

Rules Governing Epidemic Calamities: A Study In Islamic Jurisprudence

Dr. Reem Abdullah Hammoud Allehaibi

Abstract

The subject of this research revolves around the importance of fundamentalist and jurisprudential rules in deriving legal rulings for issues arising in epidemics in general, and Corona (COVID-19) in particular. The analysis dealt with explaining the importance of rules in controlling the jurisprudential mind, and in understanding the links between the scattered details, and collecting the dispersed branches and returning them to the principles, Then, highlighting the ruling on calamities by highlighting the comprehensive causes, and their effective role in revealing the merits of calamities and how to consider them in the first place, then contributing to deriving the Sharia ruling for them, which achieves the description of flexibility and keeping up with this Sharia.

Keywords: *Jurisprudential and fundamental rules - Calamities - Epidemics.*

Introduction :

Praise be to God, who initiates benevolence from the beginning of the worshipers, who initiates gifts from the request of the seekers, and I bear witness that there is no god but Allah, the most just of rulers and the wisest of those who legislate, and I bear witness that Muhammad is His servant and Messenger, may God bless him and grant him peace, and upon his family and companions and whoever follows their approach until the Day of Judgment. As for what follows:

Science is one of the most abundant divine gifts that inherits obedience, fear of God, and submission to Him. The Almighty said in His Mighty Book¹: “Only those who fear Allah are His servants who are scholars” [Fatir: 28], and in the new calamities that occur in the nation, especially in the calamities of epidemics that require perceptive minds and alert understandings, here the need for the minds of scholars appears to establish foundations and controls for the emergency variables. of the calamity, and while the Corona epidemic spread and the resulting emergence of many issues and developments that were not previously known, this study came to develop a scientific approach that is aware of reality and its manifestations, including some fundamentalist and jurisprudential rules that enable the jurisprudential mind to manage the calamity and apply the legal ruling on its events, and adapt them, in a way that does not intersect with the spirit of Islamic law, which God Almighty has designated for generality and continuity, and endowed it with permanence and stability, He has deposited in it what is good for people and corrects them in every time and place, to ensure the continuity and

¹ Assistant Professor, Department of Sharia and Islamic Studies Al-Qunfudhah University College - Umm Al-Qura University.

preservation of the human soul, through which the preservation of the soul is achieved, which is one of the most important goals of Islamic legislation.

The Study Problem:

The problem of the research is that there are many catastrophes that have occurred in society, as a result of an epidemic that has befallen all of humanity, and there must be solutions for them, and since Islamic law is the conclusion of the heavenly religions, it was necessary for its scholars to delve into the investigations of legal science and establish appropriate rules for deriving rulings for emerging facts.

The importance of studying:

The importance of the study lies in:

- 1- The need to highlight the role of fundamentalist and jurisprudential rules in epidemic calamities.
- 2- Proving that Islamic law keeps pace with all times and places, and with changes and developments, including catastrophes.
- 3- Proving that fundamentalist and jurisprudential rules are an inexhaustible resource that jurists resort to in order to keep jurisprudential issues away from fossilization and stagnation.
- 4- Knowing that Sharia rulings are based on rules and foundations that contribute to refuting the suspicions of advocates of disbelief and atheism, who are skeptical about some of its rulings, and contribute to explaining the virtues of the Islamic religion and the perfection of its legislation.

Objectives of the study:

- 1- Explaining the importance of fundamental and jurisprudential rules in epidemic calamities.
- 2- Knowing the role of the rules governing the jurisprudential mind in clarifying the rulings of calamities.
- 3- Identify some fundamentalist and jurisprudential rules, and how to implement them during the calamities of the Corona epidemic.
- 4- Facilitating knowledge of the legal ruling on some Corona calamities.

Study Elements:

Introduction: It included the problem of the study, its importance, objectives, and elements.

Topic one: The importance of fundamentalist and jurisprudential rules in the jurisprudence of epidemic calamities.

Topic two : Applied models in inferring the jurisprudential and fundamental rules in the Corona crisis.

Conclusion: It contains the most important results reached through this study.

TOPIC ONE

Fundamental and jurisprudential rules and their importance in epidemic calamities.

Calamities often do not have an explicit ruling in the Qur'an, the Sunnah, or the sayings of the righteous predecessors, therefore, the jurist must exert effort and diligence in devising a legal ruling that is compatible with the nature of the calamity. One of the most important things that the jurist can refer to and help him in knowing the ruling on calamities are the fundamental and jurisprudential rules resulting from the calamities. The diligent scholars followed the method of the law in many particulars and found that they shared in the reason for the ruling, then they formulated comprehensive rulings from them that gathered these particulars, and also gathered the particulars similar to them. Whenever there was similarity between the new branches, they took on the ruling of those principles, the ancient scholars realized the importance of fundamentalist and jurisprudential rules, so their expressions came, noting them, and by extrapolating the jurisprudential heritage, the importance of fundamental and jurisprudential rules in calamities can be highlighted as follows:

1- Controlling jurisprudence by rules makes it easier for the jurist to memorize the many widespread branches, and spares him the need to memorize all the details. If he knows most of the issues without knowing the rules underlying them, he may miss something of them, or he may be ignorant of the meaning of addition and difference. That is why Al-Qarafi - may God have mercy on him - said: "Whoever masters jurisprudence with its rules will dispense with memorizing most of the particulars because they are included in the universals" ⁽²⁾, and Al-Zarkashi said: "The controlling of the many widespread matters in the united laws is more aware of their memorization and more capable of controlling them... until he said: And this rules that define for the jurist the foundations of the doctrine, guide him from the points of jurisprudence to the end of the matter, regulate his scattered contracts in a thread, and extract for him what falls under the domain of ownership." ⁽³⁾

2- Recognizing the connections between the separate particulars, and enabling the jurist to know the unifying characteristic between these particulars and to refer to them when needed without difficulty, and even return them to their origins; Al-Hafid Ibn Rajab - may God have mercy on him - said about the rules of jurisprudence: "organized for him scattered issues into a single line, restrict for him the strays, and bring closer to him everything that is distant" ⁽⁴⁾. Sheikh Al-Islam Ibn Taymiyyah, may God have mercy on him, confirms this meaning, saying: "A person must have universal principles to which the particulars can be attributed, so that he can speak with knowledge and justice, and then know the particulars how they occurred? Otherwise, he will remain in lies and ignorance in the particulars, and ignorance and injustice in the generalities, and great corruption will be born" ⁽⁵⁾

3- The ability to extract branches, and derive rulings for new calamities in a correct way. Al-Suyuti - may God have mercy on him - said: "He is able to include and extract and know the rulings on issues that are not written, and accidents and events that do not pass over time" ⁽⁶⁾.

4- Preoccupation with the rules and studying them nurtures in the jurist a faculty that enables him to understand the rulings of the Sharia and its branches, and gives him the ability to produce rulings on emerging issues in which there is no text. Al-Sarkhasi said: "And whoever has the

² See: Al-Furuq, (3/1).

³ See: Al-Manthur fi Al-Qawad, (65-66).

⁴ See: Report of the Rules and Tahrir al-Fawa'id, by Ibn Rajab, (1/4).

⁵ See: Fatwas (20/203).

⁶ See: Al-Ashbah wa Al-Nada'ir, by Al-Suyuti, (p. 6).

most knowledgeable understanding of the principles and knowledge makes it easy for him to produce them (7)

5- Familiarity with the rules helps the jurist to understand the methods of fatwa, and acquaints him with the facts and secrets of jurisprudence. Al-Qarafi said: "These rules are important in jurisprudence and are of great benefit, and to the degree of knowledge of them, the status of the jurist is greater and honourable, and the methods of Fatwa become clear and revealed (8)

6- The jurist's awareness of the legal objectives; Whereas the jurisprudential and fundamental rules give a clear picture of the purposes and objectives that Islamic law came to achieve, from this is what Sheikh Al-Tahir bin Ashour mentioned; It helps to realize the objectives of Sharia law, because the fundamentalist rules focus on the aspect of deduction, and note the aspects of contradiction and preference, and similar rules that do not include any observation of the purposes of the law. As for the jurisprudential rules, are derived from multiple branches and details with knowledge of the interrelationship between them, and knowledge of the legal purposes that called for them (9).

From these points, we conclude that the fundamental and jurisprudential rules help to understand the facts and reveal the merits of calamities and how to consider them, and contribute to deducing the rulings for calamities in general, and since epidemic calamities are part of them, the jurist should balance the calamity with the fundamental and jurisprudential rules to reach a legitimate ruling for it and extract it, in a way that is appropriate for understanding the Qur'an, the Sunnah, and the sayings of the predecessors, and comparing the branches to the principles, and then applying the rulings to the facts in a way that achieves righteousness and repels corruption.

TOPIC TWO

Applied models in reasoning based on fundamentalist and jurisprudential rules in the outbreak of Corona.

Many contemporary scholars have cited fundamentalist and jurisprudential rules to determine rulings on the calamities of the Corona epidemic, which can form a nucleus upon which the edifice of jurisprudence of epidemic calamities is built. Among these inferences are the following models:

1- The damage rule is paid as much as possible.(10)

Contemporary jurists have used this rule when it comes to washing the dead of the Corona virus, since the infected person transmits the infection to others, and it is difficult to directly wash the dead for fear of transmitting the virus, and to prevent harm and limit the spread of the epidemic, it is sufficient to pour water on them without massaging, based on this rule that requires removing the harm from people as much as possible, and there is evidence to certify this in Sharh al-Talqin by Al-Mazari. "Ibn Habib said: There is no harm in the time of an epidemic, and the severity of the people's washing of the dead due to their large number is

⁷ See: Al-Mabsoot, by Al-Sarkhasi, (3/187).

⁸ See: Al-Furuq, by Al-Qarafi, (1/36).

⁹ See: Maqasid al-Sharia: Muhammad al-Tahir bin Ashour, p. 6.

¹⁰ See this rule: Durar Al-Hikam Sharh Majallat Al-Ahkam by Amin Effendi, (1/42); An explanation of the jurisprudential rules of Al-Zarqa, (p. 207); Al-Wajeez in clarifying the general rules of jurisprudence regarding porno, (p. 256).

sufficient for them to do one washing without ablution, and to pour water over them abundantly, even if the terrible matter that occurs frequently occurs, the dead, and the death of strangers, there is no harm in burying them without washing if there is no one to wash them. (¹¹)

2- The rule of hardship brings ease.(¹²)

Contemporary jurists have used this rule in the case of delaying Hajj and Umrah in the time of Corona for those who fear for themselves, as the hardship in this global epidemic necessitated mitigation and facilitation. Accordingly, scholars have permitted these obligations to be waived for those who fear for themselves from mixing and crowding, and what is meant by hardship here is not the absolute meaning. Rather, it is the hardship that exceeds the normal limits, due to which the person assigned cannot continue working, as for the usual hardship, it is not a reason for mitigation. Ibn Nujaym says: “Hardships are of two types: hardship from which worship is often excluded, such as the hardship of cold during ablution and bathing, and the hardship of fasting during the intensity of the heat and the length of the day, the hardship of travel that is indispensable for Hajj and Jihad, the hardship of the punishment of the stoning of adulterers, the killing of perpetrators, and the fighting of transgressors, have no effect in nullifying acts of worship at all times...and great and terrible hardship, such as the hardship of fear for souls, limbs, and the benefits of the limbs It leads to mitigation.(¹³)

3- The rule of no harm, no harm, or: the harm is removed (¹⁴)

Contemporary jurists used this rule in the case of disrupting Friday and congregational prayers, Tarawih, and the two Eids from mosques during the Corona epidemic, as an epidemic occurred among Muslims in which it is not possible to gather under any circumstances, and the occurrence of infection was confirmed or its occurrence was predominant with meetings and it could not be avoided, so disrupting Friday prayers and congregational prayers in the time of Corona was legal excuse, based on the rule of “no harm, no harm,” the type of harm is denied in Islamic law, as is the type of causing harm to oneself and others. among the predecessors who pointed to this meaning is Ibn Qudamah, when he said: “All of this is an excuse for abandoning Friday and congregational prayers (¹⁵).

4- The principle of warding off evil is more important than bringing about benefits (¹⁶)

Contemporary jurists have used this rule in the event of closing mosques during the Corona epidemic, despite the fact that Friday and congregational prayers are among the apparent rituals of Islam, achieving people’s interests and warding off harm from them are among the basics of Islamic law, this is why the jurisprudential ruling came to allow the closure of

¹¹ t See: Explanation of Indoctrination, by Al-Mazari, (1/1119).

¹² For this rule, see: Al-Muwafaqat by Al-Shatibi, (2/214); Al-Ashbah wal-Nada’ir by Al-Subki, (1/49); And Al-Ashbah wal-Nada’ir of Al-Suyuti, (p. 76)

¹³ See: Al-Ashbah wal-Nada’ir, (p. 82) - Adapted-

¹⁴ See this rule: Al-Ihkam fi Usul Al-Ahkam by Al-Aamidi, (3/286); Al-Subki, (1/41); Al-Muwafaqat by Al-Shatibi, (3/53); And Al-Ashbah wal-Nada’ir of Al-Suyuti, (p. 83); And Al-Ashbah wal-Nada’ir of Ibn Najim, (p. 72).

¹⁵ See: Al-Mughni by Ibn Qudamah, (2/378-379-380).

¹⁶See this rule: Al-Maqri Rules, (2/443); Al-Subki, (1/121); And Al-Ashbah wal-Nada’ir by Ibn Najim, (1/78).

mosques due to the danger of gathering, which increases the spread of the virus is a corruption that must be prevented, and it takes precedence over the benefit achieved by opening mosques.

5- The rule of need is lowered to the status of necessity (¹⁷)

Contemporary jurists used this rule in the case of distancing between the ranks of worshipers and abandoning settlement in the Corona epidemic, due to the existence of a significant need, which is to guard against the causes of infection with the virus and prevent the spread of infection, and this need relates to most people, so it was given the status of necessity, so it is given its ruling in terms of permitting the prohibited, and it is not hidden what is in this rule of facilitation, God Almighty has placed the need of the people, which reaches the level of necessity, in the position of necessity, so He permitted the accountable to do what they need and granted them permission to do so.

6-The basic principle is that benefits are permissible and harmful ones are forbidden.(¹⁸)

Contemporary jurists have used this rule when it comes to the use of medical alcohol for sterilization. Non-intoxicating medical alcohol is permissible to use, because the basic principle regarding benefits is that it is permissible. The same applies if intoxicating alcohol becomes impossible when it is added to another substance, such that it becomes different from its origin and the quality of intoxication is removed from it, or a small percentage is found. Of intoxicating alcohol in a liquid does not affect the basis of its permissibility, unlike intoxicating alcohol, because the basic principle is that it is prohibited due to proven harmfulness.

7- The rule of considering the lesser of two harms. (¹⁹)

This rule was used in the case of the preventive vaccine for the Corona virus, and since the vaccine has side effects, but its benefit is greater than its harm, it is permissible to use it considering the lesser of two harms, because this is in the interest of prevention and treatment, and stopping the spread of the epidemic, as vaccines have become effective and essential medicines for prevention of deadly diseases and epidemics, and treating them is a means of healing or alleviating the symptoms associated with the disease.

8- The rule of the imam's action over the subjects is based on interest.(²⁰)

This rule was used to impose a curfew in the time of the Corona virus, as public health is a priority for every country, and the interest of citizens is to prevent them from moving around during certain periods, to stop the spread of the virus and limit it.

9- The rule of public interest takes precedence over private interest.(²¹)

¹⁷ See this rule: Al-Ashbah wal-Nada'ir by Al-Suyuti, (p. 88); And Al-Ashbah wal-Nada'ir of Ibn Najim, (p. 78); Al-Manthur fi Al-Qawaa' al-Fiqhiyyah by Al-Zarkashi, (2/24). Manthur fi Al-Qawaa' al-Fiqhiyyah by Al-Zarkashi, (2/24).

¹⁸ See this rule: Al-Mahsool by Al-Razi, (p. 162); Al-Dhakhira by Al-Qarafi, (1/148), and Al-Ashbah wal-Nada'ir by Al-Suyuti, (p. 60).

¹⁹ For this rule, see: Majmo' al-Fatawa by Ibn Taymiyyah, (30/350), and Al-Ashbah wal-Nada'ir by Al-Subki, (1/45); And Al-Ashbah wal-Nada'ir by Al-Subki of Al-Suyuti, (p. 87).

²⁰ See this rule: Al-Manthur, by Al-Zarkashi, (1/309); And Al-Ashbah wal-Nada'ir of Al-Suyuti, (p. 121); And Al-Ashbah wal-Nada'ir by Ibn Najim, (p. 14); Al-Wajeez in clarifying the general rules of jurisprudence for Borno, (p. 348).

²¹ See this rule: Al-Muwafaqat, by Al-Shatibi (3/89)

This rule was used in the case of not visiting parents and relatives due to the curfew. It is known that honoring one's parents and maintaining family ties has been ordered and encouraged by the Law, and in the case of the ban, a public interest is provided, which is the interest of society achieved by preserving the human soul, which is one of the legal objectives.

These are some examples, and they are not intended to be comprehensive or exhaustive, but rather the intention is to represent them, and to show that the fundamentalist and jurisprudential rules are a lamp that can be used for illumination in times of epidemic calamities.

We can summarize the most important results reached through this study as follows:

- 1- Calamities are: issues that occur to people and require a legal ruling.
- 2- The extent of the close connection between calamities and the fundamental and jurisprudential rules, as the rules are considered a strong influence in the jurisprudence of calamities, and the relationship between them is inseparable, as the ruling on calamities is based on foundations and principles derived from these rules.
- 3- Fundamental and jurisprudential rules contribute to deriving rulings for disasters in general, and epidemic disasters in particular.
- 4- Human health is one of the five necessities that Sharia calls for preserving, and it must be preserved in light of these epidemics and the endless calamities that accompany them.
- 5- Mujtahid does not issue rulings in calamities arbitrarily, according to whims, or blind imitation, but rather on scientific foundations, including the legal rules, whether jurisprudential or fundamentalist.
- 6- By applying the rules, we invalidate the claim that Islamic jurisprudence is deficient and its solutions are partial, and prove the opposite, as its rules are comprehensive and capable of giving solutions for all times and places, and through these rules the religion is preserved from the suspicions and misguided people.

This is what was easy to collect and edit. Praise be to God, Lord of the Worlds, and prayers and peace be upon the Seal of the Prophets and Messengers.

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