

Shaykh Mashhūr Hasan Āl Salmān

(hafidhahullāh)

**DID IMĀM AL-ALBĀNĪ JUMP
TRAFFIC LIGHTS IN HIS CAR?
[WITH A DISCUSSION ON MASĀLIH UL-
MURSALAH]¹**

A brother asks:

“What is the ruling on breaking traffic laws and breaking traffic lights as many people do late at night and how do we refute those who say ‘these are man-made laws and it is not necessary for us to adhere to them’? And I also heard that our Shaykh, al-Albānī (rahimahullāh), used to jump red lights. I want some guidance from you, may Allāh preserve you, on this issue.”

Answer from Shaykh Mashhūr:

Our Shaykh (*rahimahullāh*) was speedy, this is correct, as for him jumping red lights then this is incorrect. He used to use as a proof the hadeeth of Jābir (*radi Allāhu ‘anhu*) about picking up the pace to fill gaps if they were found. The Prophet (*sallallāhu ‘alayhi wassallam*), when travelling between Arafat and Muzadalifah, used to indicate with his hand and say to the people “*tranquillity, tranquillity.*” However, if he found a gap in front of him he would pick up the pace on the camel in order to close the gap.² Our Shaykh, al-Albānī (*rahimahullāh*), used this hadeeth as a proof for moving quickly and that one should move with haste, as for jumping through red lights, then no.

¹ From our Shaykh’s Q & A session dated Saturday 25 December 2010 CE, it was the last question of the session and it can be referred to here: www.mashhoor.net

² **Translator’s note [’AbdulHaq al-Ashanti]:** This hadeeth is mentioned in the Two Saheehs and narrated by ’Urwah bin az-Zubayr (*radi Allāhu ‘anhu*) in which it is mentioned that Usāmah bin Zayd (*radi Allāhu ‘anhu*) was asked about how the Prophet (*sallallāhu ‘alayhi wassallam*) used to travel

My brothers there are Masālih ash-Shar’iyyah which have a textual basis and there are Masālih, according to the ‘Ulama and Fuqahā, which are called *‘Masālih ul-Mursalah’* [Unrestricted Public Interests].³ Masālih ul-Mursalah are that which the Shar’ have left unrestricted for us in that which is among us. If we wanted to summarise our deen with one word then what could we say about our great deen? Maslahah. Yet real Maslahah which is *Mu’tabarah* [Acknowledged] not a mere *Maslahah Wahmiyyah* [Imagined Benefit], for some of those who have weak souls are attracted to khamr and zinā and there is neither consideration of these tastes nor in these being estimated as a ‘Maslahah’. Wherever real Maslahah is found then the Shar’ of Allāh is applied. As the Shar’ has not mentioned many Masālih the Muslims, among themselves, are the ones who assess them.

All of the things which the Muslims enjoy within their deen and wherein there is a benefit are Masālih, Masālih al-Mursalah. Of the things which are unclear among those who are occupied with knowledge, not to mention the common Muslims, is the difference between Maslahah and Bida’,

during the farewell pilgrimage. Imām an-Nawawī (*rahimahullāh*) stated in his *Sharh* of Saheeh Muslim that the hadeeth emphasises:

“The recommendation to travel slowly if there is any congestion but if a gap is found then it is recommended that one move with pace in order to fulfil the rites of hajj.”

³ [TN]: Maslahah itself is divided into three categories:

1. Maslahah Mu’tabarah [Acknowledged Benefit]: a Maslahah ash-Shar’iyyah about which are Divinely Legislated Texts from the Book, Sunnah, Ijmā’ or Qiyās encouraging such a benefit, such as Salāh for example.
2. Maslahah Mulghāh [Disregarded Benefit]: a ‘Maslahah’ which is viewed as being a ‘benefit’ yet the Divine Legislation has already disregarded such things as being ‘benefits’. Rather in fact, the evidence from the Revelatory Texts of the Book and Sunnah, and from Ijmā’ and Qiyās, prohibit such assumed ‘benefits’. For example, the ‘benefit’ of alcohol which the Shar’ has considered to be harmful.
3. Maslahah Maskūt ‘anhā [Benefits Which Have Not Been Discussed]: benefits which neither an acknowledgement has been relayed nor a disregard from the Book, Sunnah, Ijmā’ or Qiyās. This is termed ‘Maslahah al-Mursalah’ and it is referred to as ‘Mursalah’ due to it being unrestricted from a specific proof which can restrict its description to one of ‘acknowledgement’ or ‘disregard’.

The scholars of Usūl therefore have given the Shari’ definition of Maslahah al-Mursalah as:

‘that which the Divine Legislation did not attest to in terms of its acknowledgement or its disregard with a specific proof.’

It is also referred to as ‘Manāsib ul-Mursal’.

See Muhammad bin Husayn bin Hasan al-Jizānī, *Ma’ālim Usūl ul-Fiqh: Ahl us-Sunnah wa’l-Jamā’ah* [Signposts of Islamic Legal Theory According to the People of Sunnah and Jamā’ah]. Dammām: Dār Ibn ul-Jawzī, Safar 1428 AH, pp.235-236.

Maslahah Mursalah and Bida'. What is accurate is that if there is anything which has a precedent (*muqtada*) for an action and was not done by Allāh's Messenger (*sallallāhu 'alayhi wassallam*) or the companions – then doing it is an innovation. If there is not a precedent for the action then we give precedence to the Maslahah and do it as a means and not out of it being 'ibādah.

Let's take this microphone for example, or these satellites, glasses – all of these are Masālih Mursalah. They were not in existence during the time of the Prophet (*sallallāhu 'alayhi wassallam*). I use glasses in order for the book and the text of the Qur'ān to become clear to me and which helps me read it properly. Likewise, I use this microphone instead using a Musammi' [repeater] who used to stand in the gatherings of the 'Ulama [of the past] and repeat after the scholar or teacher had spoken when he was teaching. This is of the Masālih al-Mursalah, it is a means and I do not worship Allāh based on their own merits. The satellites send the voice and image to all places of abode and thus using them is as a Maslahah Mursalah. Arranging the building and construction of houses and their sizes is a Maslahah Mursalah and it is not permitted for you to transgress this so as to harm the neighbours. The laws regarding that nothing should be built next to your house that which disturbs you and causes noise or a smell, like with painting etc – this is Masālih al-Mursalah.⁴

The presence of traffic lights are of the Masālih al-Mursalah and it is not permitted for a person to transgress against them because they are a Maslahah for all of the people. As those who supervise them are those who are in authority over the Muslims and they have a right in worldly affairs to implement for the people that which benefits them. The religion is the Book and Sunnah and 'Ibādāt [acts of worship] are specifically between the people and Allāh based on the evaluation of the 'Ulama; as for that which is connected to people's affairs then this is for those in authority over the Muslims to evaluate and they arrange the affairs of day to day living and it is not permissible to transgress against them.

So the issue of you getting into your car and doing as you please, and transgressing against those who you want, and using your right like a person you builds a factory in an area which disturbs the people due to the noise or vile smells, then this is prohibited. Going to excess in using your right is prohibited in the Divine Legislation. The Masālih are that which the Shar' has unrestricted and they have been placed into the hands of those in authority to organise the affairs of the people's lives with that which does not contradict a Revelatory text from Allāh's Book or

⁴ [TN]: The difference of opinion among the jurists regarding the legitimacy of Maslahah al-Mursalah is in reality merely a semantic difference of opinion as to the name of its reality, as all jurists agree on achieving benefits and vital interests and quelling harms. This process can be called 'Maslahah al-Mursalah', 'Istislāh', 'Qiyās', 'Umūm', 'Ijithād' or 'acting in accordance with the Maqāsīd ush-Sharē'ah'. See Muhammad bin Husayn bin Hasan al-Jizānī, *op.cit.* p.238.

hadeeth of Allāh’s Messenger (*sallallāhu ’alayhi wassallam*). As long as it does not oppose a Revelatory text, why did Allāh say

“O you who have believed, obey Allāh and obey the Messenger and those in authority among you.”

{*an-Nisā* (4): 59}

Allāh did not say **“obey Allah and obey the Messenger and obey those in authority among you”** as obedience to Allāh is at the head and is independent in and of itself, while obeying Allāh’s Messenger is at the head in and of itself. Obeying those in authority is neither at the head nor is independent in and of itself because it has to follow obedience to Allāh and His Messenger. The Prophet (*sallallāhu ’alayhi wassallam*) said: *“Obedience is only in that which is good, there is no obedience to the creation in disobedience to the Creator.”*⁵ From the rights of those in authority is that they organise the affairs of the dunya and not leave the people as savage mobs doing whatever they want; this is as long as those in authority do not oppose a Revealed Text. Hence, the ayah has arrived:

“O you who have believed, obey Allāh and obey the Messenger and those in authority among you.”

{*an-Nisā* (4): 59}

As long as those in authority do not instruct you to do that which opposes the Book of your Lord, or the Sunnah of your Prophet, then it is obligatory upon you to obey. Thus, it is not permissible to say about something which has not been spoken about, from the decisions of those in authority, that “this is based on man-made laws”.⁶ This thing which does not oppose a Revealed Text, then we take it. Allāh knows best.

⁵ [TN]: This hadeeth is mentioned in the Two Saheehs and an-Nasā’ī, narrated by ‘Ali ibn Abī Tālib (*radi Allāhu’ anhu*).

⁶ [TN]: The Sahābah (*radi Allāhu ’anhum*) for example collected and compiled the Qur’ān into a Mushaf, opened prisons, imposed land taxes (Kharaj) and issued currency. The jurists relay some texts in support of Maslaha Mursalah, Imām ash-Shātībī (*rahimahullāh*) relayed Allāh saying:

“We have not sent you except as a mercy for the worlds”

{*al-Anbiyā’* (21): 47}

As for the ahādeeth then the jurists relay:

1. “No harm and no causing harm.”
2. The hadeeth of ‘Ā’ishah (*radi Allāhu ’anhā*) in Bukhārī and Muslim: If the Prophet (*salallāhu ’alayhi wassallam*) chose between two things he would choose the easiest of them.
3. “Allāh loves to see concessions just as He loves to see His strict laws implemented.”

Imām ash-Shātībī (*rahimahullāh*) divided the Masālih into three main categories:

- ❖ *Darūriyyāt* [Dire Necessities]: interests which lives depend upon, neglect of which leads to total and utter chaos and harm. They maintain the five main essentials of: religion, life, property, lineage and intellect. These must be promoted and protected.
- ❖ *Hājiyyāt* [Complementary Needs]: interests which, if not in existence, would lead to hardship, but not to chaos and total harm.
- ❖ *Tahseeniyyāt* [Luxuries and Embellishments]: interests which, if achieved, enhance life.

The *International Council of Fiqh Academy*, which is an offshoot of the Organization of Muslim Conferences (OIC), in its 15th session in Masqat, Oman, which was held from 14-19 Muharram 1425 AH, which corresponds to 6 – 11 March 2004 CE noted:

It is compulsory for a *faqih* (Muslim jurist) to know that there are guidelines for the usage of *maslahah*, i.e.:

- ❖ The *maslahah* should be real and not imaginary;
- ❖ It should be wholly and not partial (the *maslahah* should not be part of an issue but it must be the issue itself);
- ❖ The *maslahah* should be general in nature and not particular to certain individuals or groups;
- ❖ There should not be another contradictory *maslahah*, which is more important or of equal importance to the earlier *maslahah*; and
- ❖ The *maslahah* must be consistent with the *maqasid al-Shari'ah*.