

MLU-7.1: Sunnah, Ijma, Qiyas and Ijtihad

Sunnah Meaning:

literal; way path, Road

Term; practices and words of the Holy Prophet (PBUH)

Sunnah as a source of shariah:

The Sunnah is the second source of Islamic law. Sunnah is an Arabic word which means "Method". It was applied by the Prophet Muhammad (PBUH) as a legal term to represent what he said, did and agreed to. Its authority is derived from the text of the Quran. The Quran says,

"For you the life of the Prophet is a model of behavior" (33:21).

Many books of traditions were compiled by the companions of the Prophet (PBUH.). These were later on incorporated in the great collections of Hadith (i.e. traditions) Books of Bukhari, Muslim etc. The collectors of traditions adopted a very scientific system in collecting the Traditions. They did not record any tradition except with the chain of narrators. Every tradition gives the name of the last narrator of the tradition from whom he learnt the tradition and so on back to the Prophet or Companion of the Prophet. The Sunnah, which is established through reliable narrators, is fully dependable as legal element.

The Quran and the Sunnah are complimentary. The meaning of the Quran is general in nature, the Sunnah makes it specific and particular. The Sunnah explains the instructions of the Quran. The Quranic injunction is sometimes implicit, the Sunnah makes it explicit by providing essential ingredients and details.

The Quran and the Sunnah are the primary sources of Islamic law. Ijma (that is consensus of opinion of scholars) and Qiyas (that is laws derived through analogical deduction) are the secondary or dependent sources of Islamic law or Shariah.

Allah (SWT) mentions in the Holy Quran,

“Allah has sent down to you the Book (The Qur • an), and al-Hikmah, and taught you that which you knew not.” [Surah An-Nisa:113]

And whatever the Messenger gives you, take it, and whatever he forbids you, leave it. And fear Allah: truly Allah is severe in punishment.” [Surah Al-Hashr:7]

“It is not for a believing man or woman—when Allah and His Messenger decree a matter—to have any other choice in that matter.¹ Indeed, whoever disobeys Allah and His Messenger has clearly gone ‘far’ astray. [Surah Al-Ahzab:36]

“Whoever obeys the Messenger, he indeed obeys Allah.” [Surah An-Nisa:80]

Sunnah is such a way of life which results in a comfort and peace if adopted. Holy Prophet (PBUH) brought a complete code of life. Islam is a practical Deen which provides guidance in all spheres of life. Holy prophet (PBUH) has provided an excellent sample by executing total Islamic teachings. Allah Almighty says There has certainly been for you in the messenger of Allah an excellent pattern for anyone (Al Azhab-21). Thus the only path to salvation lies in the obedience to Prophet (SAW) after Allah Almighty. O You who have believed, obey Allah and obey the Messenger (Muhammad-33).

Allah (SWT) says in Quran

***And whoever obeys Allah and His Messenger has certainly attained a great attainment.
(Al Azhab-71)***

Ijma

Definition

- Literal meaning:

-determination, resolution and agreement upon something.

- Technical meaning:

“the agreement of the mujtahids (jurists) from among community of Muhammad (PBUH) after his death in a certain period of time upon a rule of Islamic law.”

Ijma or the consensus of scholars signifies the importance of delegated legislation to the Muslim community. The Muslim society requires such a rule making power to meet the practical problems for implementation of Islamic Shariah (Islamic Law). Ijma has been technically defined as the consensus of the jurists of a certain period over a religious matter. Ijma is considered a sufficient evidence for action because the Prophet of Islam said, "Muslim (majority or main body) will never agree on a wrong matter". As such the agreement of the scholars of Islam on any religious matter is a source of law in Islam (Ref: Principles of Islamic Jurisprudence by M. Hashim Kamali).

Conditions for the validity of ijma

1. The agreement must take place among mujtahids. Mujtahid is a person who is qualified to exercise ijtihad.
2. The agreement must be unanimous.
3. The mujtahids must belong to the Islamic community.
4. The agreement of mujtahids must be held after the death of Allah's Messenger (peace be upon him).

5. The agreement must be among the mujtahids of one period, even though some mujtahids of subsequent periods may differ from them.
6. The agreement should be held on a rule of Islamic law (in legal matter).
7. The mujtahids should have relied upon a sanad for deriving their opinion. Sanad is the evidence (proof) upon which the mujtahids rely on, for arriving upon an agreement.

Examples

A Muslim woman cannot marry to a non-Muslim.

Compiling the Quran: There is consensus among Muslims that the Quran is the complete and unchanged word of God. The compilation and arrangement of the Quranic verses into a single book form were done during the caliphate of Abu Bakr and later standardized by the third caliph, Uthman. The Muslim community universally accepts this compilation as Ijma.

Prohibition of Riba (Usury/Interest): There is a general consensus among Islamic scholars that the charging or paying of interest (riba) is prohibited in Islam. This consensus is based on explicit Quranic verses and hadiths that condemn usury. The prohibition of riba is a widely accepted Ijma within the Islamic legal tradition.

Validity of the Friday Prayer (Jum'ah): There is consensus among Islamic scholars that the Friday congregational prayer (Jum'ah) is obligatory for adult, sane and healthy Muslim males who are not travelling. The details of the Friday prayer, including its timing and prayer format are generally agreed upon within the Muslim community.

Types of Ijma.

There are two types of *ijma*: 1) Explicit *Ijma* (*ijma* sarih): "one in which the legal opinions of all the mujtahids of one period converge in relation to legal issue, and each one of them states his opinion explicitly." • This is realized sometimes by their meeting in one place and examining an issue in question and finally they express a unanimous opinion. • It may also take place when an issue occurred and every mujtahid give the same legal opinion.

Silent or tacit *ijma* (*ijma* sukuti): • It takes place when some mujtahid, one or more, give a legal opinion with regard to specific rule about a particular legal issue, then the rest of them are informed of this opinion and they keep silent and they neither acknowledge it nor object to it.

Qiyas

Qiyas is the fourth important source of Islamic law. Qiyas means analogy. Qiyas or analogy is resorted to in respect of problems about which there is no specific provision in the Quran or the Sunnah of the Prophet (PBUH). In such issues the scholars have derived law through analogical deduction on the basis of the provisions of the Quran and the Sunnah on some similar situation. The scholars have developed detailed principles of analogical deductions or Qiyas in the books of Islamic jurisprudence.

Authority of Qiyas

The scholars quoted several proofs from the Quran and Sunnah as well as the practice of the companions as an indirect evidence to support the utilization of qiyas.

Surah Al Nisa 4:59

O believers! Obey Allah and obey the Messenger and those in authority among you. Should you disagree on anything, then refer it to Allah and His Messenger, if you 'truly' believe in Allah and the Last Day. This is the best and fairest resolution.

The scholars have reasoned that a dispute can only be referred to Allah and Prophet (PBUH) by following the signs/indications found in the Quran and Sunnah.

One way of achieving this is to identify the rationales of the rulings and apply them to disputed matters in case both issues in question share the same rationale - Qiyas.

Surah al-Nisaf 4:105

"We have sent to you the book with the Truth so that you may judge among people by means of what Allah has shown you". Based on the above verse, a judgment may be based on the guidance that Allah has clearly given or on that which bears close similarity to it. Thus, exercising qiyas is considered as following the guidance of the Quran. The Quran specifies the rationale of its law either explicitly or by reference to its objectives.

Pillars of Qiyas.

- 1) The original case, or *asl*, on which a ruling is given in the text and which analogy seeks to extend to a new case.
- 2) The new case (*far`*) on which a ruling is wanting.
- 3) The effective cause (*`illah*) which is an attribute (*wasf*) of the *asl* and is found to be in common between the original and the new case.
- 4) The rule (*hukm*) governing the original case which is to be extended to the new case.

Conditions for Qiyas.

Condition pertaining *Asl*

One condition of *Asl* (the subject matter of original ruling) is that the Qur'an and Sunnah are the source the *Asl* (many scholars do not consider *Ijma* to be basis of *Asl*). According to majority, one *Qiyas* cannot form *Asl* of another *Qiyas*. However, Maliki jurist Ibn Rushd thinks a *Qiyas* can be basis for another *Qiyas*. Modern jurists Abu Zahrah and Muhammad Al Zarka agree. Minority seems to be right as long as it does not contradict *Nusus* (clear texts or rulings) of the Qur'an and Sunnah.

Conditions pertaining to Hukm (a ruling in the original case) are:

1. It must be a practical Sharii ruling.
2. Sharii ruling must not be an abrogated one,
3. The Hukm must be amenable to understanding through human intellect
4. Hukm must not be limited to exceptional situations (in that case it cannot be basis of Qiyas, such as the prohibition of marriage of widows of the Prophet (with others).

The New Case (Far)

There are three conditions regarding the new case before establishing a qiyas.

The first is the far which must not be covered by any text or *ijma*^f. If the text and the *ijma*^f have already covered the matter, qiyas is no longer required.

Secondly, the new case must be applicable in the same way as to the original case (asl).

There must not be equality between both of the new and the original case or otherwise the qiyas will be invalid. For example, a beverage that only caused a lapse of memory is not the same as drinking wine that will cause intoxication to the drinker. Therefore, analogy for the case is not valid.

Thirdly, the new case must not result in altering the law of text. Any form of analogy that alters the law of text is invalid.

The Conditions of Illah

1. Illah must be constant
2. Illah must be evident
3. Illah must bear the proper and reasonable relationship to the Hukm
4. Illah must be transient
Transient can be defined as an objective quality that can be transferred to other cases.
5. Illah must not be an attribute which seeks to alter to or counter to the law of the text (Hukm)

Example

The Qur'an (al-Jumu'ah, 62:9) forbids selling or buying goods after the last call for Friday prayer until the end of the prayer. By analogy this prohibition is extended to all kinds of transactions, since the effective cause, that is, diversion from prayer, is common to all.

Ijtihad

Ijtihad is the most important source of Islamic law next to the Qur'an and the Sunnah. Being a derivation from the root word jahada, ijtihad literally means striving, or self-exertion in any activity which entails a measure of hardship. Qiyas is a kind of Ijtihad. The Prophet (PBUH) has permitted Ijtihad that literally means 'to exert'. Technically it means to exert with a view to form an independent judgement on a legal issue. Ijtihad is the Islamic method of facing the new situations and problems in the light of the general principles of the book of Allah (SWT), the Quran and the traditions of the Prophet (PBUH) or the Sunnah. Apart from Qiyas, there are other methods of Ijtihad such as Istihsan (that is juristic preference from different interpretations) and Masalaha (that is moral consideration). In addition to the above sources, the practices of the Khulafa-e-Rashidun (first four rulers of Islam), the decisions of the judges and the customs of the people are also considered sources of Islamic law in matters which are not spelled out in the Quran and the Sunnah.

Who is called Mujtehid?

The work of the interpreter of the text is to ascertain the authenticity of the source(s) and then

1. Discover the laws through the interpretation of the sources;
2. Extend the laws to new cases that may be similar to the cases mentioned in the sources for which the laws cannot be discovered through literal interpretation (this is called the method of analogy, or qiyas)
3. Extend the laws to new cases that have not been covered by the previous two methods by looking at the general principles and objectives of the sharia (this method is known as istihsan or istislah—general interests of the community).

Qualifications of a Mujtahid: The basic role of the mujtahid is to explain and articulate the law of God in a particular situation. The mujtahid takes on the considerable responsibility of explaining the will of God to individuals and communities. The qualifications for a mujtahid were set out by Abu'l Husayn al-Basri in “al Muftamad fi Usul al-Fiqh” and accepted by later Sunni scholars, including al-Ghazali. These qualifications can be summed up as

- (i) An understanding of the objectives of the sharia
- (ii) Knowledge of its sources and methods of deduction.

Conditions for Ijtihad.

- 1) A competence in the Arabic language which allows him to have a correct understanding of the Qur'an. That is, he must appreciate the subtleties of the language so as to be able to draw accurate deductions from the “clear and un-crooked Arabic” of this infallible source, and that of the sunnah.
- 2) An adequate knowledge of the Meccan and Medinese contents of the Qu'ran, the events surrounding their revelation and the incidences of abrogation (suspending or repealing a ruling) revealed therein. He must be fully acquainted with its legal contents (the ayat al-ahkam) - some 500 verses, according to al-Ghazali. He need not have a detailed knowledge the narratives and parables, nor of the sections relating to the hereafter, but he must be able to use these to infer a legal rule. He needs to be acquainted with all the classical commentaries on the ayat al-ahkam, especially the views of the Companions of the Prophet (PBUH).
- 3) An adequate knowledge of the sunnah, especially those related to his specialisation. He needs to know the relative reliability of the narrators of the hadith, and be able to distinguish between the reliable from the weak. He needs to have a thorough knowledge of incidences of abrogation, distinguish between the general and specific, the absolute and the qualified. One estimate (by Ahmad ibn Hanbal) suggests that 1,200 hadith need to be known.
- 4) He should be able to verify the consensus ijma of the Companions of the Prophet (PBUH), the successors and the leading imams and mujtahidim of the past, especially with regard to his specialization. Complementary to this, he should be familiar with the issues on which there is no consensus.
- 5) He should have a thorough knowledge of the rules and procedures for reasoning by analogy (qiyas) so he can apply revealed law to an unprecedented case.
- 6) He should understand the revealed purposes of sharia, which relate to "considerations of public interest", including the Five Pillars protection of "life, religion, intellect, lineage" and property. He should also understand the general maxims for the interpretation of sharia, which include the "removal of hardship", that "certainty must prevail over doubt", and the achievement of a balance between unnecessary rigidity and too free an interpretation.

- 7) He must practice what he preaches, that is he must be an upright person whose judgement people can trust.

Examples of Ijtehad.

Abu Sa`eed al-Khudri narrated that two men went on a trip and decided to pray but found no water. They made dry ablution (tayammum) then prayed. Thereafter, they found water and the time of prayer had not yet elapsed. One of them repeated his prayer, while the second one did not. The Prophet sallallahu `alayhi wa sallam said to the latter: "You have followed the Sunna faithfully, and your prayer is complete." He said to the one who repeated his prayer: "You have twice the reward."

When Rasool Allah (s.a.w) breathed his last and Abu Bakr (RA) was appointed as his successor (Caliph), those amongst the Arabs who wanted to become apostates became apostates. 'Umar b. Khattab (RA) said to Abu Bakr (RA): Why would you fight against the people, when RasulAllah (saw) declared: I have been directed to fight against people so long as they do not say: There is no god but Allah, and he who professed it was granted full protection of his property and life on my behalf except for a right? His (other) affairs rest with Allah. Upon this Abu Bakr said: By Allah, I would definitely fight against him who severed prayer from Zakat, for it is the obligation upon the rich. By Allah, I would fight against them even to secure the cord (used for hobbling the feet of a camel) which they used to give to The prophet (as zakat) but now they have withheld it. Umar b. Khattab remarked: By Allah, I found nothing but the fact that Allah had opened the heart of Abu Bakr for (perceiving the justification of) fighting (against those who refused to pay Zakat) and I fully recognized that the (stand of Abu Bakr) was right."

Patterns of Ijtehad

First, the specific problem will be thoroughly examined in light of the Quran. If no solution is found, we will then consult the Sunnah. Should the Sunnah also not provide a solution, the next step will be to seek consensus (ijma) among scholars. If consensus cannot be reached, we will apply analogical reasoning (qiyas) to find similar issues from the past for guidance. Finally, if qiyas does not yield a solution, we will engage in independent reasoning (ijtihad).

Reward for ijtihad.

The Holy Prophet (PBUH) had given the basic principle only to the muslims, which are in the Holy Quran and His own example (Sunnah). He had directed the muslims to use their judgment in working out details according to the changing circumstances and rising demands. For this, as the benefit of the whole ummah lies in the activity of ijtihad, Allah promised a reward to a mujtahid. As there is hadith with reference to this that "when a judge makes ijtihad and reaches a correct conclusion, he receives a double reward; and if his conclusion is incorrect, he still receives a reward".

References

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