

القواعد الفقهية

AN INTRODUCTION TO AL-QAWA'ID AL-FIQHIYYAH

القواعد الفقهية : حكم كلي فقهي ينطبق على جزئيات عديدة من أبواب مختلفة

Qawa'id al Fiqhiyyah: A general, comprehensive ruling that is connected to Fiqh and it is applied on many different branches from many different chapters

BENEFITS OF QAWA'ID FIQHIYYAH:

1. When you understand this science, you can derive and give accurate rulings from the Qur'an and the Sunnah
2. You don't need to memorise a lot of issues found in Fiqh books – the principal compiles and combines between all these issues
3. By learning these principles, you will avoid contradicting yourself – whether it's through the worship you do or the answers you give to people's questions

WHERE IS IT DERIVED FROM?

1. The Qur'an
2. The Sunnah
3. Statements of the Companions
4. Fiqh Issues

CATEGORIES OF QAWA'ID AL FIQHIYYAH:

1. القواعد الفقهية الكبرى
 - a. 5 in number – Why?
 - i. All of the madahib agree on these principles
 - ii. They can be applied to all the chapters of Fiqh
2. القواعد الفقهية الصغرى
 - a. Also comprehensive, but not as comprehensive as the previous category
 - b. Can be applied to majority but not all of the Fiqh chapters
3. **Principles that can only be applied to certain chapters**

DIFFERENCES BETWEEN QAWA'ID AND USUL:

SIMILARITIES	DIFFERENCES	
Both serve in the understanding of Fiqh	Differ in HOW it aids one in understanding Fiqh	
	QAWA'ID	USUL
	Deals with the actions of the mukalafeen	Deals with evidence from the Quran, Sunnah, Ijma'
	You can derive a ruling from the principle	You can't derive rulings directly from it

THE HOUSE ANALOGY:

- **Usul al Fiqh:** the base, foundation
- **Fiqh:** the windows, walls, doors
- **Qawa'id al Fiqhiyyah:** the roof holding it all together – many rulings fall under one principle

The following structure will be used for each principle:

1. General meaning
2. Evidence
3. Example



Al-Hamd: to describe the one that is being praised with the most complete of attributes, with love and glorification

Al-Ali: the Most High – 3 types:

1. Uluw al Dhaat – He is the most High in his essence
2. Uluw al Qadr – Highness of Allaah is His beautiful Names and Attributes and Honour
3. Uluw al Qahr – He is the most High in His might

Al-Arfaq: The Most Gentle

“The one that brings (rulings) together, and the one that separates rulings.”

- The Author is mentioning something in the introduction that he will further expand on later
- Qawaid al Fiqhiyyah combines between many issues under one ruling, and can also separate and distinguish them

ذِي النُّعْمِ الوَاسِعَةِ الغَزِيرَةِ (٢) وَالْحِكْمِ البَاهِرَةِ الكَثِيرَةِ

The one that has abundant blessings, and the one whose wisdom is vast and apparent

ثُمَّ الصَّلَاةُ مَعَ سَلَامٍ دَائِمٍ (٣) عَلَى الرَّسُولِ القُرَشِيِّ الخَاتَمِ

Then I sent peace and salutations upon the Prophet (SAW), everlasting peace. Upon the Prophet who is from Quraysh and the last of them (Prophets).

وَأَلِيهِ وَصَحْبِهِ الأَبْرَارِ (٤) الحَائِزِي مَرَاتِبَ الفَخَّارِ

And upon his family and his companions, those who have attained glorious ranks in Islam

اعْلَمْ هُدَيْتَ أَنْ أَفْضَلَ المِنَنِ (٥) عِلْمٌ يُزِيلُ الشَّكَّ عَنْكَ وَالدَّرَنَ

Know, may you be guided, that from the greatest blessings of Allaah is knowledge, it removes all forms of doubt from you and all types of dust and sin

Two benefits of knowledge:

1. Knowledge removes doubt
2. Gets rid of and protects you from sins

وَيَكْشِفُ الحَقَّ لِذِي القُلُوبِ (٦) وَيُوصِلُ العَبْدَ إِلَى المَطْلُوبِ

It exposes the servant to the truth for the one who has an understanding heart. It leads the servant to that which he seeks

3. Exposes you to the truth
4. Leads you to that which you seek of benefit

فَاخْرُصْ عَلَى فَهْمِكَ للقَوَاعِدِ (٧) جَامِعَةِ المَسَائِلِ الشَّوَارِدِ

Give attention to understanding these principles, they combine for you the different masaa'il that are found everywhere in the books of fiqh

من حرم الأصول حرم الوصول – The one who is deprived of principles, then he has been deprived of attaining knowledge

لَتَرْتَقِيَ فِي الْعِلْمِ خَيْرَ مَرْتَقَى (٨) وَتَقْتَفِيَ سُبُلَ الَّذِي قَدْ وَفَّقَا

The reason for this, (i.e. telling you to pay attention) is so that you can progress in knowledge the best that you can and you will be following the methodology of those who came before you that were granted tawfeeq

وَهَذِهِ قَوَاعِدُ نَظْمَتِهَا (٩) مِنْ كُتُبِ أَهْلِ الْعِلْمِ قَدْ حَصَلَتْهَا

These principles I have laid out are from the books of knowledge

- Shows the Shaykhs' humility, he hasn't mentioned how he worked to compile it. He said they are simply just from past books

جَزَاهُمْ الْمَوْلَى عَظِيمَ الْأَجْرِ (١٠) وَالْعَفْوَ مَعَ غُفْرَانِهِ وَالْبِرَّ

May Allaah give them the greatest reward and pardon them and give them forgiveness

وَنِيَّتُنَا شَرْطٌ لِسَائِرِ الْعَمَلِ (١١) بِهَا الصَّالِحُ وَالْفَسَادُ لِلْعَمَلِ

The intention is a condition for every action, with it, the validity or corruption of the action will be determined

2 ways to write this principle:

1. الأمور بمقاصدها
2. الاعمال بالنيات

	DESCRIPTION
GENERAL MEANING	That which will determine whether our acts of worship are correct or not, is the intention. If the intention is correct, then the action is sound and will be accepted in sha Allaah. If the intention isn't sound then the action is corrupt and won't be accepted
EVIDENCE	<p>QURAN: And whoever does this seeking Allah's pleasure, We will grant them a great reward. [4:114]</p> <p>HADITH: Actions are judged by intention [Bukhari]</p>

EXAMPLE	#1 Praying with the intent of others seeing you, will corrupt your act of worship
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Niyah: that you have a firm determination in the heart to do an action in order to get closer to Allaah

How important is the intention?

1. Imam Shafi': this principle can be applied to 70 chapters of Fiqh

Benefits of the intention:

- It differentiates between different types of worship
 - E.g. Fajr has 2 sunnah rak'at, and 2 fardh raka'at → that which differentiates them is their intention
- Differentiates your ibadah and your normal actions
 - E.g. Ghusl and showering are essentially the same thing → that which differentiates them is their intention

Where does intention take place?

In the heart, doesn't need to be said out loud

Certain things don't require intention:

- Removing Najasah
- Things that can only be ibadah
 - E.g. Tawakkul, reading the Qur'an
- Those things in which the benefit passes over to others
 - E.g. you are building a Masjid so that others may benefit, you don't have to make an intention that every single person will pray
 - E.g. Knowledge
- That which the right of the person is uppermost
 - E.g. returning money back to someone

	<p>الدِّينُ مَبْنِيٌّ عَلَى الْمَصَالِحِ (١٤) فِي جَلْبِهَا وَالذَّرْءُ لِلْقَبَائِحِ</p> <p>The religion is based upon benefits, in establishing the benefits and repelling all types of harm</p>	<p>Second part: لا ضرر ولا ضرار (there is no harming and there is no causing harm)</p>
	DESCRIPTION	
<p>GENERAL MEANING</p>	<p>The Shari’ah of Islam came to preserve and increase every type of good and beneficial thing for the human being; just like it came to decrease/ totally remove all forms of harm and difficulty and evil</p> <p><u>5 things Islam came to preserve:</u></p> <ol style="list-style-type: none"> 1. Religion 2. Aql 3. Nafs 4. Maal 5. Ird / Nasab <p>Scholars say it is so important that it isn’t a principle in the haria rather it is the principle of the Shari’ah</p>	<p>This is mentioned indirectly in the book; 1 of the 5 major principles</p>
<p>EVIDENCE</p>	<p>We have sent you ‘O Prophet’ only as a mercy for the whole world. [21:107]</p> <p>This day I have perfected for you your religion and completed My favor upon you and have approved for you Islām as religion. [5:3]</p> <ul style="list-style-type: none"> • The fact that the religion is complete shows that there isn’t a benefit except that Islam commands it, and that there isn’t a harm except that Allaah negates and prohibits it 	<p>The Messenger of Allah, peace and blessings be upon him, said, “Do not cause harm or return harm” [al-Sunan al-Kubrā lil-Bayhaqī 11384]</p>
<p>EXAMPLE</p>		

Things in the Shari’ah are 1 of 4:

Islam commands with this:

1. Something which only has good in it
 - a. E.g. Tawheed – there is only benefit in following this, there is never any harm
2. A benefit which is greater than any harm
 - a. E.g. Jihad – there is some harm, however the benefit outweighs the harm

Islam prohibits:

3. Only harm
4. The harm is greater than the benefit
 - a. E.g. Alcohol, there can be benefit such as money, but the harm of Allaah’s anger is greater

<p>Another principle: (not mentioned here)</p> <p>ضرر مفسدة مقدم على جلب المصلحة – Repelling harm comes before bringing any benefit</p>	
	DESCRIPTION
EVIDENCE	<p>‘O believers!’ Do not insult what they invoke besides Allah or they will insult Allah spitefully out of ignorance [6:108]</p> <ul style="list-style-type: none"> Allaah tells us to not insult their false deities, as they may turn around and insult Allaah – prevention comes first as this harm is greater than any benefits that may come from insulting their deities

<p>فَإِنْ تَزَاحَمَ عَدَدُ الْمَصَالِحِ (١٣) يُقَدِّمُ الْأَعْلَى مِنَ الْمَصَالِحِ</p> <p>If benefits clash, you give precedence to the one that is most important</p>	
	DESCRIPTION
GENERAL MEANING	<p>If we are ever faced with 2 beneficial things, and we can only do one of them, we do the one that is more important/ the one that has more reward/ the one that is more beneficial. This is with the condition that you can't do both</p>
EVIDENCE	<p>Follow ‘the Quran,’ the best of what has been revealed to you from your Lord [39:55]</p>
EXAMPLE	<p>#1 Tahiyatul masjid, say its ruling is wajib. Dhuhr is also wajib. If you walk into the masjid, and the Imam has started salat al dhuhr, you can pray either tahiyatul masjid or dhuhr. Which do you give precedence to? Dhuhr → it is more important/ more reward/ more beneficial</p> <p>#2 If there is a room full of men who are seeking knowledge and one man decides to read Qur’an, it is better for that man to seek knowledge with the rest. In that moment, it is more important and more beneficial</p> <p>#3 Your brother asks you for help and your mother asks you for help. Who do you give precedence to? The mother, it is more important to be dutiful to parents.</p> <ul style="list-style-type: none"> If 2 wajib acts collide, you give precedence to the one that is more wajib <p>#1 You have missed a fast from last Ramadan and tomorrow a new Ramadan enters. You must give precedence to the new Ramadan as in that moment, that obligation is more important. You make up the missed fast after the current Ramadan</p>

وَضِدُّهُ تَزَاحُجُّ الْمَفَاسِدِ (١٤) يُرْتَكَبُ الْأَذْنَى مِنَ الْمَفَاسِدِ

If harms collide, you take the lesser of the two harms

	DESCRIPTION
GENERAL MEANING	
EVIDENCE	He has only forbidden you 'to eat' carrion, blood, swine, and what is slaughtered in the name of any other than Allah. But if someone is compelled by necessity—neither driven by desire nor exceeding immediate need—they will not be sinful. Surely Allah is All-Forgiving, Most Merciful. [2:173]
EXAMPLE	#1 You've had a car accident and you have an injury on your right hand. The doctor says you either cut your hand off now, or the infection will reach the rest of your body. Both are harmful but cutting your hand off now will be the lesser of the two harms #2 A man in a hotel only has one garment of clothing which is silk. Salah has entered; he has 3 options, pray later with better clothing, pray naked or pray in the silk (which is haram). He should choose the last option as it is the lesser of the evils

قَاعِدَةُ الشَّرِيعَةِ التَّيْسِيرُ (١٥) فِي كُلِّ أَمْرٍ نَابَهُ تَعْسِيرٌ

In everything that is stricken with difficulty, there is ease

المشقة تجلب التيسير – one of the 5 major maxims

	DESCRIPTION
GENERAL MEANING	Whenever you come across some sort of difficulty, then Allaah will provide with you and make that difficulty easier for you
EVIDENCE	<p>Allah intends ease for you, not hardship [2:185]</p> <p>The Prophet (ﷺ) said, "Make things easy for the people, and do not make it difficult for them, and make them calm (with glad tidings) and do not repulse (them). [Sahih al-Bukhari 6125]</p>
EXAMPLE	<p>#1 Travelling is difficult, therefore Allaah has legislated for you to combine your salah</p> <p>#2 Pray standing, if you can't then sit, if you can't then lie down...</p> <p>Examples of ease in the Shari'ah:</p> <ol style="list-style-type: none"> 1. Wajib can be dropped/ we're excused <ol style="list-style-type: none"> a. Example: Women don't have to pray in their menses b. Example: 2. Decreasing <ol style="list-style-type: none"> a. Example: when travelling, shortening prayer 3. To change <ol style="list-style-type: none"> a. Example: if you don't have water for wudhu, then you perform tayammum 4. Bringing forward <ol style="list-style-type: none"> a. Example: combining salah whilst 5. Delaying <ol style="list-style-type: none"> a. Example: if you're travelling, you don't have to fast that day and you can delay it to another day 6. Something haram is made permissible <ol style="list-style-type: none"> a. Example: interest is haram, but having a bank account which deals with interest → permissible as it's not possible to have one without it b. Example: car insurance