



RULES AND MAXIMS THAT STRUCTURE ISLAMIC LAW

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All praise belongs to Allah, praise that is abundant, pure, and blessed. May Allah exalt the mention of Muhammad, his family, his Companions, and his followers until The Day of Judgment, and may He grant them safety and security.

To proceed:

Introduction:

Studying the rules for understanding the Book and the *Sunnah* is a lofty, important field of knowledge.¹

Knowledge of these rules gives the student of knowledge the ability to accurately study, [under the tutelage of scholars], the sources of Islamic legislation (i.e. the Book and the *Sunnah*).

These rules give the student the ability to articulate why things are permissible and impermissible. These rules also aid in extracting rulings from the Book and the *Sunnah*.

This concise treatise² contains my personal selections (i.e. Imaam as-S'adee's) from the books that organize the rules for understanding the Book and the *Sunnah*.

I limited myself to only selecting important, necessary topics. I worked diligently to make the content of my selections clear, because the need for clarity and elucidation is more important than the need for brevity.

I hope that Allah, out of His Grace and Generosity, aids me, grants me accuracy, and allows me to tread the most efficient path to guidance. I ask Allah to answer my supplication.

¹ **TN:** This material is meant to be studied under a teacher, so examples and clarity can be brought to its content. I hope that it aids English speaking Muslims in learning the science of *Usool al-Fiqh*.

² **TN:** The name of this treatise in Arabic is *Safwatul-Usool*, by Imaam as-S'adee [d. 1376 AH].

Definition of “Rules that Structure Islamic Law”

They are rules that are utilized in order to arrive at sound Islamic Jurisprudence, and the sources of Islamic Jurisprudence are the Book, the *Sunnah*, consensus of the scholars (i.e. *al-ijmaa*), and valid comparisons (i.e. *al-qiyas*).

The Five Islamic Rulings:

- 1) **Obligatory:** If a Muslim [earnestly] carries out an obligatory act, there is a reward; however, if it is left off, there is the mention of punishment.
- 2) **Impermissible:** If a Muslim commits an impermissible act, there is the mention of punishment; however, if it is [earnestly] avoided, there is a reward.
- 3) **Recommended:** If a Muslim [earnestly] carries out a recommended act, there is a reward; however, if it is left off, there is no punishment.
- 4) **Disliked:** If a Muslim commits a disliked act, there is no mention of punishment; however, if it is [earnestly] left off, there is a reward.
- 5) **Permissible:** A permissible act is not associated with praise nor blame.

Section: Rules ^{1/2} that Structure Islamic Law

Rule #1:

When a command is found in the Book and the *Sunnah* it is obligatory, unless there is evidence that proves that the command is a recommendation or shows permissibility.

The commanding with an act, after being previously prohibited, normally shows its permissibility.

Rule #2:

When a prohibition is found in the Book and the *Sunnah*, the rule is that the prohibited act is impermissible, unless there is evidence that proves it is disliked.

¹ TN: The headings “rule # ...” has been added by the translator.

² TN: Four issues were left out due to my inability to bring them into the English language.

Rule #3 – (1):

Expressions are to be understood literally, not metaphorically, as some people say.

Rule #4 – (2):

Expressions are to be understood as general, including everyone, not that they are specific for certain individuals.

Rule #5 – (3):

Expressions are complete statements, nothing has been left unspoken.

Rule #6 – (4):

Expressions are unrestricted, not that they are restricted by restrictions.

Rule #7 – (5):

Repeated expressions lay down a new ruling, not that they are emphasis.

Rule #8 – (6):

Seemingly similar expressions carry different meanings, not that they are synonymous.

Rule #9 – (7):

Rulings are current legislation, not that they have been abrogated, unless there is proof of abrogation.

Rule #10 – (8):

Expressions in the Book and *Sunnah* are understood according to their legislative meanings.

Rule #11 – (9):

When dealing with expressions related to social interactions, expressions are understood according to societal perception.

Rule #12:

Processes take the same ruling as their goals.

Whatever process needs to be taken in order to fulfill an obligatory goal, the process is also obligatory.

Rule #13:

A Muslim does not have to strive to make an act obligatory.

Rule #14:

A correct act of worship, contract, or social interaction combines between the fulfillment of its conditions and its obligatory components, likewise being free from anything that would invalidate it.

Rule #15:

An incorrect act of worship, contract, or social interaction is one that is missing a condition or lacking an obligatory component, or something that would invalidate it is present.

Rule #16:

When Islamic legislation mandates that every accountable Muslim perform a certain action, this is called an individual obligation.

Rule #17:

When Islamic legislation mandates that a goal needs to be accomplished, and as result of its performance, the doer receives benefit, this is called a communal obligation.

If the task is carried out, and the goal is achieved, the responsibility is removed from everyone else.

However, if no one carries it out, everyone who is aware of the situation, and has the ability to perform the task, has fallen into sin.

A communal obligation becomes an individual obligation upon every Muslim who knows that others cannot perform the task, because the others are unable or lackadaisical.

Rule #18:

If two beneficial situations present themselves, [and both cannot be achieved], the most beneficial option is given precedence.

Rule #19:

If two non-beneficial situations present themselves, [and both cannot be avoided], the least harmful one is carried-out.

Rule #20:

If something permissible is indistinguishable from something impermissible, both options must be left off. The exception is in situations of dire need.

Rule #21:

Commands are to be carried out immediately.

Rule #22:

Behind some Islamic rulings, there is an identifiable reason for which the ruling was given. Whenever the reason is present, the ruling is applied.

Similarly, rulings can be specific, due to the specific nature of the reason.

Rule #23:

[Allah has put signs in place to initiate rulings]. When a sign, in and of itself, is present, the ruling is present. When it is not present, the ruling is not present.

Rule #24:

If a condition is missing, the affair that it is connected to is invalid. However, just because a condition, in and of itself, is in place, this does not mean the said affair must be performed.

Rule #25:

Islam has standard rulings, established by Islamic evidence.

Rule #26:

Islam has rulings that are different from the standard (i.e. concessions), due to legislated reasons.

Rule #27:

Those who forget, make a mistake, or are forced to do an action are not held accountable for sin, nor are their acts of worship declared invalid, nor are they held responsible for contractual agreements.

Rule #28:

The forgetful, and the mistaken, who cause the loss of life, or the destruction of property, regardless if it was done forgetfully or mistakenly, are still held liable for the action, without earning sin.

[However, the one who is forced to take a life or to destroy property would earn sin, and be held liable].

Rule #29:

The *Sunnah* is defined as: The statements of the Prophet (ﷺ), his actions, and his silent approvals.

Rule #30:

As it relates to his (ﷺ) statements, then they are legislation, as previously discussed.

Rule #31:

The base rule concerning the actions of the Prophet (ﷺ) is that they are recommended; however, there could be evidence which shows that an action of his is obligatory, or specific to him.

Excluded from this are actions that were done without the intent of legislation. Such as actions that were done due to customary reasons. The ruling concerning these actions is permissibility.

Rule #32:

Muslims are addressed with every ruling that the Prophet (ﷺ) is addressed with, except when there is evidence to show that a ruling is specific to him.

Rule #33:

The statements of the Prophet (ﷺ) are given precedence over his actions, [when there seems to be a lack of cohesion].

Rule #34:

Silent approvals of the Messenger of Allah (ﷺ) show permissibility, unless there is evidence that indicates another ruling.

Rule #35:

Total agreement of the scholars (i.e. *ijmaa*) about an Islamic ruling is a binding proof. It is impermissible for anyone to oppose a known scholarly consensus.

Rule #36:

Scholarly consensus must be based on a text from the Quran and/or Sunnah, even if only some of the independent jurists are aware of that text.

Rule #37:

Highly transmitted narrations, in wording, or meaning, produce instant certainty, coupled with a condition: that there are a number of narrators wherein it is not possible for them to have conspired to lie, nor is it possible for them to have made an error.

Rule #38:

There is another category of narrations that does not reach the level of highly transmitted; however, other factors may accompany them which increase them to the level of instant certainty.

Rule #39:

If a Companion makes a statement, and no other Companion opposes, then the statement is a binding proof. If another Companion has voiced a difference opinion, then the evidence for each Companion's statement is examined.

Rule #40:

If a narrator holds a view, different than what he narrated, then precedence is given to what he narrated, not to his view.

Rule #41:

A command with something is a prohibition against its opposite, and a prohibition of something is a command with its opposite.

Rule #42:

If a prohibition directed at an act of worship itself, or related to a condition of its validity, that act of worship is invalid.

Rule #43:

If the prohibition is related to something outside of the act of worship itself, or other than a condition of its validity, the prohibited act is impermissible, but the act of worship is still valid.

Rule #44:

General rulings can be made specific to certain cases by way of a condition, or a description, or by way of other qualifiers.

The rules of specifying rulings are applied to the Speech of Allah, to the speech of the Messenger of Allah (ﷺ), and to the speech of those who are Islamically accountable for their actions.

Rule #45:

Unrestricted speech should be understood in light of its restrictions found elsewhere, except if unrestricted speech is mentioned at a time when a clarification is needed.

Rule #46:

Texts that are unclear are to be understood in the light of the texts that clarify them.

Rule #47:

It is obligatory to understand texts according to their apparent meanings, unless there is proof that would indicate otherwise.

Rule #48:

Speech has spoken meanings and incorporated meanings.

Rule #49:

Speech has implicit meanings. This is the meaning that is not explicit.

- The implicit meaning could be more recognizable for application of the ruling than the explicit meaning.
- The implicit meaning could take the opposite ruling of the spoken meaning, but with conditions:
 1. That the explicit meaning is not expressing the norm.
 2. That the explicit meaning is not the answer to a question.
 3. That the explicit meaning is not expressing magnitude.
 4. That the explicit meaning is not highlighting a blessing.
 5. That the explicit meaning is not a ruling on an event that occurred.

Rule #50:

Abrogation is the changing of an Islamic ruling, due to an Islamic proof [revealed] at a later time.

Rule #51:

Abrogation is only utilized if it is impossible to combine between the two texts from every angle.

Rule #52:

An analogy is to give an issue without a text the same ruling as a textually stated issue, due to each issue sharing the same legislative reasoning, wherein there is no [noteworthy] difference between the two. [In Arabic this is called *al-qiyaas*].

Rule #53:

Analogies are built upon the legislative concept of giving similar things the same ruling, and giving distinct things different rulings.

Rule #54:

Analogies are a binding proof according to the majority of experts of legal theory.

Rule #55:

The strength and weakness of analogies vary tremendously.

Section: Maxims that Structure Islamic Law

Maxim #1:

Certainty is not removed by doubt.

Maxim #2:

Things remain the same, until there is proof that they have changed.

Maxim #3:

Harm is not removed with harm.

Maxim #4:

Dire necessities make impermissible things permissible.

Maxim #5:

Inability removes obligation.

Maxim #6:

Hardship brings ease.

Maxim #7:

Customary practices play a part in determining many rulings.

Maxim #8:

The default is that acts of worship are to be refrained from. No act of worship is legislated, unless it has been legislated by Allah and His Messenger (ﷺ) .

Maxim #9:

The default is that customary practices are permissible. No customary practice is impermissible, unless Allah and His Messenger (ﷺ) made it impermissible.

Maxim #10:

Customary statements and practices are binding when it comes to contracts.

Maxim #11:

Intentions are taken into consideration concerning social interactions, just as they are taken into consideration concerning worship.

Maxim #12:

When there is an apparent lack of cohesion between texts, the strongest determining factor is acted upon. For this reason, it is possible for a less virtuous act to be equal to or superior to a more virtuous act – in certain scenarios.

This is the end of the treatise, and all praise is due to Allah alone. May He exalt the mention of and grant safety to Muhammad, to his family, and to his Companions.