

## Part 7: Ahkam

Muhaqqiq Hilli has given the above name to this category, since the topics which fall under it are neither acts of worship nor contracts or unilateral pronouncements. He has divided this into 12 chapters.

### Chapter One: Kitab Al-Sayd And Al-Dhabaha

This chapter deals with hunting and slaughtering of those animals whose meat we are allowed to eat. Sayd is hunting, dhabh is slaughtering. An animal who has not been hunted as prescribed in Sharia, or has not been slaughtered as guided by Islam, will be 'maytah', a corpse which is najis, and haram to eat. This chapter also deals with the hunting of wild animals by trained hunting dogs.

### Chapter Two: Kitab Al-At'imah And Al-Ashribah

This chapter deals with those things which we are allowed to eat or drink, and those which are forbidden. A detailed treatment is given to animal food, sea food, non-animal food and so on. It also explains and categorises those animals which are Halal and those which are not. And even in the Halal animals, it tells us of those parts of the body which are haram to consume. It also gives rational treatment to those acts which may be ordinarily permissible and harmless, but are harmful for a particular person in a given circumstance.

### Chapter Three: Kitab Al-Ghasb

It means an illegal possession of property, or usurpation. As is known, ghasb is Haram, but it must also be known that it involves a liability. That means if a person usurps someone's property and if that property is damaged or destroyed while still in his illegal possession, he is liable for it, even if he did not directly damage or destroy it, but was instrumental in causing the damage or destruction.

### Chapter Four: Kitab Al-Shuf'ah

Means the right of pre-emption. When a partner wishes to sell his share, the remaining partner has a

right of preemption for acquiring the share by buying it at the price offered by others.

## **Chapter Five: Kitab Ihya Al-Mawat**

Mawat refers to the barren, uncultivated land. A land which has been developed, either by building upon it or by cultivation is called "Amir" in Fiqh. The Prophet (S) said: "Whoever gives life to a barren, uncultivated land, that land belongs to him". This has numerous ramifications, explained under the chapter.

## **Chapter Six: Kitab Al-Luqtah**

This refers to things which are picked up by chance, and the owner is unknown. This can apply to animals and non-animals. If a stray animal is found which is not in anyway endangered, then one should not take it into custody.

But if it faces any danger, then it can be possessed with the intention to return it to its owner if found. If the owner is not found, then Hakim Al-Shara'i has to authorise its use. This chapter also deals with non-living objects, found in the sacred precincts of Haram or outside, basing the guidelines on the value of the object.

## **Chapter Seven: Kitab Al-Faraidh**

It is an elaborate chapter dealing with the laws of inheritance. Heirs are divided in three categories:

- (1) Parents, children, grandchildren (when the children are not present).
- (2) Grandparents, brothers and sisters (and in their absence, their children).
- (3) Uncles, aunts (both paternal and maternal) and their children.

The above heirs are by nasab (i.e. consanguinity). There are heirs who inherit by Sabab (i.e. affinity) like husband and wife. This chapter deals with various cases of succession in great detail.

The testator does not have the right to will for more than one third of his or her estate, nor does he or she have any right to fix up the shares of his or her heirs. The estate devolves on the heirs according to Shariah.

## **Chapter Eight: Kitab Al-Qadha**

It is a chapter on judiciary, with elaborate sets of laws. There are laws governing the appointment of judges, their rights, their emoluments, and also about disqualifications. In Fiqh, it is stipulated that a Judge must be an acknowledged Mujtahid.

## **Chapter Nine: Kitab Al-Shahadah**

About the witnesses, who constitute the evidence to substantiate a claim. The onus of providing the evidence does not rest on the defendant. The chapter also explains how, in certain cases, the defendant may be called upon to take an oath.

## **Chapter Ten: Kitab Al-Hudood & Ta'zeerat**

Deals with punishment and retribution. These are of two types: hudood and tazeerat. Hudood are fixed punitive measures prescribed for specified offences, like sodomy, false accusation of fornication, drinking alcohol etc., stealing, and belligerency and so on. Tazeerat are such retributive measures which may vary according to the decision reached by the judge who may aggravate or mitigate the sentence.

## **Chapter Eleven: Kitab Al-Qisas**

It is a chapter on requitals. An elaborate discussion is carried out about the crimes committed advertently or inadvertently, and in each case the extent of requital is prescribed. Then there are laws of recompensing for those who are murdered or are inadvertently killed.

## **Chapter Twelve: Kitab Al-Diyat**

It is a form of requital, but unlike Qisas, it is only monetary compensation. Interestingly enough, a doctor's responsibility towards human life, and a disciplinary action by a tutor have a place under this chapter. A doctor must be qualified enough to treat a patient. If he is not and if the patient dies during the treatment, he is liable for compensation.

In any case, a qualified and efficient doctor must absolve himself of the liability beforehand. Similarly, a tutor carrying out corporal punishment must be careful not to cripple or kill the pupil. If he does, he is liable for compensation. These are dealt with in some detail.

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