

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ  
الْحَمْدُ لِلَّهِ وَالصَّلَاةُ وَالسَّلَامُ عَلَى رَسُولِ اللَّهِ وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِينَ



***Hanafi Usul 101 Lesson 7 Overview***

***Instructor:*** Shaikh Omer Khurshid

***Further inquiries:*** [Info@talweehacademy.com](mailto:Info@talweehacademy.com)

[www.talweehacademy.com](http://www.talweehacademy.com)

## الحكم الوضعي (Situational / Causal Legal Rulings)

### Definition of al-Hukm al-Waḍ'ī

خِطَابُ اللَّهِ تَعَالَى الْمُتَعَلِّقُ بِأَفْعَالِ الْمُكَلَّفِينَ وَضَعًا.

#### Translation:

The speech of Allah Most High relating to the actions of the legally accountable (mukallaf) **in terms of legal placement/causality (waḍ'ī)**.

#### Explanation:

“Waḍ'ī” means that the ruling establishes **a relationship** between a ruling and something else, such as:

- A *cause* for the ruling
- A *condition* for the ruling
- A *preventative* of the ruling

The meaning is summarized by the scholars as:

الوضع: جَعَلَ شَيْءٌ مُؤْتَمِّمًا فِي إِثْبَاتِ حُكْمٍ آخَرَ أَوْ نَفْيِهِ.

“Waḍ'ī is the establishment of something as a factor that produces, leads to, or prevents another ruling.”

### The Categories of al-Hukm al-Waḍ'ī

The situational rulings are **four**:

1. العِلَّة (the operative cause)



2. السَّبَب (the legal reason)
3. الشَّرْط (the condition)
4. المانع (the legal preventer)

Each will be treated with definition, ruling, and examples.

### العلة (The Cause)

هو الوصفُ الخارجي المتعلق بحكم، المؤثر في وجوده.

#### Translation:

It is the external attribute connected to a ruling **which has a real operative effect** on the existence of that ruling.

#### العلة حكم (Legal Effect):

ترتب الحكم عليه عند وجوده.

The ruling follows the cause: **when the cause exists, the ruling exists.**

#### Important Note:

لا يلزم من عدم العلة عدم الحكم، لأن الحكم قد تكون له علتان.

The absence of a cause does *not* always eliminate the ruling, because a ruling may have **multiple causes.**

#### Example:

البيع علة للملك، وقد يثبت الملك بدون البيع كالهبة.

Selling is a cause for ownership.

But ownership can also occur **without** sale — for example, through a gift.

## السَّبَب (The Legal Reason)

### Definition:

هو الوصفُ الخارج من الحكم الموصِل إليه في الجملة.

### Translation:

It is an external attribute that **leads to the ruling**, but not necessarily with direct causal force.

### Difference Between ‘Illah and Sabab

The scholars differed:

- Some said there is **no difference**.
- The majority distinguished between them.

والأكثر على أن العلة تؤثر بلا واسطة والسبب يحتاج في تأثيره إلى واسطة العلة.

The majority say:

- The *‘illah* acts **directly**
- The *sabab* acts **through** an intermediary (*the ‘illah*)

### Example in Fiqh:

Buying a believing slave-girl:

1. ملك الرقبة (ownership of the person)
  - The purchase directly causes the ownership
  - Thus purchase = **‘illah**
2. ملك المتعة (permissibility of intimacy)
  - The purchase does not directly cause intimacy

- Rather, *ownership* causes it
- Thus purchase = **sabab** (leading indirectly)

### Modern Example (given by you):

Not wearing a mask → spread of germs → spread of COVID

- Not wearing a mask = **sabab**
- Spread of germs = **'illah** (direct factor)

### الشَّرْط (The Condition)

### النصّ (Definition):

هو الوصف الخارج من الحكم الذي يتوقف عليه وجود الحكم.

### Translation:

It is an external attribute **upon which the existence of the ruling depends.**

### Important Note:

لا يلزم من وجود الشرط وجود الحكم، لكن يلزم من عدمه عدم الحكم.

- Condition present ≠ ruling must exist
- Condition absent → ruling **cannot** exist

### Example:

الوقت شرط لوجوب الصلاة.

Time is the condition of the obligation of prayer.

- When the time enters, prayer *may or may not* be performed (so existence ≠ action).



- But without time → **no prayer is legally due.**

## المانع (The Preventer / Obstacle)

### Definition:

هو الوصف الخارج الذي يمنع الحكم عن وجوده.

### Translation:

The external attribute that **prevents a ruling from taking effect.**

حكمه:

عدم وجود الحكم المتعلق بالوصف المذكور.

.The ruling associated with that description does **not** occur

### Two Types of Preventer:

#### 1. Preventer of a Waq'ī Ruling

Example:

الموت مانع عن انعقاد بيع الميتة علة للملك.

Death prevents a valid sale from occurring, and so cannot cause ownership.

#### 2. Preventer of a Taklifī Ruling

Example:

الخيار في البيع مانع عن ترتب حكم البيع وهو الملك.

Option to cancel (*khiyār*) prevents ownership from taking effect until the option expires.

## *Differences Between Ḥukm Taklifi and Ḥukm Waḍ'ī*

Scholars mention several distinctions:

---

### 1. Nature of the Ruling

التكليفي يقصد به الطلب أو الكف أو التخيير.

Taklifi involves:

- Command
- Prohibition
- Permission

والوضعي يقصد به بيان الربط بين الحكم وغيره من شرط أو علة ونحوها.

Waḍ'ī establishes **relationships** such as:

- Cause
- Condition
- Preventer

### 2. Human Ability

يُشترط في التكليفي كونه مقدورًا للعبد.

Taklifi rulings must involve actions humans can do.

وأما الوضعي فقد يكون غير مقدور للعبد... مثل ترتب الإرث على القرابة.

Waḍ'ī rulings often involve things outside human control (e.g., kinship causing inheritance).

### 3. Position Relative to the Action

الوضعي خارج عن العمل.

Waḍ'ī is external to the action.

والتكليفى داخل فى العمل.

Taklifi is internal to the action (e.g., “pray,” “avoid”).

### *al-Mashrū‘āt: ‘Azīmah and Rukhsah*

Islamic rulings are of two types:

#### 1. العَزِيمَةُ (The Strict / Original Ruling)

##### **Definition:**

ما لزمنا من الأحكام ابتداءً.

The original binding ruling — such as farḍ, wājib, etc.

---

#### 2. الرُّخْصَةُ (The Concession)

##### **Definition:**

صرف الأمر من عسر إلى يسر.

A shift from difficulty to ease.

Rukhsah is of two types:

---

##### A. رخصة الفعل مع بقاء الحرمة.

Permission to do an act while its original prohibition **remains**.

##### **Example:**

Being coerced to utter disbelief under threat of death:

وَقَلْبُهُ مُطْمَئِنٌّ بِالإِيمَانِ.



**Ruling:**

If he chooses to die rather than utter it, he is rewarded.

---

**B. ما استُبيح مع قيام السبب**

Permission while the *reason* for prohibition still exists.

**Example:**

Eating carrion or drinking wine in a state of necessity.

**Ruling:**

If he refuses until death, he is sinful — because Allah permitted it in that circumstance.

*The Shar‘ī Evidences (Adillah Shar‘iyyah)*

Divided into:

1. **Agreed Upon (Muttafaq ‘alayhā)**
2. **Disputed (Mukhtalaf fihā)**

**Agreed-Upon Sources**

**1. The Qur'an**

كلام الله المُنزَّل على محمد ﷺ المتعبد بتلاوته

**2. The Sunnah**

Includes:



- Sayings
- Actions
- Approvals
- Written instructions
- Gestures
- Inner intent
- Deliberate non-action

### 3. Consensus (Ijma‘)

اتفاق مجتهدي عصر من العصور... على أمر ديني.

### 4. Qiyās (Analogy)

حمل فرع على أصل في حكم بجامع بينهما.

### Disputed Sources

- Istiṣhāb
- Istihsān
- Amal Ahl al-Madīnah
- Sad al-Dharā‘i‘
- Maṣāliḥ Mursalah  
(and others)