

## NO TITLE: 'NIYAH'

The Muslim Ummah has suffered a great deal of intellectual attacks from the Western culture over many centuries, hence, our current situation. The current ideological atmosphere is where the Islamic concepts have become severely distorted in the minds of the Muslims. One of the foremost tasks in reviving the Ummah, therefore, is to deliver the correct Islamic concepts to the people.

One of these concepts is that of 'niyah' or intention and its importance in terms of the way we conduct our affairs. The Prophet (saaw) said, "Indeed, the a'maal are by the niyah (intention)..." Due to a severe misunderstanding of the concept of niyah, this hadith has become the justification of many incorrect actions undertaken by individuals and groups.

In order to avoid this problem in the future, we need to acquire the correct understanding of the type of actions the individual performs, of the concept of niyah, and the relationship between the niyah and these actions.

The actions can be divided into three categories:

- The A'maal,
- Verbal transactions (Tassarufaat Qawliyyah), and
- Physical activities (Tassarufaat Fi'liyyah).

The a'maal involves either undertaking certain actions or restraining from them. Examples of the a'maal are wudu, salat, fasting, zakah, jihad, traveling, giving money, not sitting in an environment where Allah (swt) is disobeyed, joining an organization, refusing to accept someone's donation, etc.

All of these are called a'maal because the limbs/organs undertook them or restrained from them. Wudu is done by the limbs/organs while in fasting, the limb/organs are restraining from doing certain things.

The same applies to joining an organization or refusing to take a donation. In one case, the individual undertook an action and in the other he/she refrained from undertaking an action. In these actions the intention plays an integral part, and it must be based on Islam. Along with the intention, however, the action itself must have its basis in the Hukm Sharii.

Consequently, one cannot pray maghrib without making the intention for it, nor can one make the proper intention for maghrib and then perform four rakahs purposefully rather than three. The same applies to actions such as working to revive the Muslim Ummah. One has to have the correct intention and then follow the intention up with the correct actions based on solid evidence from the Sharia of Islam. The human being will then be held accountable for these actions according to his/her intention (niyyah). The hadeeth of the niyyah ("Indeed, the actions are by intentions") applies only to the category of A'maal and does not apply to any other category.

As for the verbal transactions, (Tassarufaat Qawliyyah), they include two-party contracts and transactions which do not require two parties. There are two kinds of these transactions.

One occurs between two parties such as buying and selling, establishing partnerships, renting and leasing, wakaalah (power of attorney or authorization), etc...

The second type of the Tassarufaat Qawliyyah involve one party, such as a will or waqf (trusts).

Both kinds of these transactions are called verbal transactions because they require a specific type of uttering or expression and not a physical action. Even if they would involve physical action, such as taking a can of soda from a dispensing machine in exchange for its price without saying any word would be considered as tassarufaat qawliyyah.

In the case of the dispensing machine, installing the machine would be considered the offer by one party, and putting the money in the machine would be considered the acceptance by the other party. These verbal transactions are what people have in their relationships with each other. They have nothing to do with intentions. The rule regarding them is based on the contract format and structure, whether written or verbally expressed.

Hence it is wrong to say that the legal interpretation of contracts is based on the intentions (niyyah) and the subjective meanings, rather it should be based on the text of the contract and its structure.

As an example, one cannot sell something to another person based on a contract and then after the transaction claim that the niyah was not to actually sell the item. In the Sharia court such a case would be decided based on the contract itself and not the niyah of either party.

Another example would be of a husband saying to his wife, "I divorce you." This is a legally binding statement and is not dependent on the intention. Once it is made to the wife, they are legally divorced.

Physical activities (Tassarufaat fi'liyyah) are the day to day actions undertaken by individuals in their lives, such as the sexual relationship between a husband and wife, a man spanking his son, a father preventing his daughter from visiting her girlfriend, digging a well, cultivating the land, eating, drinking, sleeping, etc.

All such actions and similar cases, are considered tassarufaat fi'liyyah. These and actions similar to these have nothing to do with the niyyah or the intention. And therefore the hadeeth ("Indeed, actions are by intentions") does not apply here. Also, the judge has no authority whatsoever to appoint a trustee to oversee these types of actions. Each individual behaves the way he wants without any restriction, as long as it is in accordance with Hukm Sharia.

The difference between the tassarufaat fi'liyyah (physical activities) and a'maal (actions) which is intention (niyyah), is that the a'maal are action performed by our limbs/organs for the sake of the action itself, not the consequences of it.

For example, the hands would perform wudu and would also rinse themselves. Both are done using water and involve similar hand motions; however, there is still a difference.

In the case of wudu, it is done for the sake of having done wudu and therefore being in a state of tahara, not for having physically cleaned oneself, while rinsing the hands is done to clean the hand, and not for the sake of having simply done the washing motion.

Therefore wudu needs a niyyah and it is considered an'ya`maal (action), while rinsing the hands does not need a niyyah and is considered tassarufaat fi'liyyah (physical activities or routine actions).

Another example is that the organs/limbs would travel and would cultivate the land; however, traveling needs a niyyah when making the Hijrah or being eligible for shortening the prayers (qasr), while cultivating the land does not need a niyyah and it is just a routine action/physical activity or tassarufaat fi'liyyah.

Thus, the a'maal, by themselves do not indicate the objective, rather it is the niyyah which gives the a'maal their objective. Praying two rakaat in Fajr does not indicate whether it is fard or sunna; however, it is the niyyah which distinguishes between them, even though the physical actions of both prayers are the same.

Regarding the tassarufaat fi'liyyah, the action by itself indicates the objective and does not need a niyyah. Distinguishing the difference between both of them is an intricate process and requires accuracy and precision.

*(Written in Arabic by Taqiudine An-Nabhani and translated and edited into English)*