



DISPUTES REGARDING THE DERIVATION OF RULINGS FROM CUSTOMS AMONG ISLAMIC SCHOOLS OF THOUGHT AND THEIR SOLUTIONS

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Abstract

This article analyzes the disputes regarding the derivation of rulings from customs among various Islamic schools of thought. The differences between these schools arise in the interpretation of religious texts and the significance of customs in practice. These disputes are often linked to religious and cultural contexts, shaping diverse perspectives and attitudes within society. The article examines the causes of these disputes and explores potential solutions. The findings include recommendations aimed at enhancing compatibility among schools and strengthening religious unity.

Keywords: Schools of thought, customs, disputes, rulings, religious interpretation, culture, compatibility, religious unity, society.

Introduction

Islamic jurisprudence is a vast scientific field that establishes the legal foundations of Muslim life. It relies on primary sources such as the Qur'an, Sunnah, Ijma (consensus), and Qiyas (analogy). However, it is natural for people's lifestyles, cultures, and customs to change over time and across different contexts. Therefore, Islamic jurists have accepted customs as a basis for deriving legal rulings in certain cases. Custom refers to practices that are widely accepted, repeatedly performed, and generally approved within a specific society.

This scholarly work will analyze the role of customs as a source in Islamic jurisprudence, the perspectives of various schools of thought on this matter, the approaches of contemporary researchers, and the conditions under which customs

can be used as a basis for legal rulings. This analysis will help to better understand the significance and practical application of customs in Islamic jurisprudence.

ANALYSIS OF LITERATURE AND METHODS.

“Custom” refers to practices and cultural traditions that have developed over time within a specific society. This concept is also mentioned in the Holy Qur’an: “وَأْمُرْ بِالْعُرْفِ” (“And command [them] with what is good”) (Al-A’raf, 199:199). In a jurisprudential definition, custom is described as “a collection of practices that have become customary in society and are considered by jurists.”

Types of Customs

- Practical Custom: Practices that are consistently performed within a society (e.g., marriage ceremonies).
- Verbal Custom: The meanings of certain words and phrases that are shaped by custom (e.g., the word “gift” is accepted as a present under certain conditions).
- Valid Custom: Customs that do not contradict Islamic law.
- Invalid Custom: Customs that are contrary to Islamic law.

The Role of Customs as a Source in Jurisprudence.

Customs are not considered independent evidence but rather an additional source that aids in deriving rulings on issues requiring *ijtihad* (independent reasoning). Rulings based on customs hold significant importance in ensuring human welfare, facilitating legal ease, and promoting social justice.

The Role of Customs in the Hanafi School.

The Hanafi school recognizes customs as one of the important evidences. Imam Abu Hanifa and his disciples have stated that customs can be applied alongside analogy. Imam Al-Sarakhsi, in his work “Al-Mabsut,” provides numerous examples of rulings based on customs. For instance, setting conditions based on customs in trade situations is accepted as a common practice. Here, custom is not merely a tool for *ijtihad* but rather manifests as a natural expression of life.

The Role of Custom in the Maliki School

The Maliki school places great importance on practical customs. Imam Malik prioritizes the practices of the «people of Medina», considering them as the prevailing interpretation of the Prophet’s Sunnah. According to him, the practices



of the people of Medina are viewed as a reflection of the Sunnah in action. Therefore, issuing rulings based on the customary practices of the people of Medina is considered in accordance with the Sunnah. In this school, customs can be accepted as an independent source of law if they align with the Qur'an and Sunnah.

The Role of Custom in the Shafi'i School.

Imam Shafi'i established the primary sources of jurisprudence as the Qur'an, Sunnah, Ijma (consensus), and Qiyas (analogy). Customs are not viewed as an independent source but rather as a supportive tool in certain matters for ijtiḥad (independent reasoning). For instance, in contracts, words are understood in their customary meanings, which demonstrates the influence of custom. However, customs that contradict established texts (nass) are never accepted.

The Role of Custom in the Hanbali School.

The Hanbali school also does not accept customs as an independent source. However, it acknowledges that practical necessity may warrant consideration of customs in ijtiḥadi matters. Some Hanbali scholars, like Ibn Taymiyya, have emphasized that customs can be utilized in accordance with Shariah objectives. Nonetheless, textual sources remain paramount.

DISCUSSION AND RESULTS

Today, fiqh researchers emphasize the need to actively apply customs based on the complex social situations in modern societies. In areas such as Islamic finance, marriage, family relationships, and social justice, deriving rulings based on customs ensures the protection of human interests.

The Role of Custom as a Source in Jurisprudence.

Custom is not an independent source but rather an additional resource that aids in deriving rulings on ijtiḥadi matters. Rulings based on customs play a significant role in ensuring human welfare, facilitating legal ease, and promoting social justice. Analysis of Schools Regarding the Role of Custom

In the Hanafi School: The Hanafi school recognizes customs as one of the important evidences. Imam Abu Hanifa and his disciples have stated that customs can be applied alongside analogy. Imam Al-Sarakhsi provides numerous examples



of rulings based on customs in his work “Al-Mabsut.” For instance, it is customary to set conditions based on practices in trade situations, which is accepted as a common practice. Here, custom is not merely a tool for ijtiḥād but manifests as a natural expression of life.

In the Maliki School: The Maliki school places significant importance on practical customs. Imam Malik prioritizes the practices of the «people of Medina», viewing them as a valid interpretation of the Prophet’s Sunnah. Thus, issuing rulings based on these practices aligns with the Sunnah. In this school, customs can be accepted as an independent source if they conform to the Qur’an and Sunnah.

In the Shafi’i School: Imam Shafi’i defined the primary sources of jurisprudence as the Qur’an, Sunnah, Ijma, and Qiyas. Customs are not seen as an independent source but rather as a supportive tool for ijtiḥād in certain cases. For example, in contracts, words are understood in their customary meanings. However, any custom that contradicts established texts is never accepted.

In the Hanbali School: The Hanbali school also does not accept customs as an independent source. However, it recognizes that practical necessity may allow for consideration of customs in ijtiḥādi matters. Some Hanbali scholars have noted that customs can be utilized in accordance with Shariah objectives while maintaining that textual sources remain primary.

CONCLUSION

Today, fiqh researchers emphasize the need to actively apply customs based on the complex social situations in modern societies. In areas such as Islamic finance, marriage, family relationships, and social justice, deriving rulings based on customs ensures the protection of human interests. In fiqh, custom is accepted as a source of evidence only if it does not contradict Sharia. For a custom to be considered significant, it must be general, consistent, and non-reversible.

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