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## BIOETHICS IN THE LIGHT OF LEGAL MAXIMS OF ISLAMIC LAW

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## BIOETHICS IN THE LIGHT OF LEGAL MAXIMS OF ISLAMIC LAW

### ABSTRACT

Islamic legal maxims (*al-Qawā'id al-fiqhīyah*) are an important part of the legal system of Islam. These are the general principles that can be torchbearers in almost every field and can be defined as a concise expression of theoretical abstractions of objectives and goals of *Sharī'ah* and emerged after contemplation on the rules of the *fiqh* on various themes. Some of the legal maxims have their roots in the Holy *Qur'ān* and *Sunnah* but most of them are the hard work of the great *Fuqaha* who condensed the detailed discourse in a nutshell articulated as Islamic legal maxims. To date, scholars continue to ponder over the application of the maxims and enlist the novel circumstances where they are gerThe same. Same is the case with the field of medicine. Islamic legal mare as *an* area source of Islamic Bioethics, or Islamic Medical Ethics too. It refers to Islamic guidance on ethical or moral issues relating to medical and scientific fields, in particular, those dealing with human life. Medical Practitioners are in great need of guidance in many maabouting for the treatment of patients. It's difficult for scholars of *Sharī'ah* to issue a ruling regarding each medical matter. Legal maxims can be a source of guidance in this regard as well. This paper aims at explicating the legal maxims in the light of *Sharī'ah* with the purpose of their application in the field of mentoring to guide medical and legal practitioners.

**Keywords:** Bioethics, *Sharī'ah*, Medicine, *Qawā'id Fiqhīyah*, Science, Medical Malpractice

### Introduction

**Islamic Bioethics**, or Islamic Medical Ethics, refers to Islamic guidance on ethical or moral issues relating to medical and scientific fields, in particular, those dealing with human life<sup>1</sup>. It is difficult for any system to specifically deal with

every minute detail of all aspects of that field. For that reason, some general principles are formulated that apply to most of the aspects in the realm of medical sciences and can guide in a time of need. Such general principles are ‘*Qawā'id Fiqhīyah*’ (Legal Maxims) in *Sharī'ah*. *Fuqaha* generated the discourse regarding legal maxims so that it could serve as a torchbearer in different fields of *fiqh*. Therefore, these legal maxims apply to the practice of medicine too.

The word *qawā'id* is plural form of the word *qā'idah* that lexically means foundation or stability<sup>2</sup>. The Glorious *Qur'ān* used the word *qawā'id* thrice in this meaning. For instance:

{وَإِذْ يَرْفَعُ إِبْرَاهِيمُ الْقَوَاعِدَ مِنَ الْبَيْتِ وَإِسْمَاعِيلُ رَبَّنَا تَقَبَّلْ مِنَّا إِنَّكَ أَنْتَ السَّمِيعُ الْعَلِيمُ}

“..... And [mention] when Abraham was raising the foundations of the House and [with him] Ishmael, [saying], "Our Lord, accept [this] from us. Indeed, You are the Hearing, the Knowing”<sup>3</sup>.

Technically, the term *qawā'id* denotes the principles or maxims which often refer to legal, political, or religious contexts. In a legal context, Tāj al-dīn al-Subkī provided this definition for legal maxims (*qawā'id fiqhiyyah*): الأمر الكلي الذي ينطبق عليه جزئيات كثيرة يفهم أحكامها منها “It is a comprehensive rule which applies to many particulars, to comprehend the ruling of those particulars in the light of this rule.”<sup>4</sup>

Muṣṭafa Aḥmed al-Zarqā<sup>5</sup> defined legal maxims in the following words: “universal principles of *Fiqh* formulated in a concise legal form, embodying broad general rulings in cases that fall under this subject.”<sup>6</sup> Thus they encapsulate the broader concepts of *Sharī'ah* in a concise form like a bird’s eye view. Although *Qawā'id Fiqhiyyah* doesn’t enjoy the status of legal texts, they are very significant as legal aids and guidelines for a profound understanding of rulings of *fiqh*.<sup>7</sup> Moreover, they may be relied upon by a *mufīī* in the issuance of a fatwa where there is no explicit text.

Legal maxims (*Qawā'id Fiqhīyah*) have a strong foundation as they are either taken from the *Qur'ān* and *Sunnah* or they are the result of the hard work of Islamic jurists who condensed the detailed discourse in a nutshell<sup>8</sup>. Either they are the exact words of the *Qur'ān*<sup>9</sup> and *Sunnah*<sup>10</sup> or they are extracted by jurists through inductive survey methods after pondering over the rulings of *fiqh* in detail that are scattered over in different chapters and deduced the general principles in the form of concise statements.<sup>11</sup>

But these *qawā'id* can't be attributed to a jurist or a group of jurists who worked on them at a certain period and formulated as it is done in the contemporary world for legal texts. Rather it is the result of a millennium of contemplation by uncountable jurists and legal experts of Islamic law. Thus, the present form of legal maxims is formulated after the long process of refinement, editing and modification by scholars of different schools.<sup>12</sup> The history of formulation of *qawā'id* is parallel with the history of *fiqh*.<sup>13</sup> Hanafī jurists took lead in compiling them. Abū Tāhir al-Dabbās is said to have first compiled seventeen *qawā'id*. Later on, his contemporary Abū al-Hassan al-Karkhī (d. 340) contributed to enriching this branch of knowledge and increased them to thirty-nine<sup>14</sup>. This proved itself to be the starting line for the scholars to embark on the new journey of discovery and refinements of *qawā'id*. Numerous scholars from various schools contributed to this arena and the total number of *qawā'id* reached twelve hundred. Most notable works of other schools include “*Qawā'id al-Aḥkām fī Maṣāliḥ al-Anām*” written by leading Shāfi'ī scholar 'Izz al-Dīn Ibn 'Abd al-Salām (d.660) and “*Taqrīr al-Qawā'id wa Tahrīr al-Fawā'id*” by eminent ḥanbalī scholar Abū al-Faraj 'Abd al-Raḥmān ibn Rajab al-Ḥanbalī (d.790)<sup>15</sup>. The importance of *qawā'id* can be comprehended by its articulation in *Majallah al-Aḥkām al-'Adliyyah* which was the first endeavor of codifying Islamic law. It was done by Turkish scholars under the supervision of Aḥmed Cevdet Pasha (d. 1895). To date, this process is still in progress. Scholars are writing on *qawā'id*, interpreting it and enriching the list.

Sheikh Muṣṭafa Zarqā for instance, alongside interpretation, made additions to the list of *qawā'id*.<sup>16</sup>

At present, scholars ponder over the application of maxims and enlist the novel circumstances where they are germane. The same is the case with their application in the field of medicine. Medical Practitioners are in great need of legal guidance in many matters about the treatment of patients. It's difficult for scholars of *Sharī'ah* to issue a ruling regarding each medico-legal matter. Legal maxims can potentially be a source of guidance in this regard. Scholars continue to guide medical practitioners by applying them in medical cases and providing them with a yardstick in the form of legal maxims to help resolve complex medico-legal matters. Following are instances of some of the legal maxims that are relevant to the practice of medicine. The first part is related to *Al-qawā'id al-khams al-kubrā* (five universal maxims) and the second part deals with the rest of the maxims applicable in the field of medicine.

### **Al-Qawā'id al-Khams al-Kubrā (Five Universal Maxims)**

*Al-qawā'id al-khams al-kubrā* (five universal maxims) present the entire realm of *Qawā'id Fiqhiyyah* in a nutshell. These five maxims illustrate the concise account of nature and objectives of *Sharī'ah*. It is considered that all other *qawā'id* are explanations or offshoots of these five universal maxims and their scope is so ample that they apply to many particulars of most chapters of *fiqh*. It is said that the essence of the *Sharī'ah* is reflected through them<sup>17</sup>. Following are the five universal maxims:

#### **First: A matter is determined according to intention** <sup>18</sup> **الْأُمُورُ بِمَقْاصِدِهَا**

Legal ruling encapsulated in this legal maxim entails that any deed, any transaction or any action, be it verbal or physical, must be evaluated according to the intention behind that. This maxim has its root in the tradition of the Prophet (Peace be upon Him) where he says: "Deeds (their correctness and rewards) depend upon intentions, and every person gets but what he has intended. So, whoever emigrated

for Allah and His Messenger, his emigration is for Allah and His Messenger, and whoever emigrated for worldly benefits or for a woman to marry, his emigration is for what he emigrated for<sup>19</sup>” Medical profession is one of the noblest professions in the world. A medical practitioner is rewarded if he/she treats the patient to please Allah the Exalted and to minimize the pain and suffering of the patients. In this case, his/her entire practice is a ritual. On the contrary, if his/her intentions are otherwise, he/she will be rewarded accordingly. Likewise, if a patient endures the pain suffered due to illness with patience, he/she will be revered. However, if he/she is enraged due to his disease and shows his ill temper to the doctor, his/her reward will be reduced for that reason.

**Second: Certainty is not dispelled by doubt** <sup>20</sup> **الْيَقِينُ لَا يَزُولُ بِالشَّكِّ**

Medical practitioners and patients should not dismiss certain medico-legal matters with mere suspicion. If a doctor is suspicious of the death of the patient, he/she shouldn't proclaim it unless he/she has decisive evidence. Furthermore, If a person is suffering from a contagious disease, that requires him/her to stay at home and doesn't mingle with other people at work, in this situation a doctor shouldn't permit him/her to work or go for studies unless he/she is free from doubt and positive about a complete restoration of his/her health so that he/she doesn't pose a risk to other people. This maxim is applicable in cases where a doctor is doubtful about the diagnosis he/she made about the patient, he/she shouldn't start heavy doses or procedures for the treatment of that disease. Because there was no certainty that he/she was suffering from that disease. Now a stronger sign must be there to assume otherwise.

**Third: Harm and retaliation by harm is not allowed.** **لَا ضَرَرَ وَلَا ضِرَارَ**

As mentioned earlier, this maxim is based upon the *Hadith* of Prophet Muhammad (peace be upon him).<sup>21</sup> This tradition has been explained in two ways. The first meaning entails that it is not permissible to cause harm, neither should it be initiated, nor it should be done in response. The second meaning encapsulated in

this beautiful *Hadīth* is that people should neither cause harm nor they should suffer it<sup>22</sup>. *Darar* is the damage or deterioration in anything.<sup>23</sup> Thus, *Darar* in medicine is any action or omission by the medical practitioners that cause damage to the patient's mental or physical health or causes him/her major financial loss as a result. For this reason, it is permissible to use the regenerative organs of a living person for transplantation to save another human's life as it doesn't cause harm to the donor<sup>24</sup>. Or any other organ can be donated that is not crucial for the survival of the donor's life. For instance, one kidney can be taken from a living person to save a patient whose both kidneys failed. But if it causes harm to the donor, then this organ donation will be prohibited because causing harm is impermissible. Likewise, spouses must inform each other if anyone of them is suffering from contagious diseases that may harm the other spouse because it is not permissible to cause harm<sup>25</sup>. In the wake of this maxim, it will be decided that although Islam encourages procreation and having many children through lawful marriage if it is detrimental to the mother's health, in this case, *sharī'ah* demands from her, not have children to relieve her from the pain and hardship from her health. The couple may use contraceptive methods<sup>26</sup>.

#### **Fourth: Hardship begets ease** *الْمَشَقَّةُ تَجْلِبُ التَّيْسِيرَ*

This maxim entails that rulings of *sharī'ah* are based on the removal of hardship and ease. In certain situations, taking into account the hardship and needs of people, certain laws of *sharī'ah* are relaxed. It encapsulates all those rulings where original laws are relaxed and concession is mandated. Illness, traveling and ignorance are some examples where the original rule is dropped and concession is granted<sup>27</sup>. Allah says in the Glorious *Qur'ān*: (...Allah intends for you ease and does not intend for you hardship...)<sup>28</sup> ‘Āishah (May Allah be pleased with her) said: “whenever the choice was hit, it was the easier of the two things that he chose, unless, it would have been a sin, and then he was far from it<sup>29</sup>.” Applying this maxim, if a doctor is busy saving lives and cannot offer *Ṣalāh* on its appointed time separately, that is the original ruling, then he is allowed to adopt the alternative that

is the joining of *Ṣalāh* i.e., he/she is allowed to join *Ṣalāhs*, *Zuhr* with *‘Aṣr* and *Maghrib* and *‘Ishā*<sup>30</sup>.

### **Fifth: Custom is an arbitrator** <sup>31</sup> **الْعَادَةُ مُحَكِّمَةٌ**

Custom refers to the practices of people of a certain community. *Sharī‘ah* gives due importance and acknowledges the importance of custom as long as they aren’t contradictory to *Sharī‘ah*. Consequently, if a doctor treats the patient and follows the guidelines prescribed in that field and chooses a course of action that is done by the majority of doctors of his/her ranks, in this case, if it goes wrong, he will not be liable. He/she has done what he/she was supposed to do, that any other doctor would have done in this situation. Since custom is a determining factor, where no express guidelines are postulated. Moreover, If a doctor chooses a rare course of treatment that is not practiced by other medical practitioners of his status and qualification, in this situation if harm is caused to the patient, he will be liable.

## **General Maxims and their Application in the Field of Medicine**

Alongside the application of major legal maxims, there are other maxims too that are very important for medical practitioners as these maxims have a tremendous capability of guiding doctors. If they understand the depth and applicability of these maxims, it can be very fructiferous for them.

### **First: Man is absolved from guilt, blame or responsibility for any wrong deed in principle.** <sup>32</sup> **الْأَصْلُ بَرَاءَةُ الدِّمَّةِ**

The original principle of *Sharī‘ah* is that human beings are free from any sin, guilt or burden. Those who blame them for being guilty must bring evidence. If a patient blames a doctor for malpractice, he/she ought to prove the doctor guilty of negligence by bringing solid evidence against him. If he/she fails to do so, the original rule will apply which is the innocence of the medical practitioners.



**Second: Harm should be avoided as much as possible.**<sup>33</sup> الضرر يدفع بقدر

الامكان

Humans should make efforts to avoid evil. Muslims are not supposed to wait until a storm comes to them. Rather they are required to make arrangements to avoid it by all means. Different vaccines are available to prevent certain diseases or mitigate their severity; such medicines should be used before affliction. Similarly, certain epidemics and contagious diseases pose a risk for society at large; measures should be taken to stop transmission to other people. Proper sterilization and disinfection of the apparatus and operation theatres should be done to block the spread of germs and infections.

**Third: Harm should be eliminated.**<sup>34</sup> الضَّرَرُ يُزَالُ

If a society or a person is facing evil or harm, they must strive to remove that. A doctor should make his utmost efforts to treat the patients to cure them as the disease is harmful and should be removed. In application of this maxim, if medical practitioners are charging an undue fee for treatment and medicines and making it difficult for people to afford the treatment, in this situation government can enlist appropriate tariff rates and make it mandatory for doctors and hospitals to follow that. Treatment of females by males and vice versa is harmful. Thus, Muslim society should endeavor to create substitutes i.e. males for males and females for females.

**Fourth: Harm should not be overruled by another similar harm.**<sup>35</sup> الضَّرَرُ لَا يُزَالُ بِمِثْلِهِ

Harm should be removed entirely, or its severity should be mitigated but it shouldn't be substituted by another harm of any other type or the same type. If a doctor knows that his treatment will cause similar harm or greater harm to the patient instead of curing him, he must avoid the treatment<sup>36</sup>. For instance, a doctor thinks that a medicine may cure a disease but will eventually cause the failure of a

vital organ; he must not treat the patient with that disease. The hospital should not remove crucial instruments from the serious patient to give them to the same kind of patient of similar age. A person can't donate his major single organ to another person to save his life and give up his own<sup>37</sup>.

**Fifth: Severe harm is removed by lesser harm.**<sup>38</sup> **الضَّرْرُ الْأَشَدُّ يُزَالُ بِالْأَخْفِ**

It entails that when a person is caught between the devil and the deep blue sea, then he/she must choose the lesser of two evils. This maxim is applicable in a variety of situations in healthcare. Anesthetization is not permissible in ordinary circumstances but to save someone's life or cure his disease, *Sharī'ah* permits it. In the same way, abortion is not allowed in ordinary circumstances, but it will be allowed if the mother's life is in danger because of this pregnancy.<sup>39</sup> It is permissible to cut the belly of a dead pregnant mother and bring out the baby if there are chances that the baby must be alive<sup>40</sup>. If a patient can't offer *Ṣalāh* while standing, he must pray while sitting. If he is unable to say, he can pray while lying.

**Sixth: Private harm is tolerated to remove public harm** **يُتَحَمَّلُ الضَّرْرُ**

**الْخَاصُّ؛ لِأَجْلِ دَفْعِ ضَرَرِ الْعَامِ**

When a community is facing two harms, one of them will harm the public at large while the other one will damage a few men. *Sharī'ah* says that harm that will be inflicted on a few people will be endured to remove tragedy or harm from the public at large. Patients with contagious diseases will be interdicted from mingling with other people or going to work or study where they pose a risk to the health of the general public<sup>41</sup>. The deceased's dead body has sanctity but it can be breached if necessity calls for it<sup>42</sup>. Dissection of a dead body or postmortem is permissible if it benefits humanity.

**Seventh: Necessity renders prohibited matters permissible.**<sup>43</sup> الضَّرُورَاتُ تُبَيِّحُ الْمُحْظَرَاتِ

*Sharī'ah* has prohibited certain things but these impermissible things become permissible when there is a dire need. It becomes permissible for a patient to uncover his *'aurah* (private parts) to medical practitioners for treatment. However, doing so is prohibited otherwise<sup>44</sup>. It is prohibited for Muslims to sell or buy human blood but where a human being is dying and no blood is available except through buying, *sharī'ah* will allow buying the human blood to save human life.<sup>45</sup> If no female doctor is available, it becomes permissible for a lady to get treatment from a male doctor. The use of anesthesia is permissible for treatment<sup>46</sup>.

**Eighth: Necessities have limits that should not be exceeded.**<sup>47</sup> مَا أُبَيِّحُ

لِلضَّرُورَةِ يُقَدَّرُ بِقَدْرِهَا

When a prohibited action becomes permissible because of the necessity, it should not be taken as a free pass. Rather it should be limited to that necessity only and this permissibility should not be used beyond that. Uncovering and revealing one's body to the doctor should be done only according to the need and beyond the need is prohibited<sup>48</sup>. Medical practitioners should only treat or operate on the patient to the extent of dire need. He has no right to transgress that limit. Use of anesthesia will be only according to the need. It is not allowed for medical practitioners to make the patients remain in a state of unconsciousness for a period longer than required. The patient should not prefer a doctor of the opposite gender if a specialist doctor of his or her gender is available.<sup>49</sup>

**Ninth: Avoiding harm takes precedence over bringing about benefit.**<sup>50</sup> دَرءُ الْمَقَاسِدِ أَوْلَى مِنْ جَلْبِ الْمَصَالِحِ

If extracting benefit and suffering from harm will take place simultaneously from a matter, *Sharī'ah* demands to leave the matter altogether because avoiding harm takes precedence that deriving benefit. Surgeries for beautification that modify the

creation of Allah are impermissible because the benefit of beauty is achieved at the cost of changing Allah's creation. It is not permissible for a male doctor to remain alone with female patients and nurses or vice versa because avoiding harm is more important than getting the benefit<sup>51</sup>.

**Tenth: When a matter tightens, it will widen.**<sup>52</sup> *الأمر إذا ضاق اتسع*

When there is a hardship for the people in carrying out any matter of *Sharī'ah*, Allah Almighty eases that matter for Muslims. If ablution with water, is detrimental to the health of a patient, then *Sharī'ah* permits him to purify by way of *Tayyamum*<sup>53</sup> and offer his prayer. It is permissible for the patient not to fast in the holy month of *Ramaḍān* if he/she feels difficulty. It is permissible for the doctor to join *Zuhr* with 'Aṣr and *Maghrib* and 'Ishā if he is busy with patients and doesn't get time to offer *Ṣalāh* separately at the time of each *Ṣalāh*. It is permissible for the lady who is suffering from *Istihādah* that she can pray after doing ablution even if she bleeds during *Ṣalāh*. It is permissible for the patient to offer *Ṣalāh* while standing; if he is unable, he can do it while sitting and he can even pray while lying if he is unable to do so.

**Eleventh: When the original undertaking cannot be carried out, the equivalent thereof is carried out.**<sup>54</sup> *إذا تعذر الأصل يصار إلى البديل*

When a person cannot carry out the original ruling of *Sharī'ah*, then he is required to fulfill the alternative given by *Sharī'ah*. If a patient can't do ablution is the original ruling, then he can employ the alternative which is *Tayyamum*. If a patient can't fast in the holy month of *Ramaḍān* which is the original ruling, he can go to the alternative ruling which is *fiḍyah*.

## Conclusion

Legal maxims are fundamental to guide medical practitioners about what is the standard of practice in relevant matters. They are deeply rooted in the Qur'ān and

Sunnah. These maxims guide doctors regarding what they ought and ought not to do. Above mentioned examples are illustrations of the importance and practice of legal maxims in the field of medicine and law. This is a brief introduction to the topic. Researchers urge that there should be detailed and more rigorous work on the subject and its application. These maxims should be taught to Muslim physicians and non-Muslim practitioners as a course book in their medical colleges so that they have a deeper understanding of the general approach of *Sharī'ah* in dealing with such matters to help improve health services and medico-legal matters

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- 27 Suyūtī, Al-Ashbāh wa al- Nazā'ir, vol. 1,77
- 28 Al-Qur'ān 2:185.
- 29 Al- Bukhārī, al-Ṣaḥīḥ , vol. 4, 198, Ḥadīth no. 3560.
- 30 Dr. Aḥmad ibn Muḥammad, 'Āid al-Juhaini. Taṭbīqāt Qāidatay 'Lā ḍarrar wala ḍirār' wa 'al-Mushaqqah tajlib al-Taisīrfī al-Aḥam al Ṭibbiyah, 50.
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- 32 Ibn al-Subkī, Al-Ashbāh wa al- Nazā'ir, vol. 1, 37; Suyūtī, Al-Ashbāh wa al-Naz'ir, vol. 1, 53; Ibn Nujaym, Al-Ashbāh wa Nazā'ir, vol. 1, 50.
- 33 Muḥammad Ṣidqī al-Būrṇū, al-Wajīz fi Īdāḥ al-Qawā'id al-Fiqhiyyah (Beirut: Mu'assasat al-Risālah, 1996), 256.
- 34 Ibn al-Subkī, Al-Ashbāh wa Nazā'ir, vol. 1, 41; Suyūtī, Al-Ashbāh wa al-Naz'ir, vol. 1, 7; Ibn Nujaym, Al-Ashbāh wa Nazā'ir, vol. 1, 72.
- 35 Ibn Nujaym, Al-Ashbāh wa al-Naz'ir, vol. 1, 74.
- 36 Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisīr wa'Lā ḍarrar wala ḍirār' fī Masail al Ṭibbiyah al-Mustajidah, 16 [http://ia600709.us.archive.org/30/items/bohoth\\_qawaed\\_tibiya/04.pdf](http://ia600709.us.archive.org/30/items/bohoth_qawaed_tibiya/04.pdf) (Accessed on March, 2018); Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisīr wa'Lā ḍarrar wala ḍirār' fī Masail al Ṭibbiyah al-Mustajidah, 27.
- 37 Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisīr wa'Lā ḍarrar wala ḍirār' fī Masail al Ṭibbiyah al-Mustajidah, 31.
- 38 Suyūtī, Al-Ashbāh wa al-Naz'ir, vol. 1, 87; Ibn Nujaym, Al-Ashbāh wa al-Naz'ir, vol. 1, 76.
- 39 Dr. Aḥmad ibn Muḥammad, 'Āid al-Juhaini. Taṭbīqāt Qāidatay 'Lā ḍarrar wala ḍirār' wa 'al-Mushaqqah tajlib al-Taisīrfī al-Aḥam al Ṭibbiyah, 29.
- 40 Dr. Nahdah 'Ataullah, Taṭbīqāt al-Qawā'id al-fiqqhiyya fī al-Aḥam al-Ṭibbiyah,13.
- 41 Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisīr wa'Lā ḍarrar wala ḍirār' fī Masail al Ṭibbiyah al-Mustajidah, 17.
- 42 Dr. Nahdah 'Ataullah, Taṭbīqāt al-Qawā'id al-fiqqhiyya fī al-Aḥam al-Ṭibbiyah,40.
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- 44 Dr. Nahdah 'Ataullah, Taṭbīqāt al-Qawā'id al-fiqqhiyya fī al-Aḥam al-Ṭibbiyah, <http://elibrary.medi.u.edu.my/books/MAL05447.pdf> (Accessed on March, 2018).
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- 46 Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisir wa'Lā ḡarrar wala ḡirār' fī Masail al Ṭibbiyah al-Mustajidah, 23-24.
- 47 Ibn Nujaym, Al-Ashbāh wa al-Naz'ir, vol. 1, 73.
- 48 Ibn Muḡammad, Dr. Aḡmad 'Āid al-Juhaini. Taṭbīqāt Qāidatay 'Lā ḡarrar wala ḡirār' wa 'al-Mushaqqah tajlib al-Taisir fī al-Aḡām al Ṭibbiyah, 32.
- 49 Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisir wa'Lā ḡarrar wala ḡirār' fī Masail al Ṭibbiyah al-Mustajidah, [http://ia600709.us.archive.org/30/items/bohoth\\_qawaed\\_tibiya/04.pdf](http://ia600709.us.archive.org/30/items/bohoth_qawaed_tibiya/04.pdf) (Accessed on March, 2018).
- 50 Ibn al-Subkī, Al-Ashbāh wa al-Naz'ir, vol. 1, 105; Suyūtī, Al-Ashbāh wa al-Naz'ir, vol. 1, 87; Ibn Nujaym, Al-Ashbāh wa al-Naz'ir, vol. 1, 78.
- 51 Muhammad Ibn 'Abd al-'Azīz ibn Sa'd al-Yemni, Athar Qāidatay'al-Mushaqqah tajlib al-Taisir wa'Lā ḡarrar wala ḡirār' fī Masail al Ṭibbiyah al-Mustajidah, 18.
- 52 Ibn al-Subkī, Al-Ashbāh wa al-Naz'ir, vol. 1, 49; Ibn Nujaym, Al-Ashbāh wa al-Naz'ir, vol. 1, 72.
- 53 Ceremony of ablution performed with sand instead of water. Mu'jam Lughat'l-Fuqahā', eds. Muḡammad Rawās Qala'jī and Dr. Hāmid Sādiq Qanībī, 2nd Ed. (Bairūt: Dār' l Nafās, 1988), s.v. "tayammum".
- 54 Muḡammad Ṣidqī al-Būrñū, al-Wajiz fi Īdāḡ al-Qawā'id al-Fiqhiyyah, 246.