

ALI 637 UNIT 2: Pre Ahkam

CHAPTER 1 - Foundation of Mafsaday and Masleyhat in Ahkam Ilahi

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يا الله يا محمد يا علي يا فاطمه يا صاحب الزمان ادركني ولا تهلكني

Linking over all themes: turning off auto pilot mode, this theme should be seen here, our actions have foundations to them. No action is devoid of a root in the *nafs*. Some acts are only rooted in desire, others are rooted in anger, the ideal is to root all actions in the intellect and allow the intellect to balance the faculties of anger, and desire and imagination (*wahm*). Such that the intellect is neither wholesomely submissive to them, nor entirely negligent of them, but rather maintains a balance to them by means of the *shariah*.

Session 2: The foundations of law:

Laws in essence are based innately in some level of foundation. Even seemingly arbitrary laws are not entirely arbitrary when you factor in the person making the law with their explicit persona. Based on their experiences and upbringing, the environment they are in and the genetic buildup that they inherited. The laws that this specific person will make are no longer absolutely arbitrary, they have roots in one or more of the sectors mentioned. The inclinations to willingly follow this law will be based on how many of those root factors one has common to the law maker.

Sometimes the law is based on a foundation which is other than the persona of a person but rather the assumed identity of a collective. Here we have democratic laws, meaning the majority of a collective comes and decides on a law, and that law gains legitimacy by means of popularity. The inclination to follow this law will be based on the acceptability of the ability of collective view to give legitimacy. Those that allow the collective view to rule them, will be inclined to willingly follow this type of law.

What is the best outcome? What is success? What are imaginative benefits and actual benefits?

Intellect prevents actions which are absolutely useless. In the actions they perform, Mankind, a being with some level of intellect, is after benefit from their actions. Apparently, non-beneficial actions like moving their feet while sitting also have a small benefit like, giving the *wahm* of mankind a sense of comfort. Or the choice to not buttoning their collar-button or wear some style of clothing, perhaps to conform to the norm they see around them or manifest an image of their inner personality.

Essentially Creation of a Law is also an action. Intellect prevents it from being absolutely devoid of benefit.

When considering benefits there are many criteria to consider. There is the consideration of the individual law abider, the populous as a whole, the interaction between the individuals and more. For this next bit, we will simplify the benefits to one singular benefit value.

There are two main types of benefits: imaginative benefits and actual benefits. For example, take a child going to a doctor for the flu-shot. They go get an injection to decrease their chance of getting the flu.

For the child they don't want to willingly go as they see the benefit in not getting pricked by the needle. This benefit from the child's perspective is an imaginative benefit. They consider only the pricking of the needle and nothing past that. And thus they perceive that the final result is a pain. And thus they conclude that the needle is bad and the child then is not willing to go to the doctor.

Consider the perspective of the parent, in the eyes of the parent one who can conceptualize possible future risks and the benefits. The parent sees the benefit in lessening the possibility of the child getting the flu as an actual benefit. If the parent is asked about the benefit of not getting pricked, they will station this benefit in the short-term benefits category and say that the actual benefit is in the prevention of the flu i.e. the long-term benefit and if not getting pricked means not getting the vaccine, then this not getting pricked is actually not a benefit at all. As in the larger capacity to see the scenario that that parent holds, the not getting of the vaccine is what may lead to a much harsher outcome for the child.

In this small example, we see that the allocation of benefit requires knowledge of the scenario and as the level of knowledge becomes higher, the allocation of what is seen as a benefit may shift.

In a similar manner, if a person were to hold their own personal desire as the main criteria to be met in their life, then their perception of benefits will be tinted with the glaze of desire. While intellect calls for situating every aspect of the *nafs* in its own level of importance, it does not neglect the faculty of desire entirely, but it does not submit to it wholesomely as well.

So if a lawmaker knew all there is to know about mankind and all the individuals in it from the depths of its history till the end of their existence as a whole and as individuals. Meaning, the lawmaker fully understood the needs of all of creation including mankind, their wants, their potential deviances, their potential inclinations. This coupled with the lawmaker having certain traits which ensure that they are after the needs of creation to be fulfilled in all realms of existence. All of creation then, can be invited to willingly follow these laws. As the root of these laws are founded in the absolute understanding of all the possible upbringings and interactions, all the possible environment situations and genetic buildup of man and more. These laws are not arbitrary; they are designed with each law abider in mind. With the goal to grant them the best outcome in all realms of their existences collectively.

The Lawmaker and Law Abider

Slightly scratching the surface of the discussion regarding the law, the lawmaker and the law abider. Consider this, we have:

1. the lawmaker
2. the law itself
3. the one for whom the law applies.

Every law has a purpose to it. Sometimes the purpose is linked to just the lawmaker, other times it is linked to the one for whom the law is applied to, or linked to both of them. In any case, there is always a purpose behind every law.

Scenario A: Benefits are for the lawmaker solely.

Consider this, the purpose of the law, only suits the lawmaker, in other words the purpose is only linked to the lawmaker. For example, a teacher makes a rule that for any student who gets 100% on the exam, they have to give the teacher candy. The purpose here goes back to the lawmaker (teacher) entirely, meaning it goes back to the fulfilment of his or her desire to get candy which they don't already have. Two things to note here:

1. The lawmaker/teacher can have an entire candy store, but he still doesn't have the specific candy which the students give once they get 100% on the exam. In regards to that specific candy, the lawmaker is deficient/lacking.
2. Because the purpose is entirely linked to the lawmaker, this means that those for whom the law is applied to, if willing participants, are in fact doing the lawmaker a favour, i.e. they have nothing to gain from this law they are just allowing the lawmaker to reap his benefits.

Scenario B: Benefits are for both parties.

It is also possible that the benefit of the law is linked to both the lawmaker and the one for whom the law is applied to. For example, a teacher makes a law that for every student who gets 100% in the exam, they have to help the students who got below 50% in the exam. By making this law, the teacher gains something. He gains extra help towards his overall goal to help the whole class learn. The student also gains something, the students gain the capacity to teach and hence further strengthen their understanding in that material. In this case, the purpose of the law was linked to both the lawmaker and the one for whom the law applies.

Note here that this type of dual linkage of purpose can be of three types:

1. The purpose benefits both parties equally, i.e. it's equally linked.
2. The purpose benefits both parties un equally:
 - a. It benefits the teacher more i.e. favoring the lawmaker more
 - b. It benefits the student more i.e. favouring the law abider

For the case where the purpose is equally linked to both parties, there is mutual favour present, i.e. the participation of both parties in the law, the lawmaker in making it and the follower in following its benefits, the other party gaining their share of the gains from this law. Meaning the students participation leads to the teachers getting their goal met. In this manner the students are favoring the teacher, and similarly by making the law, the teacher is providing the students the capacity to teach, which they otherwise may not have had, so by making the law the teacher is doing the students a favour as well. Of course, this example only fits when we assume that the examples used here, the two gains i.e. teaching opportunity for students and the overall growth in understanding of the class regarding a certain topic, are equal.

For the scenario where the benefit favours the law maker more (a), and the case where the benefit favours the one to whom the law is applied too (b), the amount that each party contributes to the other, that party is owed that much, as it was a favour for them to commit to the law such that the other party could get their gains. Resulting in the cancelling out of the commonly shared proportion. And the left-over proportion remains as a favour of the other party, in the case of "a" the one whom the law is applied to are favouring the lawmaker, and in the case "b" the lawmaker is favouring the other party.

In both cases, the lawmaker is dependent on the law abider for the amount of benefit that is linked to him.

Scenario C: The benefit of the law goes entirely to the law abider.

For a special type of law maker, it can be perceived that the entire benefit is for the law abider. In this case the law abider is in no way doing a favour to the lawmaker, rather in entirely dependant towards the lawmaker for allowing benefit to reach the law abider.

The benefit going back to the law abider entirely, leaves 2 options for the lawmaker:

1. is that the law maker is doing an act which has no value for the lawmaker, hence it is value less for the lawmaker,
2. The other option is that the lawmaker has an innate quality which requires this law to be made, i.e. he is so kind that his kindness requires this law to be made. This requirement or need for the display of kindness is not externally imposed, rather it is simply the appearance of the trait of kindness in the lawmaker.

In the case of Islamic laws. The creator of these Laws is the all-independent Rab. More regarding the intellectual explanations of his existence and the traits he has will come up in the BR courses.

The all-independence of Allah (SWT) has multiple implications. One of those implications is that any law created by him can not be such that He is dependent on the law or the law abider for any benefit. Rather, the third case is true for Allah (SWT) where the entire benefit is for the law abider. And in this option two is what is taking place. Meaning the creation of law is not purposeless, it is the appearance of the trait of His (SWT) absolute perfection and independence.

Just as the verses in unit C2 pointed out, success is for those who purify the *nafs* and failure is for those who corrupt it. The laws created by Allah (SWT) are ones which if followed are keeping all aspects of man's creation into account including their desires, fears, aspirations, potential and weaknesses. The purity of the *nafs* then is based on how well man stayed away from that which the law forbade and how sincerely he acted on that which he had to do as per the law. In this, man is called upon in the Holy Quran to willingly obey this law, such that his needs are met. The one who is telling him this is Allah (SWT), the Creator and Rab who knows the whole scenario, and every detail regarding man. Knowing this trait of his Rab (SWT) is what allows man to forgo what he may perceive to be beneficial; if what man saw as beneficial ever was in opposition to what the Law of Allah (SWT) demanded of him. This submission is why the one who obeys the laws is called a Muslim. One who is entirely submissive (willingly) to the decree of his Rab (SWT).