

THE TWO TYPES OF HUKM

Hukm - Communication from the Lawgiver regulating the action of a *mukallaf* consisting of a demand, permission, or enactment.

1. *al-Hukm al-Taklifi* / الحكم التكليفي
 - demand or permission
2. *al-Hukm al-Wad'i* / الحكم الوضعي
 - enactment

AL-HUKM AL-WAD'I (DECLARATORY LAW)

• Communication from the Lawgiver which enacts something into a cause [*sabab*], a condition [*shart*], or a hindrance [*mani'*] to something else

- THREE MAIN TYPES:
 1. Cause [السبب]
 2. Condition [الشرط]
 3. Hindrance [المانع]
- OTHER TYPES:
 4. Validity [الصحة]
 5. Invalidity [الفساد]
 6. Strict Law [العزيمة]
 7. Concessionary Law [الرخصة]

CAUSE [السبب]

• An attribute that is evident [ظاهر] and constant [مستفيض], which the Lawgiver has tagged as the indicator to a *Hukm* in such a way that its presence necessitates the presence of the *Hukm* and its absence means that the *Hukm* is also absent.

• Example: Sunset is a cause for the obligation of Maghrib Prayer

EXAMPLES OF CAUSE [SABAB]

<i>SABAB</i>	<i>HUKM</i>
1. Break of Dawn	1. Obligation of Fajr Prayer
2. Possession of <i>Nisab</i>	2. Obligation of Zakat
3. Theft	3. Obligation of corporal punishment
4. Travel	4. Permission of breaking fast
5. Marriage	5. Prohibition of further marriages

TYPES OF CAUSE [SABAB]

1. Within the control of the *mukallaf*
2. Not within the control of the *mukallaf*
3. Related to the *Hukm* in a way that makes sense
4. Not related to the *Hukm* in any way that makes sense

CONDITION [الشرط]

- An external attribute whose absence necessitates the absence of the *Hukm*, but its presence does not necessitate the presence of the *Hukm*.
- Example: Puberty is a condition for the obligation of Prayer

EXAMPLES OF CONDITION [*SHART*]

<i>SHART</i>	<i>FOR</i>
1. Taklif	1. All obligations
2. Passage of lunar year	2. Obligation of Zakat
3. Purification	3. Validity of Tawaf
4. Marriage	4. Validity of Divorce
5. Stolen amount > x	5. Obligation of corporal punishment

CONDITION [الشرط] VS. INTEGRAL [الركن]

- A condition is external to the action for which it is a condition
 - Example: *Wudu'* for *Salah*
- An integral is part of the action for which it is an integral
 - Example: *Sujud* for *Salah*
- Differences in Opinion

HINDRANCE [المانع]

- An attribute that is evident [ظاهر] and constant [مستفيض], which the Lawgiver has attached to a *Hukm* in such a way that its presence necessitates the absence of the *Hukm* or its *sabab*.
- Example: Paternity is a hindrance for *Qisas*

EXAMPLES OF HINDRANCE [MANI`]

- EXAMPLE 1: Bakr just finished his Maghrib Prayer
 - *Sabab*: The sun set before he began the prayer
 - *Shart*: Bakr performed *Wudu`* before the prayer
 - Initial *Hukm*: Bakr's prayer is valid
 - *Mani`*: Bakr spoke during the prayer
 - Final *Hukm*: Bakr's prayer is NOT valid

EXAMPLES OF HINDRANCE [MANI`]

- EXAMPLE 2: Fatima wakes up at dawn
 - *Sabab*: Break of dawn
 - *Shart al-Wujub*: Fatima is *mukallaf*
 - Initial *Hukm*: Fajr Prayer is obligatory on Fatima
 - *Mani`*: Fatima is menstruating
 - Final *Hukm*: Fajr Prayer is NOT obligatory on Fatima

EXAMPLES OF HINDRANCE [MANI`]

- EXAMPLE 3: Zayd has \$10,000 (Nisab value = \$5,000)
 - *Sabab*: Zayd owns the Nisab amount
 - *Shart al-Wujub*: Zayd has owned the Nisab amount for 1 lunar year
 - Initial *Hukm*: Zakat is obligatory on Zayd
 - *Mani`*: Zayd owes \$10,000 to Amr
 - Final *Hukm*: Zayd does NOT actually own the Nisab amount → Zakat is NOT obligatory on Zayd (some scholars)

EXAMPLES OF HINDRANCE [MANI`]

- EXAMPLE 4: Fatima has stolen \$500
 - *Sabab*: Theft
 - *Shart al-Wujub*: Fatima is a *mukallaf*; the stolen amount > x
 - Initial *Hukm*: Fatima must be punished with the corporal punishment
 - *Mani`*: The \$\$ was left unattended in a public space
 - Final *Hukm*: Fatima has actually NOT committed theft →
She shall NOT be punished with the corporal punishment
