on a ruling that is agreed upon among scholars in the initial issue will be given preference over analogical deduction that is based on a ruling in which there is a difference of opinion in the initial issue, analogical deduction that is based on explicit text is given preference over analogical deduction that comes about through investigation and *ijtihaad*, clear analogical deduction is given preference over hidden analogical deduction, etc.

B. Concept of analogical deduction was discussed in detail in a previous chapter

The Mufti and the Fatwa Seeker (Mustafti)

I. *Mufti* (المفتي)
    A. The is the religious scholar that informs others about an Islamic legal ruling
II. Fatwa seeker (المستفتي)
    A. This is the person who asks about an Islamic legal ruling
III. Fatwa (فتوى)
    A. It means informing someone of Allah's legal ruling on some issue

IV. Whom can we seek a fatwa from?

A. Absolute *mujtahid*
    1. Generally speaking **only** an absolute *mujtahid* is allowed to give fatwas. This is the official Hanbali position
        a) These are those who are able to extract rulings directly from the sources and are not allowed to blindly follow (*taqleed*) anyone else
            (1) Examples of such individuals: the four imams
            (2) The last known figure of this category is Shaykh al-Islam Ibn Taymiyyah
                (a) Some scholars disagree and do not consider him from this category
B. *Mujtahid* within the school
    1. When there are no absolute *mujtahids* available, this category of scholars are allowed to give a fatwa as well due to **necessity**
    2. They do not go directly to the Qur'an and Sunnah to derive rulings, rather, they examine the texts of the school's imaam and his statements
    3. They fall under the following four types:
        a) Those who are not blind followers (*muqallid*) of the school's imaam in his rulings or evidence but they behave like him in *ijtihaad* and fatwa, they call the people to his school, they find his views more correct and worthier than others, they have read much from him, and they strongly agree with him and his methodology
            (1) Examples of such individuals: some of the direct students of Imam Ahmad like Abu Dawud, the famous compiler of the sunan
            (2) This is a very close category to becoming an absolute *mujtahid*
        b) Those who are blind followers of the school's imaam but are able to support their imam's statements with evidence. In addition, they do not exceed their imaam's principles (*usool*)
            (1) This is despite the fact that they are masters in *fiqh*, analogical deduction, their imaam's principles (*usool*), and the evidence behind *fiqh* issues
            (2) Examples of such individuals: Abu Ya'la, Ibn 'Aqeel
        c) Those who are not at the level of the previous two, however, they have a natural disposition towards the *fiqh* of the school (فقيه النفس) due to their long engagement with the science of *fiqh*
            (1) They also contain the following qualities:
                (a) They utilize the language of the jurists (*fuqaha*)
                (b) They preserve the school of their imaam
                (c) They know the evidence of their school
                (d) They report the school of their imaam and support it

(e) They edit the school's principles

(f) They extract and deduct based on the school's principles

(g) They defend their school

(2) They are lower than the previous two levels because either:

(a) Their preservation of the school has not reached the level of those above them

(b) They have not delved deeply into *Usool al-Fiqh*

(3) Examples of such individuals: Ibn Qudama, Ibn Muflih, Majd-ud-deen Taymiyyah

d) Those who preserve the school, transmit it, and understand it

(1) Most of today's *muftis* fall under this category

(2) They possess the following qualities:

(a) They transmit the school to the people

(b) They have precision in the issues of the school

(i) Meaning they understand them well and are accurate when speaking about them

(c) They have capability to understand the conditions and circumstances of the people who ask them questions so that they may answer accordingly

(d) They are relied upon in what they transmit and in their fatwas

(i) They base all of this on the texts of the school, explicit statements of their imaam, and major followers of the school who used the imaam's principles to derive the rulings and issues

(a) This fourth category is not allowed to give their own fatwa but must rely on this method

(3) If they come across an issue for which no ruling is mentioned in their school, then this may fall under one of the following three cases:

(a) They find a text or report in the school that they realize, without much thought, that it is not different than the new issue brought to their attention. Thus, they give it the same ruling

(b) They find in the school a general standard or a principle, which they know for certain encompasses the new issue brought to their attention, thus, they give it the same ruling

(c) They can neither find a report or principle to match with the new issue, therefore, they abstain from giving a fatwa and say, "I don't know"

C. It is not allowed for anyone else other than the above two categories to give fatwas. It is also not allowed for laymen to seek fatwas from those outside of the above two categories

V. Conditions for a religious verdict (fatwa)

A. The *mufti* must either know the ruling for certainty or he should know the ruling based on strong speculation

1. Different types of knowledge and understanding were discussed in a previous chapter

2. If he does not, then he must halt and just say "I don't know"

a) Some scholars said if someone answers every question that is posed to him, then he is insane

b) Answering Islamic legal questions to which you do not have knowledge about is a major sin, because it is speaking about Allah without knowledge

B. The *mufti* should first completely conceive of the question so that he may give the fatwa seeker the proper ruling
   1. The *mufti* can only give the ruling based on his conception of the question. If his conception is wrong, then he will give the wrong ruling
      a) The *mufti* must assure that he properly understands the question, thus, if he requires further clarification or more explanation, then he should seek it from the questioner
   2. Some questions require details in their answers because the issue is complicated, therefore, the *mufti* should provide such details in the answer
      a) Ex: inheritance law
C. The *mufti* should be of calm mind
   1. This relates more to manners
   2. Meaning he should be attentive and free of anything that may occupy his mind, such as, being angry, hungry, sleepy, bored, etc.

VI. Conditions to obligate giving a fatwa
A. A *mufti* in general is not obligated to give a fatwa when asked. However, the following conditions will make it obligatory for the *mufti* to give a fatwa:
   1. The issue which the questioner is asking about has actually occurred
      a) Meaning it is not some hypothetical question. Such type of questions are not required to be answered
         (1) Sh. Ibn 'Uthyameen makes an exception for those who ask in order to learn by reasoning that it is not permissible to hide knowledge. However, this is not always the case. There are instances when knowledge should be hidden from certain people, if there is a danger that it may cause more confusion or *fitna*. The companions used to suggest speaking to people according to their levels
            (a) If the person asking the question has no other way to obtain the knowledge except through the *mufti* that he is asking, then that *mufti* must give him a fatwa, otherwise, he will be considered hiding knowledge
            (b) If the person asking the question has other ways to obtain the knowledge, then it would not be considered hiding knowledge if the *mufti* chooses not to give him an answer
   2. The *mufti* is not aware of any bad intentions from the questioner
      a) Ex: Some people ask questions in order to find concessions or to clash various scholarly opinions against each other. Some also are stubborn and do not accept the fatwa when given because they do not like the answer
      b) If the *mufti* knows that the questioner has bad intentions, then he is not required to give him a fatwa
   3. The fatwa will not ensue something more harmful will occur as a result of it
      a) If it does, then it is obligatory to abstain from giving it

VII. Requirements for the fatwa seeker
A. He must intend through his question(s) to seek the truth and act in accordance to it, whatever it may be

1. He must not have bad intentions behind his question(s), such as, refuting the *mufti*, presenting other scholars' views that clash with the *mufti's*, seeking to follow concessions, etc.
    a) Part of the manners include posing the question(s) in a respectful manner
B. He must seek the fatwa from only those he either knows or believes are most likely qualified to give a fatwa
    1. He must exert effort to seek it from those who are characterized by their religion and knowledge
    2. How can he know that they are qualified to give fatwa?
        a) As long as they are well known for knowledge, giving fatwas, and the people of knowledge are not opposing them
    3. If there are two qualified *muftis*, it is recommended to seek the fatwa from the *mufti* that the fatwa seeker believes to be more pious and knowledgeable of the two. However, it is still permissible to seek it from the lesser of the two. This is the official position of the Hanbali school.
        a) Some scholars differ and say one must always seek it from the better of the two
    4. It is not permissible to seek it from a person who is well known to give easy fatwas

Ijtihaad

I. Linguistically, the word *ijtihaad* (اجتهاد) means exerting effort to understand a difficult matter

II. Technically, it means exerting effort to understand an Islamic legal ruling

    A. The person who exerts this effort is called a *mujtahid* (مجتهد)

        1. The *mujtahid* is trying to know the will of Allah and His Messenger

III. This chapter discusses conditions surrounding an absolute *mujtahid*

    A. The various types of *mujtahids* have already been discussed in the previous chapter

IV. Conditions for *ijtihaad*

    A. He should know the legal evidence that he needs for his *ijtihaad*, such as, Qur'anic verses and hadiths related to rulings

        1. It is not obligatory on him to know or memorize the whole Qur'an but just the verses related to laws. This is the official position of the Hanbali school

        2. This also includes other sources of law, such as, issues on which there is a consensus, the science of analogical deduction, and others that were discussed in a previous chapter

    B. He should know the authentications and weaknesses of hadiths, such as, knowing its chain and narrators

        1. He can do this in one of two ways:

            a) He is a scholar of hadith himself

            b) He relies on another scholar of hadith or books of authenticated hadiths

    C. He should know the abrogated verses and hadiths so that he does not rule based on a verse/hadith that has been abrogated

    D. He should know what the scholars have agreed upon and what they differ on. This is so he does not rule against the consensus of the scholars

        1. He can do this in one of two ways:

            a) He is very knowledgeable about the topic based on his own research

            b) He refers to the books of those scholars who have written on the topic

    E. He should know the rules of the Arabic language and be very knowledgeable on the topic of *Usool al-Fiqh*

        1. He needs this in order to be able to grasp linguistic concepts in the language which relate to rulings being general, specific, absolute, restricted, etc.

            a) These concepts have been discussed in previous chapters

    F. He should have the ability to extract rulings from its evidence

        1. Meaning they have a natural disposition towards *fiqh* (فقيه النفس) due to their long engagement with the science of *fiqh*

V. Some scholars of *al-usool* mentioned certain conditions that are actually not requirements

    A. Ex: He must know *ilm al-kalaam*, logic, etc.

VI. According to Hanbalis, it is possible that someone could be qualified to do *ijtihaad* in some areas or issues but not others

    A. Ex: someone may be qualified to do so in the chapter of purification but he may be weak in the chapter of business transactions, someone may be qualified to do so in the area of sciences of hadith but not in *fiqh*, etc.

VII. What is required for the absolute *mujtahid* who does *ijtihaad*?

    A. The following two are required on his part:

        1. He must exert effort to seek out the truth

            a) He is trying to find out what Allah and His Messenger desire in the ruling

            b) If he does not exert the proper amount of effort in finding out the truth, then he would be considered sinful

        2. He must rule based on what appears to him to be most likely the truth

            a) In contradictory rulings, there is only one truth. For example, if one scholar rules that something is permissible and another that it is prohibited, then only one of them is correct and the other wrong. The job of the absolute *mujtahid* is to exert his effort in order to find a ruling which he concludes is most likely the truth with Allah

            b) After the absolute *mujtahid* makes a ruling, there is one of two possibilities:

                (1) He is correct in his *ijtihaad*

                    (a) Meaning he rightly concluded what Allah and His Messenger would deem to be correct in the issue

                    (b) In this case, he will be given two rewards: one for his effort and the other for being correct

                (2) He is incorrect in his *ijtihaad*

                    (a) In this case, he will be given one reward for his effort and his mistake will be forgiven

            c) If the absolute *mujtahid* is unable to come to a conclusion, then it is obligatory for him to halt on it and simply say, "I don't know." In this case, he is allowed to follow another scholar (*taqleed*) due to necessity. This is because in general it is not allowed for an absolute *mujtahid* to do *taqleed*, rather, he must derive the rulings through the evidence himself

    B. The above discussion only applies to those who have reached a level of knowledge where they can be considered absolute *mujtahids*

        1. This is a very difficult station to reach

        2. It cannot be obtained by just memorizing and reading alone, rather, it requires intensive investigation and research

            a) There have been numerous giants in the Hanbali school who contributed a lot to the school and were very knowledgeable but still are not considered absolute *mujtahids*

        3. This is opposite of a *muqallid* (مقلد), an unqualified individual whose only obligation is to follow a scholar whom he considers knowledgeable and righteous. It suffices for him to only exert enough effort to find someone he feels is knowledgeable and righteous enough and then just follow him

VIII. *Ijtihaad* is a communal obligation, however, today it is not common due to Muslims not exerting the effort needed to learn the religion and being too occupied with the worldly life

Following a Scholar (Taqleed)

I.   Linguistically, the word *taqleed* (تَقْلِيد) means to place something around the neck, such as, a necklace

II. Technically, it means to follow someone whose statement is not an evidence

    A. So this excludes following anything that we consider a form of evidence in the school, such as, hadith of the Prophet (pbuh), consensus, statement of a companion, etc. Following any of these is not considered *taqleed* because they themselves are a form of evidence

III. It is obligatory on those who are unable to do *ijtihaad*

    A. They must do *taqleed* of a *mujtahid* or a *mufti*

IV. When *taqleed* is done

    A. When the *muqallid* (one who does *taqleed*) is a commoner who cannot figure out the ruling on his own. In this case, it is obligatory for him to do *taqleed*. This is because Allah says in the Qur'an, "So ask the people of knowledge if you do not know"

        1. Meaning he is unqualified to do *ijtihaad*. Even at the time of the companions, some of them used to be jurists and did *ijtihaad* while others, who were not jurists or unable to do *ijtihaad*, used to ask for fatwas and follow the jurists among the companions

        2. It is obligatory on the *muqallid* to exert effort to find a scholar whose knowledge and piety he trusts and then just do his *taqleed*. This is the only thing that he is required to do

            a) As discussed in the previous chapter, if he finds multiple scholars then it is recommended for him to follow the one he feels is the most knowledgeable and pious among them even though it is permissible for him to follow the lesser of the two

                (1) If he finds two and the first is more knowledgeable than the second while the second is more righteous than the first, it is better for him to make *taqleed* of the one who is more knowledgeable

                (2) If he finds two that are equal in his mind in every way, then he can choose whichever of the two he wishes

        3. How does he know from whom to take a fatwa from?

            a) He can seek it from a scholar who is considered upright, one who is known for his knowledge and religion

                (1) So if he is knowledgeable but astray, then no. If he is righteous but not knowledgeable, then no

            b) He can also seek it from one who is widely accepted as an upright scholar and people, those with and without knowledge, regularly go to him for fatwas, even if the fatwa seeker himself does not know him

                (1) Meaning as long as any knowledgeable, upright, and experienced scholar gives him a fatwa, he can accept it

    B. When a *mujtahid* comes across an incident that requires immediate attention for a fatwa and he does not have the time to research it. In this case, he is permitted to do *taqleed* of another on this matter

        1. The previous issue dealt with a commoner, whereas, this one deals with a *mujtahid*

        2. However, if it relates to issues dealing with principles of the religion which obligate belief in them or other creedal matters (*aqeedah*), then it is not permissible to do so. This is because matters of creed require definiteness in it, whereas, *taqleed* only signifies speculation

a) Ex: obligation of five daily prayers requires definite evidence and cannot be just based on speculation. A *mutjahid* cannot just make *taqleed* of someone on a creedal matter like this one. Most of *fiqh* is based on speculative knowledge, as discussed in a previous chapter, and this is why creedal matters are made an exception from it, which are based on definite knowledge

b) This rule applies to both the scholar and the commoner

c) This is also the official position of the Hanbali school and majority of the scholars

    (1) Sh. Ibn 'Uthyameen disagrees and believes he can make *taqleed* even on these issues

V. Types of *taqleed*

  A. General

    1. Def: When someone follows one particular school (مذهب) in all of its matters. Meaning the person sticks to the same school in all religious affairs

      a) Scholars differed if this is permissible or not. There are three opinions:

        (1) Permissible

          (a) This is the official position of the Hanbali school

          (b) This is also the opinion of Ibn Taymiyyah

            (i) He opines that it is not allowed for someone who follows a particular school to go against his school unless:

              (a) He does *taqleed* of another scholar through a fatwa

              (b) He deduced a ruling from the evidence which requires him to go against the school because he is qualified to do so

                (i) Meaning he knows and understands the detailed evidence behind the ruling, thus, was able to prefer one opinion over another

              (c) He has a legitimate excuse that requires him to go against the school

              (d) He views someone more pious and knowledgeable on the issue than another, therefore, he takes his opinion over the other's

                (i) Ex: what Abu Hanifa said vs what Ahmad bin Hanbal said

                (ii) Ibn Taymiyyah views this as an obligation in this case, however, this is not in accordance to the Hanbali school as was explained in the previous chapter

        (2) Obligatory

          (a) They reason the person is not qualified to extract rulings, therefore, he has no choice but to follow a school

        (3) Prohibited

          (a) They reason that this type of following is only allowed for the Prophet (pbuh) and no one else

  B. Specific

    1. Def: when someone follows a specific statement of a scholar in a particular issue

a) This is permissible if the person is unable to know the truth through *ijtihaad* because he lacks qualification. This is common among the masses when they ask a scholar, regardless of his school, about a particular issue that they are facing and follow whatever he says. In other words, they just do his *taqleed*

b) This is not allowed for a *mujtahid* because it is prohibited for him to do *taqleed*, rather, he must do *ijtihaad* on his own

(1) Exception: When a *mujtahid* comes across an incident that requires immediate attention for a fatwa and he does not have the time to research it

VI. Fatwa of a *Muqallid*

A. A *muqallid* is not from the people of knowledge, therefore, it is prohibited for him to give a fatwa

1. A *muqallid* may know the ruling but he does not know the evidence behind the ruling

a) True knowledge is knowing the truth with its evidence and the knowledge that comes about without evidence is *taqleed*

(1) Abu 'Amr ibn 'Abd al-Barr and Ibn Qayyim said there was a consensus on this point

B. We have already discussed in a previous chapter that in general it is not allowed for anyone to give a fatwa except for an absolute *mujtahid*. However, it is allowed to do so due to **necessity** when there are no absolute *mujtahids* available because it is a communal obligation

1. We discussed the four types of *mujtahids* who are allowed to give a fatwa in absence of an absolute *mujtahid* in a previous chapter as well