



Objective Jurisprudential Research Papers

Al- 'Aḥkām al-Shar'īyyah
(Legal Rulings)

A group of lectures presented and prepared by
Dr. Khālid Naṣr
Director of the International Institute
for Islamic Studies

Translated by
'Aḥmad Khālid Eid

**In the Name of Allāh,
the Most Merciful, the Most Compassionate**

**All praise is due to Allāh and blessings and peace upon the
Messenger of Allāh (peace and blessings be upon him). Since then:**

Lecture One

The Definition of *Hukm* (Ruling) in Terminology:

Hukm in terminological usage is: the address of Allāh related to the actions of legally accountable individuals, whether in the form of *iqtiḍā'* (demand), *takhyīr* (choice), or *waḍ'* (correlation).

The phrase "*the address of Allāh*" excludes the address of any other being, such as angels, prophets, or people.

A *mukallaf* (legally accountable person) is a human being who is of sound mind, has reached the age of maturity, and to whom the Islamic message has been conveyed.

Iqtiḍā' (demand): This refers to the demand to perform an act or to abstain from it. Each of these may be affirmed or not affirmed. From this, four categories emerge:

- ***Al-'Ijāb*** (Obligation): This is a demand coupled with affirmation.
- ***Al-Nadb*** (Recommendation): This is a demand without affirmation.
- ***Al-Taḥrīm*** (Forbiddance): This is a demand to abstain, coupled with affirmation.
- ***Al-Karāhah*** (Abhorrence): This is a demand to abstain without affirmation.

Takhyīr (choice): This lies between performance and abstention and results in general *'ibāḥah* (permissibility).

Waḍ' (correlation): This is the address of Allāh that relates to making a thing a *sabab* (cause) for action, a *shart* (condition), a *māni'* (hinderance), or a *rukḥṣah* (concession).

Types of *'Aḥkāṃ Shar'iyyah* (Legal Rulings):

The *'uṣūliyyūn* (scholars of *'Uṣūl al-Fiqh*/the Fundamentalists) have divided legal rulings into two types:

1. *Al-Hukm al-Taklīfī* (Charging Ruling)
2. *Al-Hukm al-Waḍī'ī* (Correlative Ruling)

First: *Al-Ḥukm al-Taklīfī* (Charging Ruling):

This is the address of Allāh related to the action of the *mukallaf* in terms of demand or choice.

Examples:

- The saying of Allāh: “Establish the *ṣalāh* and give the *zakāh*.” [Al-Baqarah 2:43].
- The saying of Allāh: “Eat and drink, but do not be excessive.” [Al-ʿAʿrāf 7:31].
- The saying of Allāh: “And cooperate in righteousness and piety, but do not cooperate in sin and aggression.” [Al-Māʿidah 5:2].

Second: *Al-Ḥukm al-Waḍīʿī* (Correlative Ruling):

This is the address of Allāh by which He designates something as a sign for a charging ruling or correlates it to that ruling.

Examples:

- The saying of Allāh: “Establish the *ṣalāh* at the decline of the sun.” [Al-ʿIsrāʾ 17:78]. Here, the sun's decline is the *sabab* (cause) for the obligation of prayer.
- The saying of Allāh: “So whoever among you witnesses the month, let him fast it.” [Al-Baqarah 2:185]. Witnessing the month is the *sabab* (cause) for the obligation of fasting.
- The saying of the Prophet Muḥammad (peace and blessings be upon him): “The killer does not inherit.” [Recorded by Ibn Mājah and Al-Dāraquṭnī]. Killing is a *sabab* (cause) for the *māniʿ* (hindrance) of inheritance from the murdered person.

The Difference Between *Al-Ḥukm al-Taklīfī* and *Al-Ḥukm al-Waḍīʿī*:

1. *Al-Ḥukm al-Taklīfī* involves a demand—whether to act or abstain—while *Al-Ḥukm al-Waḍīʿī* contains no such demand.

2. *Al-Ḥukm al-Taklīfī* is intended in and of itself, whereas *Al-Ḥukm al-Waḍī'ī* is a means to identifying it. For example, giving *zakāh* is the purpose, while reaching the *niṣāb* (minimum threshold) is only the cause.
3. *Al-Ḥukm al-Taklīfī*, as the name implies, pertains only to the *mukallaf*, while *Al-Ḥukm al-Waḍī'ī* is broader—it applies to both the *mukallaf* and others. For instance, minority is a cause for *ḥajr* (interdiction) and also a cause for *wilāyah* (guardianship).
4. *Al-Ḥukm al-Taklīfī* lies within the capacity of the *mukallaf*, both to perform and to abandon. *Al-Ḥukm al-Waḍī'ī*, however, may lie within one's capacity—such as witnessing a contract's validity—or beyond it, such as the sun's decline, or reaching the age of maturity, which lifts interdiction and guardianship.

Lecture Two

The Categories of *al-Ḥukm al-Taklīfī* According to the Majority of Scholars:

1. *Al-'Ijāb* (Obligation): That which the Legislator has commanded with affirmation. It is referred to as *fard* by the majority of scholars, whereas the Ḥanafīs distinguish between *fard* and *wājib* based on the strength of the evidence used to establish the ruling.
2. *Al-Nadb* (Recommendation): That which the Legislator has commanded, though not with affirmation. The sign that it is a command without affirmation is the absence of a consequential punishment for its omission.
3. *Al-'Ibāḥah* (Permissibility): That which is originally permissible, such as eating apples or grapes, sleeping a certain number of hours, or riding an animal.
4. *Al-Karāḥah* (Abhorrence): That which the Legislator has commanded to be avoided, but not with affirmation. Its sign is the absence of a consequential punishment for its performance.
5. *Al-Taḥrīm* (Forbiddance): That which the Legislator has commanded to be avoided with affirmation. Its sign is the establishment of a consequential punishment for committing the act.

The Categories of *al-'Aḥkām al-Taklīfiyyah* According to the Ḥanafīs:

1. *Al-Iftirāḍ* (Clear-cut Obligation): That which is established by clear-cut evidence in both *thubūt* (transmission) and *dalālah* (indication), such as the obligation of *ṣalāh* and *zakāh*. Whoever deliberately denies this category is a disbeliever.
2. *Al-Wujūb* (Speculative Obligation): That which is established by speculative (non-clear-cut) evidence—either in transmission or in indication—such as the *zakāh* of *fiṭr*, the 'Īd prayer, reading *Sūrat al-Fātiḥah* in prayer, the *Witr* prayer, and the slaughter of the *'uḍḥiyyah*. Denying this category is sinful but does not result in disbelief.
3. *Al-Nadb* (Recommendation): As held by the majority of scholars.

4. *Al-'Ibāḥah* (Permissibility): As held by the majority of scholars.
5. *Al-Karāḥah al-Tanzīhiyyah* (Indecisive Abhorrence): That which the Legislator commanded to be avoided, but not with affirmation—such as fasting only on Friday or drinking directly from the mouth of a waterskin.
6. *Al-Karāḥah al-Taḥrīmiyyah* (Prohibitive Abhorrence): That which the Legislator commanded to be avoided with affirmation, but the evidence is speculative—either in transmission or indication—such as selling during the Friday prayer or proposing marriage to someone already being proposed to. It entails punishment, but the one who denies it is not a disbeliever.

[The three Imāms differed in accepting this category. The two Shaykhs (Abū Ḥanīfah and Abū Yūsuf) affirmed it, while Imām Muḥammad rejected it and regarded it as *taḥrīm*.]

7. *Al-Taḥrīm* (Forbiddance): As held by the majority of scholars.

Are There Practical Implications to the Disagreement Between the Majority and the Ḥanafīs?

Yes, the differences in classification result in various practical consequences. Among them:

1. One who knowingly denies what is *farḍ* is a disbeliever according to all, while one who denies what is *wājib* is considered a disbeliever by the majority, but merely sinful by the Ḥanafīs.
2. An act remains valid even if a *wājib* is omitted according to the Ḥanafīs, whereas it is invalid according to the majority. For example, leaving out Sūrat al-Fātiḥah in prayer invalidates the prayer according to the majority, but not according to the Ḥanafīs—though the prayer is considered deficient.

Linguistic Styles Indicating Obligation:

1. Direct Command using:
 - The imperative verb: “*Wa-’aqīmū al-ṣalāh* (and establish the prayer) ...” [Al-Baqarah 2:43].

- The imperative gerund: “*Fa-ḍarb al-riqāb* (then striking the necks) ...” [Muḥammad 47:4].
 - The present tense verb preceded by the *lām* of imperative: “*Li-yunfiq dhū sa’at-in* (let him who has means spend) according to his means...” [Al-Ṭalāq 65:7].
 - The verbal noun functioning as an imperative: “‘*Alaykum* ‘anfusakum (upon you is your own selves) ...” [Al-Mā’idah 5:105]. The Prophet’s (peace and blessings be upon him) statement: “‘*Alaykum min-al-’a’ māl mā tuṭiqūn* (take upon yourselves only those deeds you are capable of) ...” [Recorded by Al-Bukhārī and Muslim].
2. Explicit Command: “Indeed, Allāh commands you to render trusts...” [Al-Nisā’ 4:58].
 3. Affirmation of Obligation in Sentential Form: “Fasting is prescribed upon you...” [Al-Baqarah 2:183], “And *ḥajj* to the House is a duty upon mankind...” [Āli ‘Imrān 3:97].
 4. Threat of Consequential Punishment for Omission: The *ḥadīth*: “Whoever has the means and does not offer a sacrifice, let him not approach our *masjid*.”

Categories of Obligation:

1) Timing:

- a) *Mu’aqqat* (Time-bound): e.g., fasting in Ramaḍān, *ḥajj*.
- b) *Muṭlaq* (Unrestricted): e.g., making up missed fasts in Ramaḍān.

2) Specification:

- a) *Muḥaddad* (Specific): e.g., *zakāh*.
- b) *Ghayr Muḥaddad* (Unspecified): e.g., *ta’zīr* (discretionary punishment), spousal maintenance.

3) Scope of Responsibility:

- a) ‘*Aynī* (Individual).

b) *Kifā'ī* (Communal).

4) Designation:

a) *Mu'ayyan* (Determined): e.g., prayer.

b) *Mukhayyar* (Optional): e.g., options for expiation of broken oaths.

Linguistic Styles Indicating Recommendation:

1. Explicit Mention of Sunnah or Recommendation: “I have recommended for you its night prayer.” [Recorded by Al-Nasā'ī, Ibn Mājah, and 'Aḥmad in his *Musnad*]. This is in regard to Ramaḍān.
2. Unaffirmed Command: “Contract with them if you know...” [Al-Nūr 24:33]. The conditional clause makes the command unaffirmed.
3. No Consequential Punishment for Omission with Encouragement for Performance: “Verily, Allāh loves that His concessions be taken...” [Recorded by 'Aḥmad in his *Musnad*].
4. The Prophet's Performance and Omission of the Same Act at Different Times: e.g., at times he omitted praying optional prayers.
5. Arabic Expressions Indicating Preference: “Verily, Allāh is beautiful and loves beauty.” [Recorded by Muslim], “Ghusl (ritual bath) is better.” [Recorded by Al-Tirmidhī, Al-Nasā'ī, Ibn Mājah, and 'Aḥmad in his *Musnad*].

Categories of Recommended Acts:

1. *Sunnah Mu'akkadah* (Emphasized Recommendation): such as the voluntary prayers before and after obligatory ones.
2. *Sunnah Ghayr Mu'akkadah* (Non-Emphasized Recommendation): such as Ḍuḥā prayer and fasting Mondays and Thursdays.
3. *Sunnah Zā'idah* (Supplementary Recommendation): the Prophet's (peace and blessings be upon him) habitual actions in natural matters like sleep, dress, and personal appearance.

Linguistic Styles Indicating Forbiddance:

1. Explicit Terms: “Prohibited to you are your mothers...” [Al-Nisā’ 4:23].
2. *Nahiy* (Prohibitive Form): “Do not approach the orphan’s property...” [Al-’An‘ām 6:152].
3. Command to Avoid the Action: “So avoid it...” [Al-Mā’idah 5:90], “Avoid the seven destructive sins...” [Recorded by Al-Bukhārī and Muslim].
4. Stated Consequential Punishment for the Action: “Those who accuse chaste women... then flog them...” [Al-Nūr 24:4].
5. Arabic Expressions Connoting Forbiddance: e.g., “Allāh’s wrath,” “Allāh cursed...”

Categories of Forbidden Acts:

1. *Muḥarram li-Dhātih* (Intrinsically Forbidden): The forbiddance is an objective in itself—such as alcohol, pork, and murder. The resulting act is invalid.
2. *Muḥarram li-Ghayrih* (Instrumentally Forbidden): The forbiddance is an instrument for something else—such as selling during the Friday prayer. This renders the act invalid according to the majority, but merely *fāsid* (defective) according to the Ḥanafīs.

Importance of Differentiating Between Intrinsic and Instrumental Forbiddance:

Examples:

- *Ribā* is intrinsically forbidden, but *’Īnah* sale (a form of trickery around *ribā*) is instrumentally forbidden—its ruling is therefore lighter.
- Prayer without *ṭahārah* (ritual purification) invalidates the act of prayer, but divorce during menstruation is still valid because the forbiddance is not due to the act itself, but due to the resulting harm of extending the *’iddah* (according to those who interpret *al-qur’* as the duration of purity from menstruation).

- What is intrinsically forbidden is only permissible in cases of dire necessity, such as drinking alcohol when death from thirst is imminent. But what is instrumentally forbidden may be done due to a necessity or a need—such as exposing private parts for medical treatment.

Linguistic Styles Indicating Abhorrence:

1. Explicit Term: “Allāh abhors for you idle gossip, excessive questioning, and wasting wealth.” [Recorded by Al-Bukhārī and Muslim], “The most detested permissible act to Allāh is divorce.” [Recorded and authenticated by Al-Hākim].
2. Lack of Definitiveness in Prohibition: “Do not ask about things which, if made apparent to you, would distress you...” [Al-Mā'idah 5:101], and “If you ask about them while the Qur'ān is being revealed...” indicates permissibility along with abhorrence.

Linguistic Styles Indicating Permissibility:

1. Textual Indication of Choice: “If you wish, then fast; if you wish, then break your fast.” [Recorded by Al-Bukhārī and Muslim], in reference to fasting during travel.
2. Removal of Sin for the Act: “Then there is no blame upon them for what she ransoms herself with” [Al-Baqarah 2:229], “There is no restriction upon the blind...” [Al-Nūr 24:61].
3. Customary Clues Suggesting Permissibility: “Eat and drink...” [Al-Baqarah 2:187], “Disperse in the land...” [Al-Jumu'ah 62:10], “Approach them from where Allāh has commanded you...” [Al-Baqarah 2:222].
4. Removal of Prohibition: “And when you have completed your rites, then hunt...” [Al-Mā'idah 5: 2], The Prophet (peace and blessings be upon him) said: “I used to forbid you from visiting graves; now visit them.” [Recorded by Muslim].
5. Default Permissibility: Because the default ruling for things is permissibility.

Lesson Three

We previously stated that *wadʿ* (correlation) is the assignment of a thing to be connected with another thing, such as *ʿasbāb* (causes), *shurūṭ* (conditions), *mawānī* (hindrances), and others.

The benefit of knowing the *ḥukm wadʿī* (correlative ruling) lies in its alignment with people’s circumstances, the differences in times and places, and in showcasing the flexibility of the *Sharīʿah* through understanding the effective reasons, causes, and the setting of conditions.

Categories of *al-Ḥukm al-Wadʿī* (Correlative Ruling):

First: *al-Sabab* (Cause) — also called *al-ʿIllah* (Effective Cause):

It is the apparent, consistent attribute indicated by *dalīl samʿī* (textual evidence) as being an identifier of a *Sharʿī* ruling.

- The “attribute” refers to a concept or state, like minority, travel, or insanity.
- “Apparent” means it is not hidden.
- “Consistent” means it does not vary based on persons or circumstances.
- “Textual evidence” refers to the Qurʾān and Sunnah.
- “Identifier of the ruling” means it does not influence the ruling itself but merely signals its presence.

Examples:

- *Zinā* (fornication) is a cause for the *ḥadd* (prescribed punishment).
- The sun’s passing the zenith is a cause for the obligation of *Zuḥr* prayer.
- Sunset is a cause for the obligation of *Maghrib* prayer.

The Relationship Between *Sabab* (Cause) and *ʿIllah* (Effective Cause):

If the motivating factor for a ruling directly influences the ruling itself, it is called *ʿillah*, such as: Intoxication in the prohibition of wine, minority in guardianship, and travel for shortening prayers.

However, if it does not influence the ruling and is merely a sign for its presence, it is called a *sabab* (cause), such as: The sun's passing the zenith for the obligation of Zuhur prayer, sunset for Maghrib, dawn for Fajr prayer, and death as a cause for inheritance.

Second: *al-Sharṭ* (Condition):

A condition is that upon which the valid existence of a ruling depends, while it is not part of the ruling's essence. The absence of the condition necessitates the absence of the ruling, but its presence does not necessitate the presence of the ruling.

Examples:

- *Wuḍū'* (ablution) is a condition for the validity of prayer but is not part of the prayer.
- Sight of the crescent moon is a condition for starting or ending the fast but not part of either.
- The completion of *ḥawl* (one lunar year) is a condition for the obligation of *Zakāh* on wealth and trade, but not a part of either.
- Witnesses are a condition for the validity of the marriage contract but not part of the marriage itself.

The Difference Between *Rukn* (Pillar) and *Sharṭ* (Condition):

A *rukṇ* (pillar) is that upon which the ruling depends and is part of its essence, like *rukū'* (bowing) in prayer or the offer and acceptance in a contract.

A *sharṭ* (condition) is that upon which the ruling depends but is not part of its essence, like witnesses in marriage or *wuḍū'* in prayer.

Third: *al-Māni'* (Hindrance):

It is an apparent, consistent attribute whose existence necessitates the absence of the ruling or the absence of its cause.

This means: its presence necessitates absence; but its absence does not necessarily imply presence or absence.

Examples:

- Difference in religion is a hindrance to inheritance.
- The inheritor's killing of the inherited person is a hindrance to inheritance.
- Fatherhood is a hindrance to *qiṣās* (legal retaliation).
- Menstruation is a hindrance to prayer and fasting.

Fourth: *al-Ṣiḥḥah* (Validity):

A valid ruling is that which results in the intended effect recognized by the *Sharī'ah*.

Validity in rulings occurs when the *sabab* (cause) is established, the *shart* (condition) is met, and the *māni'* (hindrance) is absent.

For example, a prayer is valid when: Its time has entered, *Wuḍū'* has been performed, and there is no *janābah* (state of major ritual impurity) or *ḥayḍ* (menstruation).

The opposite of validity is *buṭlān* (invalidity) according to the majority of scholars, or *buṭlān* and *fasād* (deficiency) according to the Ḥanafīs.

Validity and Deficiency in Acts of Worship:

The jurists agreed that a valid act of worship is one that fulfills its pillars and conditions and is free from hindrances.

An invalid act of worship is one missing one pillar or one condition. There is no difference whether it is described as *bāṭil* or *fāsid* — in both cases, it is not legally effective.

Example:

- One who omits *rukū'* in prayer, or prays without *wuḍū'*, or intentionally faces the wrong direction: their prayer is invalid and must be repeated according to all schools.

Validity and Deficiency in Transactions:

The jurists also agreed that a valid contract is one that fulfills all its pillars and conditions and is free from hindrances.

They differed regarding invalid contracts:

- First opinion (majority of Mālikīs, Shāfi'īs, and Ḥanbalīs): All invalid contracts are the same; there is no difference in calling them *fāsid* or *bāṭil*, regardless of whether the defect lies in a pillar, condition, or attribute.
- Second opinion (Ḥanafīs): Invalid contracts are of two types:
 1. *Bāṭil* (invalid): where the defect lies in a pillar — no legal effect results.
 2. *Fāsid* (deficient): where the defect lies in a condition or attribute — some legal effects may still result.

Examples:

- The sale by an insane person is *bāṭil* because it lacks a pillar — the offer and acceptance were made by someone who has no legal capacity.
- Selling for an unknown price is *bāṭil* according to the majority, *fāsid* according to the Ḥanafīs — because specifying the price is a condition of validity, while the offer and acceptance are the pillar.
- A contract that includes a *ribā*-related condition is *bāṭil* according to the majority, *fāsid* according to the Ḥanafīs — because the condition is a surplus attribute.

Fifth: *al- 'Azīmah* (Initial Rule):

This is what Allāh has legislated initially for all of His servants.

Al- 'Azīmah is categorized into:

1. That which was legislated initially, such as acts of worship and transactions.
2. That which was legislated due to an incidental reason, such as the prohibition of insulting others' deities.

3. That which abrogated a previous ruling, such as the prohibition of praying toward Bayt al-Maqdis.
4. An exception to a general ruling, such as the exclusion of *khul'* wealth from the general prohibition of taking back the entire or part of the dowry.

Sixth: *al-Rukhṣah* (Concession):

It is a ruling established contrary to the evidence due to an excuse.

Al-Rukhṣah is covered by all the '*aḥkām taklīfiyyah* (charging rulings), as follows:

1. Obligatory — such as eating *maytah* (carrion) in case of necessity, according to the majority of scholars.
2. Recommended — such as shortening the prayer during travel, according to the majority of scholars; while the Ḥanafīs consider shortening to be '*azīmah* (the initial rule).
3. Permissible — such as uncovering one's private area for a medical examination, or combining prayers due to an excuse, according to the majority of scholars (contrary to the Ḥanafīs).
4. Abhorrence — such as breaking the fast in Ramaḍān due to a light excuse, or uttering words of disbelief during *fitnah* (trial).

Lesson Four

Linguistically, *al-’ahliyyah* (legal capacity) refers to *ṣalāḥiyyah* (suitability), as in the expression: “He is *’ahl* (fit) for such-and-such,” meaning he is *ṣāliḥ* (suitable) for it.

Technically, *al-’ahliyyah* is divided into two types:

1. *’Ahliyyat al-Wujūb* (Capacity for Duty): The suitability of a person to have rights established for them and obligations imposed upon them.
2. *’Ahliyyat al-’Adā’* (Capacity for Performance): The suitability of a person to be held accountable for fulfilling obligations.

***Al-’Awāriḍ al-Ahliyyah* (Factors Affecting Legal Capacity):**

This refers to what may affect one’s capacity, whether wholly or partially.

These factors are of two types:

First: Natural (Non-volitional) Factors: These occur beyond a person's control. Among them:

1. ***Al-junūn* (Insanity):** This does not prevent *’ahliyyat al-wujūb* (capacity for duty); the insane is still attributed to his father, and retains rights such as life, inheritance, and bequests. However, he does not possess *’ahliyyat al-’adā’* (capacity for performance).
The Prophet (peace and blessings be upon him) said: “The pen (i.e., accountability) is lifted from three: from the insane whose mind is overcome until he recovers...”
2. ***Al-’atah* (Imbecility):** This differs from insanity in that the person alternates between states resembling sanity and insanity.
He possesses full *’ahliyyat al-wujūb*, and *’ahliyyat al-’adā’* depending on his mental state.
3. ***Al-nisyān* (Forgetfulness):** A coercive and incidental condition affecting a person. It does not negate either type of capacity but removes sinful accountability in the Hereafter. One who forgets to pray is not sinful but must make it up. One who forgets to pay *zakāh* must still do so. One who

eats forgetfully in Ramaḍān day hours is not sinful and must complete the fast. One who forgets entrusted money must compensate for it.

4. ***Al-nawm wa al-'ighmā'* (Sleep and Fainting)**: These nullify '*ahliyyat al-'adā'* temporarily. The person is required to make up missed acts of worship. One who sleeps through a prayer is excused from sin but must perform it upon waking. One who faints must make up missed prayers after regaining consciousness. One who accidentally rolls over a child in sleep causing death is exempt from sin but must pay *diyyah* (blood money).
5. ***Al-maraḍ* (Illness)**: Specifically referring to chronic or severe illness. It does not nullify either type of capacity, but it may affect that of performance. The form of prayer changes. Fasting may be replaced by *qaḍā'* (making up) or *fiḍyah* (compensatory feeding). Contracts and transactions remain valid except in the case of *maraḍ al-mawt* (a death-illness), where scholars differed, though the majority validate such contracts.
6. ***Al-ḥayḍ wa al-nifās* (Menstruation and Postnatal Bleeding)**: These are specific to women and affect '*ahliyyat al-'adā'* in certain acts such as prayer, fasting, and *tawāf* (circumambulation).
7. ***Al-mawt* (Death)**: This nullifies both capacities. Only debts remain as a legal consequence.

[There is a difference of opinion regarding *zakāh* if one dies without having paid it. The Ḥanafīs hold that it is like prayer and the heirs are not obligated to pay it. The Shāfi'īs say it is a debt upon the estate and must be paid before dividing the inheritance].

Second: Acquired (Volitional) Factors:

These are within a person's control and are the result of personal choice:

1. ***Al-jahl* (Ignorance)**: Does not negate either type of capacity.
2. ***Al-khaṭa'* (Mistake)**: The opposite of intent. Does not affect legal capacities but removes sin in the Hereafter.
3. ***Al-hazl* (Jesting)**: The opposite of seriousness. Does not invalidate either type of capacity.

Types of jesting:

- ***Iikhbārāt (In Statements)***: If one jests in statements of fact, it is considered lying.
- ***I'tiqādāt (In Beliefs)***: If one jests regarding matters of faith (e.g., belief in Allāh), it constitutes disbelief.
- ***Inshā'āt (In Formative Speech)***: If one jests in contracts such as marriage, divorce, emancipation, or *raj'ah* (return in divorce), it is binding in these specific contracts.

In contrast, jesting is not binding in other contracts, such as saying, “I sell you my house,” while intending to joke.

4. ***Al-Safah (Foolishness)***: This is impulsiveness in actions contrary to reason. It does not nullify either capacity but permits legal interdiction on the fool in financial dealings. Other contracts, such as marriage or divorce, remain valid.
5. ***Al-sukr (Intoxication)***: The loss of mind due to intoxicants.

The majority hold it does not nullify either capacity. If intoxication was intentional, the person is held accountable. The Ḥanbalīs hold that verbal acts (like divorce or emancipation) are not binding, but physical acts (such as causing damage) are binding, and the intoxicated person bears the consequences like someone acting mistakenly—he must pay compensation or *diyah*.

6. ***Al-'Ikrāh (Coercion)***: Forcing someone into speech or action they would not choose freely. It does not affect either type of capacity but impacts the validity of certain actions. There is a disagreement between the Ḥanafīs and the majority of scholars on this matter.