

AHKAAM ORDERS



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INTRODUCTION TO AHKAAM

These are 12 chapters of the 52 chapters of Fiqh. They focus on e.g. laws of inheritance, manners of eating/drinking, laws of compensation etc. Those duties which are to be discharged according to sharia but do not require the niyya of Qurbatan Ilallah nor do they require the pronouncement of a particular formula. Most of these laws are social laws.

AHKAAM (MISCELLANEOUS ORDERS)

12 books

1. **Kitabus Sayd wadh Dhibh** – The book of hunting and slaughtering. The animals whose meat is allowed can only be made halal by dhibh or nahr or if the animal is a wild animal whose meat is permissible e.g. deer, mountain goats, etc., when it is properly hunted by specially trained dogs or by means of an iron missile (like a sharp arrowhead or a sharp bullet). The meat of tame permissible animals is not allowed to be eaten if they are hunted. They must be slaughtered according to Shari'a. The way of slaughtering most tame animals like hens, sheep, cows etc. is called dhibh. The slaughtering of camels is known as nahr. There are many conditions all discussed in this book.
2. **Kitabul Akl wash Sharb** - The book of eating and drinking. Eating means either the eating of meat or of other things. Meat is either from the creatures of the sea, land or air. Of the creatures of the sea, only fish with scales are permissible. The creatures of the land fall

in 2 categories - tame and wild. From the tame animals, the meat which is permissible is that of cows, sheep, hens and camels. (It is makruh to eat the meat of horses, donkeys and mules). The meat of cats, dogs and pigs is haram. From the wild animals, the meat of carnivorous animals and insects is haram. The meat of hares and rabbits however, is haram. Of birds, the meat of pigeons, partridge, domestic hens and so on is permissible. The meat of hunting birds however, is haram. Where it is not clear of the status of those birds whose meat is haram, there are 2 signs of it being forbidden: i) When the bird flies, it does not need to flap it's wings all the time and mostly glides. ii) It has no crop, or no gizzard or no bump at the back of it's leg. Other than meat, to eat or drink any kind of najasa like urine, faeces, blood, semen, alcohol, etc., is haram. Similarly, to eat or drink anything which is significantly harmful to the body e.g. poison is haram. If medical science proves that a certain thing is definitely harmful to the body, then it's use will be haram. To eat earth is haram, whether it is

harmful or not. Similarly, the drinking of intoxicants is haram. All these and more are discussed in detail in this book.

3. **Kitabul Ghasb** - The book of usurping. Ghasb means the taking or using of the property of another without asking permission. Firstly, it is haram, and secondly it renders the Ghasib (Usurper) liable- so that if the property is damaged or destroyed while in the control of the usurper, he/she is liable for it whether the loss or damage was his/her fault or not. Whatever, use one makes of ghasbi property is haram and batil e.g. Wudhoo done with ghasbi water is batil, salaa prayed with ghasbi clothes is batil. Just as ghasb results in liability, so does destruction cause liability. E.g. If someone breaks another person's window, he/she is liable for it. Causing likewise produces liability. Causing here means that even if someone does not do direct damage but does something that causes damage, he/she is liable. E.g. leaving a fruit skin on a public walkway and someone slips on it and suffers damage.

4. **Kitabush Shafi'** - The book of right of preference. Shafi' means the right of precedence of one partner to buy the share of the other. If 2 people are legitimate partners according to Shari'a and one wants to sell his/her share, the other partner, if he/she wants to buy the share for the same terms and price for which others wish to purchase it, has the right of precedence.
5. **Kitabul Ihiya al Mawt** - The book of enlivening the dead. This book deals with wasteland. That is land which is dead or barren by the absence of buildings, farms and such like. The Prophet (pbuh) has said that one who enlivens a dead land owns it. The issue however, has many aspects, rules and regulations which are discussed in this book.
6. **Kitabul Luqta** - The book of finding lost property. This book discusses the laws of finding things whose owners are not known. The find is either an animal or things other than animals. If the find is not an animal, and it's value is less than that of 2.32 gms of minted silver (1/2 a mithqal), the finder can keep it for him/herself. If it's value is more,

then he/she must search for the owner for a year (unless, it is a perishable item like fruit). If the owner is not found, and the find was not in Makka, the finder has 3 choices: i) To use it him/herself with the intention that if the owner is found, he/she will repay the find or it's value to the owner. ii) Give it as charity with the same intention. iii) keep it in the hope that the owner will be found. If the find has no identification marks, then the finder has the same 3 options from the time of the find.

7. **Kitabul Miraath** - The book of inheritance. After a person's death, his/her wealth (apart from one third which he/she can stipulate in a will to be disposed of however he/she wishes), is divided and shared amongst the heirs in accordance with specific laws. The heirs form different ranks - by the existence of the first rank (parents, children and if they are dead, grandchildren), the inheritance does not reach the second. There is also the inheritance of spouses which comes before the inheritance of any other rank. All these laws are discussed in detail in this book.

8. **Kitabul Qadhaa** - The book of arbitration. The system of arbitration i.e. the settling on court of differences and disputes in Islam is a special system. The Qaadhi (arbitrator) has to be a mujtahid and an expert on Islamic rights. He must be free from all types of sin, even those that do not directly affect his work. In no way does he have a right to accept payment from either of the 2 parties, even after the arbitration. His expenses are to be covered by the public treasury. All the various issues are discussed in this book.
9. **Kitabush Shahada** - The book of testimony. This book is connected to the book of arbitration just as the book of confession is. The issue of testimony is discussed in detail.
10. **Kitabul Hudud wal Ta'ziraat** - The book of punishments. Some of the systems of punishment are precisely defined in Shari'a, and these are to be performed in the same way regardless of the conditions and any other factors. These types of punishments are called hudud. The crimes for which hudud has been stipulated are adultery, homosexuality, falsely accusing someone of one of these

crimes, stealing, drinking alcohol and armed civil disturbances. There are a few punishments, however, that the Shari'a considers to depend on the view of the Hakim e Shari'a, who by taking into consideration, the causes and conditions of the crime and any motivating factors, enforces a punishment in accordance. These are called ta'ziraat.

11. ***Kitabul Qisaas** - The book of retaliation. Qisaas is a type of punishment where one person physically harms someone or ends their life. Qisaas is the right given to the victim or his/her heirs (if the offence leads to the victim's death). In the case of intentional killing, the heirs of the deceased have the right to qisaas. Under the supervision of the Islamic government, and at the discretion of the nearest of kin, the murderer can be executed or forced to pay compensation (diyya). In the case of accidental killing, the killer is not to be executed but is obliged to pay the heirs compensation (diyya). All the rules are discussed in this book.

12. ***Kitabul Diyaa** - The book of financial compensation Diyaa is like qiyaas in that it is the right of the victim or the heirs. The difference being that qisaas is a way of taking payment in kind, whilst diyaa is a financial penalty.

*The laws of diyaa like qisaas are very detailed. In both the books of qisaas and diyaa, the fuqaha have mentioned the liability of doctors.

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by Shaheed Murtadha Mutahhari.



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