

ISLAMIC JURISPRUDENCE

ISLAMIC JURISPRUDENCE

Q. WHAT IS ISLAMIC JURISPRUDENCE , DISCUSS ITS HISTORY AND SOURCES OF ISLAMIC LAW.

Ans:

ISLAMIC JURISPRUDENCE

Islamic Jurisprudence, also known as Islamic Law or Sharia, is a system of legal principles and rules derived from the religious texts of Islam, primarily the Quran and the Hadith (sayings and actions of the Prophet Muhammad ﷺ). It provides guidance for Muslims on how to live their lives in accordance with religious teachings and ethical values.

Islamic Jurisprudence encompasses various legal opinions and interpretations offered by scholars and jurists over centuries. These interpretations are based on the sources of Islamic law and aim to address contemporary issues while remaining rooted in the principles of Islam. The primary goal of Islamic Jurisprudence is to promote justice, equity, and the well-being of individuals and society. There are several schools of thought within Islamic Jurisprudence, each with its own methodology and interpretation of legal principles. Key areas covered include worship (rituals and prayers), personal conduct, family law, commercial transactions, criminal law, and more.

In Islamic Jurisprudence, the concept of Ijtihad (independent legal reasoning) allows scholars to adapt legal rulings to new situations, ensuring that the principles of Sharia remain relevant in changing circumstances. While some aspects of Islamic law are fixed and well-defined, others are subject to interpretation, reflecting the dynamic nature of the legal system.

Islamic Jurisprudence plays a central role in the lives of Muslims, guiding their actions, ethics, and legal matters. It aims to balance the spiritual and moral dimensions of life with the practical realities of societal interactions, fostering a holistic approach to faith and governance.

History and Growth:

The history and growth of Islamic Jurisprudence (Fiqh) is a dynamic journey that spans over centuries and reflects the evolution of Islamic legal thought. It has been shaped by the Quran, Hadith, the life of Prophet Muhammad ﷺ, and the interpretations of scholars across various time periods. Here's an overview of its history:

Early Period (7th to 9th Century):

During the lifetime of Prophet Muhammad ﷺ, legal guidance was primarily provided through his actions (Sunnah) and sayings (Hadith). The Companions of the Prophet, known as Sahabah, transmitted this knowledge to subsequent generations. The Caliphs who succeeded Prophet Muhammad ﷺ also played a role in establishing legal norms. This period laid the foundation for the development of Islamic Jurisprudence.

Formation of Legal Schools (8th to 10th Century):

As the Islamic empire expanded, scholars faced complex legal issues. They employed Ijtihad, independent legal reasoning, to derive rulings from the Quran and Hadith. Different scholars developed their own interpretations, leading to the emergence of various legal schools, such as the Hanafi, Maliki, Shafi'i, and Hanbali schools. These schools differed in their methodologies and interpretations of Islamic law.

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Golden Age of Scholarship (9th to 13th Century):

The Abbasid Caliphate fostered a rich environment for intellectual pursuits. Scholars like Imam Abu Hanifa, Imam Malik, Imam Al-Shafi'i, and Imam Ahmad ibn Hanbal codified legal principles within their respective schools. They developed comprehensive legal frameworks, addressing matters from personal conduct to commercial transactions.

Consolidation and Commentary (14th to 18th Century):

During this period, jurists focused on refining and systematizing legal principles. Commentaries on foundational texts and extensive legal treatises were written, contributing to the codification of Islamic law. The work of scholars like Imam Ibn Qudamah, Ibn Taymiyyah, and Imam Al-Nawawi continued to shape Islamic Jurisprudence.

Colonial Era and Modernization (19th to 20th Century):

The decline of the Islamic Caliphate and European colonialism led to challenges for Islamic legal systems. Reforms were introduced to adapt to changing social, political, and legal contexts. Some regions adopted secular legal codes, while others sought to integrate Islamic principles within modern legal systems. The tension between tradition and modernity influenced discussions on Islamic Jurisprudence.

Contemporary Developments (21st Century):

Islamic Jurisprudence continues to evolve in response to modern challenges. Scholars engage in discussions about the compatibility of Islamic law with human rights, gender equality, and technological advancements. Various interpretations and perspectives coexist, ranging from conservative to progressive, reflecting the diversity within the Muslim community.

SOURCES OF ISLAMIC LAW

Islamic law, also known as Sharia, draws its principles and rules from various sources that guide the beliefs and practices of Muslims. These sources collectively shape Islamic Jurisprudence (Fiqh), which governs personal conduct, family matters, commercial transactions, and more. The main sources of Islamic law are:

1. The Quran:

The Quran is the foundational and most authoritative source of Islamic law. It is believed by Muslims to be the literal word of God, revealed to Prophet Muhammad ﷺ over a span of approximately 23 years. While the Quran isn't a legal code, it contains principles, guidance, and moral values that serve as the basis for Islamic law. Legal injunctions in the Quran cover a wide range of topics, including personal conduct, family matters, ethics, and social justice.

2. The Hadith:

Hadith refers to the sayings, actions, and approvals of Prophet Muhammad ﷺ. These teachings, transmitted by his companions and later compiled into collections, provide detailed insights into how the Prophet applied and interpreted the Quranic teachings in various situations. Hadith serves as a practical guide for Muslims, offering examples of how to live in accordance with Islamic principles. Scholars critically assess the authenticity of Hadith using chains of narrators to ensure their reliability.

3. Ijma' (Consensus):

Ijma' involves the consensus or agreement of qualified scholars within a particular school of thought on a specific legal issue. It serves as a unifying force, ensuring a degree of consistency and stability in Islamic legal rulings. Ijma' helps establish standards for issues not explicitly addressed in the Quran or Hadith and is considered binding within the scope of a particular school's interpretation.

4. Qiyas (Analogical Reasoning):

Qiyas is the process of drawing legal conclusions for new situations by analogy with existing legal principles derived from the Quran and Hadith. Scholars identify the underlying rationale of an established ruling and apply it to a new case with similar features. Qiyas allows for the extension of legal principles to address contemporary issues while maintaining the connection to established precedents.

5. Ijtihad (Independent Reasoning):

Ijtihad is the application of personal reasoning and scholarly expertise to derive legal rulings for situations not explicitly covered by the Quran, Hadith, or established precedent. Qualified jurists engage in Ijtihad to address novel circumstances, considering the broader objectives and ethical principles of Islamic law. The process requires deep knowledge of the primary sources and legal methodologies.

6. Urf (Custom):

Urf refers to established customs and traditions within a specific culture or community. While not a primary source, Urf can influence legal decisions, especially in matters not directly addressed by other sources. Scholars may consider customary practices to determine the most suitable legal ruling for a particular context.

7. Public Interest (Maslaha):

Maslaha involves considering the broader public interest and welfare when deriving legal rulings. Scholars assess whether a particular ruling promotes the well-being and betterment of society, even if it isn't explicitly mentioned in the traditional sources. This principle allows flexibility in addressing contemporary challenges.

8. Istihsan (Juristic Preference):

Istihsan permits scholars to prefer one legal opinion over another based on what they consider more just or suitable. It involves departing from strict analogical reasoning when the outcome appears unjust or unreasonable. This approach emphasizes the spirit of justice over rigid adherence to precedent.

Conclusion:

In conclusion, the multifaceted sources of Islamic law form a rich tapestry that blends divine guidance, scholarly interpretation, and ethical considerations. The Quran and Hadith provide foundational principles, while Ijma', Qiyas, and Ijtihad offer tools for addressing evolving contexts. Urf, Maslaha, Istihsan, and Sad al-Dhara'i reflect the adaptability of Islamic jurisprudence. This intricate interplay ensures that Islamic law remains relevant to diverse circumstances, upholding justice, morality, and the well-being of individuals and society.



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- Q. DESCRIBE AND EXPLAIN THE POSITION OF QURAN AS PRIMARY SOURCE OF ISLAMIC LAW.(A2019)
- Q. WHAT IS THE IMPORTANCE AND SIGNIFICANCE OF QURAN IN ISLAMIC LAW AND LEGISLATION. (S2019)
- Q. QURAN MAJEED IS CONSULTED PRIMARILY WHILE DRAFTING LAWS. WHAT ARE THE BASIC PRINCIPLES WHICH QURAN OBSERVED DURING ITS COURSE OF LEGISLATION?(A2021)

Ans:

QURAN AS PRIMARY SOURCE OF ISLAMIC LAW

The Quran is like a guidebook that Muslims follow in their lives. It's not just a book; it's believed to be the direct words of God sent to Prophet Muhammad ﷺ through the Angel Gabriel. It's the main source of Islamic law, which tells Muslims how to live according to God's wishes.

In the Quran, there are specific rules and guidelines for things like how to pray, how to be fair, how to treat others kindly, and more. For instance, in Surah Al-Baqarah (2:83), God talks about being fair in measuring things, which can be seen as a lesson in honest business practices.

But the Quran isn't just a list of rules; it's also full of stories and wisdom. These stories show examples of right and wrong behavior. For instance, in Surah Yusuf (12:23-25), the story of Prophet Joseph teaches us about patience and forgiveness.

The Quran also talks about how we should treat our parents, neighbors, and the less fortunate. In Surah Al-Isra (17:23), God says to be kind to your parents, and in Surah Al-Baqarah (2:267), there's a reminder to give to those in need.

It's important to understand that the Quran isn't always very detailed about every situation. That's where scholars come in. They study the Quran, along with the Hadith (sayings and actions of Prophet Muhammad ﷺ), and use their knowledge to figure out how to apply the Quran's teachings to different situations.

So, the Quran is like the main source of rules and values for Muslims. It helps them make good choices and live in a way that pleases God. It's a source of guidance and wisdom that Muslims turn to throughout their lives.

Here's an in-depth look at the Quran as the primary source of Islamic law:

Divine Authority:

The Quran is considered the ultimate authority in Islam, surpassing any human interpretation or opinion. Its status as the literal word of God grants it unparalleled legitimacy and influence in the formation of legal rulings.

Fundamental Principles:

The Quran contains foundational principles and values that serve as the ethical and moral framework of Islamic law. It addresses matters of personal conduct, family relations, social justice, commerce, and more. These principles are often broad and require interpretation to be applied in specific contexts.

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Direct Guidance:

While the Quran does not provide an exhaustive legal code, it offers direct guidance on certain issues. Some legal provisions are explicitly stated, such as rules related to prayer, fasting, inheritance, marriage, and ethics. These provisions form the basis of many legal rules and practices.

Flexibility and Universality:

The Quran's teachings are presented in a way that allows for flexibility and adaptability to changing circumstances. Its guidance is meant to be applicable across different times and cultures, reflecting its universal nature.

Holistic Approach:

The Quran takes a holistic view of human life, addressing both spiritual and practical matters. This approach promotes a comprehensive understanding of justice, ethics, and individual responsibilities.

Interpretation:

Due to its often symbolic and metaphorical language, interpreting the Quran requires deep knowledge and expertise. Scholars engage in Tafsir (exegesis) to understand the context and meaning of its verses. Legal rulings are derived from the Quran through this interpretive process.

Balancing Tradition and Modernity:

The Quran's enduring relevance lies in its ability to address contemporary issues while remaining faithful to its original teachings. It provides broad principles that scholars can apply to new situations through Ijtihad (independent reasoning).

Ethical and Moral Foundation:

The Quran not only offers legal guidance but also instills ethical and moral values. Its teachings encourage compassion, justice, honesty, and respect for human dignity, shaping the broader ethical framework of Islamic law.

CHARACTERISTICS OF QUR'ANIC LEGISLATION

The Quran, the holy book of Islam, is not just a collection of stories and teachings; it's also a guide for how Muslims should live their lives. It contains laws and principles that help people make good choices and treat others with kindness and fairness. These laws have unique qualities that make them special and relevant for all times and places.

1. Universality and Timelessness:

The laws in the Quran are not limited to a specific group, time, or culture. They're meant for everyone, no matter where or when they live. For example, the Quran teaches in Surah Al-Baqarah (2:185) that fasting during the month of Ramadan is obligatory for all Muslims around the world, showing that the law is for everyone.

2. Comprehensive Guidance:

The Quran gives guidance on many parts of life, from how to pray to how to treat others kindly. It's not just about rules; it's about helping us become better people. In Surah Al-Ma'idah (5:8), the Quran tells us to stand up for justice, even if it's against our own interests. This shows that the Quran cares about fairness and doing what's right.

3. Ethical and Moral Foundation:

The laws in the Quran are built on important values like honesty, compassion, and treating others well. These values guide our behavior and make us better individuals. In Surah An-Nisa (4:135), the Quran advises us to be just, even if it's against our own relatives. This teaches us to be fair to everyone, no matter who they are.

4. Balancing Rights and Duties:

The Quran doesn't just talk about what we're entitled to; it also reminds us of our responsibilities. It's not only about our rights but also about how we treat others. In Surah Al-Isra (17:31), the Quran tells us not to waste our resources extravagantly, showing that it cares about being responsible and not harming the environment.

5. Flexibility and Adaptability:

The laws in the Quran provide general principles that can be applied to different situations. They're not strict rules; they're like guidelines that can be adjusted to fit different circumstances. In Surah Al-Baqarah (2:286), the Quran mentions that God doesn't burden anyone beyond their ability, showing that the laws are flexible and reasonable.

6. Gradual Revelation:

The laws in the Quran were revealed over time, step by step. This gradual approach helped people learn and adjust to the new teachings. For example, in Surah Al-Muzzammil (73:2-4), the Quran tells Prophet Muhammad ﷺ to pray at night, but the exact details of how and when were revealed gradually, allowing people to get used to the new practices.

7. Preserving Essentials:

The Quran focuses on preserving important values and principles. It gives specific rules, but it doesn't go into every tiny detail. This lets us use our own judgment while still following the Quran's teachings. In Surah Al-Baqarah (2:187), the Quran talks about intimate relations between spouses during the nights of fasting, showing that it cares about maintaining intimacy while fasting.

8. Upholding Human Dignity:

The Quran respects and values the dignity of every human being. It condemns actions that hurt others or take away their rights. In Surah Al-Isra (17:70), the Quran strongly opposes killing children due to fear of poverty, emphasizing the value of every single life.

BASIC PRINCIPLES WHICH QURAN OBSERVED DURING LEGISLATION

The Quran, the sacred book of Islam, is not just a collection of words; it's a guide that offers timeless principles to shape human behaviour and society. As it lays down laws and regulations, it adheres to certain fundamental principles that reflect its wisdom and compassion. Let's explore these principles in more detail:

1. Justice and Fairness:

Justice is a cornerstone of the Quran's legislation. It emphasizes treating people fairly and equitably, regardless of their background or status. The Quran urges believers to uphold justice, even if it goes against their own interests. In Surah An-Nisa (4:135), it says, "O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives."

2. Mercy and Compassion:

The Quran's laws are infused with mercy and compassion. It encourages forgiveness and kindness toward others. In Surah Al-Furqan (25:63), it describes the "servants of the Most Merciful" as those who "walk upon the earth easily, and when the ignorant address them [harshly], they say [words of] peace." This principle fosters an atmosphere of empathy and understanding.

3. Preservation of Life and Dignity:

The Quran places a high value on the sanctity of human life and the preservation of human dignity. It prohibits causing harm to innocent individuals and emphasizes the importance of safeguarding life. In Surah Al-Isra (17:31), it cautions against wastefulness and extravagance, highlighting the responsibility to protect both human well-being and the environment.

4. Gradual Change and Adaptation:

The Quran introduces laws gradually, taking into consideration the capacity of individuals and communities to adapt. It recognizes that change takes time and that people need to adjust to new guidelines. For instance, the gradual revelation of alcohol prohibition allowed individuals to transition away from its consumption, demonstrating a compassionate approach to transformation.

5. Prevention of Hardship:

The Quran seeks to alleviate unnecessary hardship for individuals. It doesn't burden people beyond their capacity. In Surah Al-Baqarah (2:286), it states, "Allah does not burden a soul beyond that it can bear." This principle reflects a balanced and considerate approach, ensuring that religious obligations are manageable and reasonable.

6. Preservation of Family and Community:

Quranic legislation is geared toward fostering strong families and communities. It provides guidelines for maintaining healthy relationships within families and society. For instance, Surah An-Nisa (4:9) addresses inheritance laws to ensure the well-being of family members and the equitable distribution of wealth.

7. Individual Responsibility:

The Quran emphasizes personal accountability. It encourages individuals to take responsibility for their actions and intentions. In Surah Al-Isra (17:15), it states, "Whoever is guided is only guided for [the benefit of] his soul. And whoever errs only errs against it."

8. Avoiding Excess and Extremes:

The Quran cautions against extremism and excessiveness in its legislation. It advocates for moderation and balance in all aspects of life. In Surah Al-A'raf (7:31), believers are advised to avoid extravagance and excess, reflecting a measured approach to various aspects of life.

9. Ease and Facilitation:

The Quranic legislation aims to facilitate matters for people, rather than burden them. It encourages ease and simplicity in religious practices. In Surah Al-Baqarah (2:185), fasting during Ramadan is prescribed for attaining piety, with allowances made for travellers and those who are sick, highlighting a compassionate consideration of individual circumstances.

10. Wisdom and Purpose:

Every law in the Quran is rooted in wisdom and serves a specific purpose. The legislation aims to promote the well-being of individuals and society, while aligning with the greater objectives of Islam, such as justice, ethics, and spirituality. These laws reflect a profound understanding of human nature and societal dynamics.

Conclusion:

In essence, the Quran's legislative principles form the bedrock of a just, compassionate, and balanced framework for human conduct. These principles, encompassing justice, mercy, gradual change, and individual responsibility, ensure that the Quranic laws remain relevant across time and cultures. By upholding the sanctity of life, promoting community well-being, and encouraging moderation, the Quran demonstrates its deep understanding of human nature and societal needs. Through its wisdom and purpose-driven approach, the Quranic legislation serves as a guiding light for Muslims, fostering harmonious relationships, ethical conduct, and a harmonious society that embodies the core values of Islam.



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Q. QURAN AND SUNNAH OF HOLY PROPHET ARE INTEGRAL PART OF EACH OTHER IN AS FAR AS ISLAMIC LEGISLATION IS CONCERNED . PLEASE EXPLAIN BRIEFLY.(A2020)

Ans:

QURAN & SUNNAH IN ISLAMIC LEGISLATION

The seamless interdependence of the Quran and Sunnah is a cornerstone of Islamic jurisprudence. These two sources, the Quran being the divine revelation and the Sunnah representing the practices and teachings of the Prophet Muhammad (peace be upon him), jointly constitute the bedrock of Islamic legislation, guiding Muslims in matters of faith, ethics, and law.

The Quran:

The Quran, revealed to Prophet Muhammad (peace be upon him) over a span of 23 years, is the central and unchanging source of Islamic teachings. It encompasses guidance on spiritual matters, moral values, and legal principles. Its verses lay down the foundations of belief, morality, and social justice, providing a comprehensive framework for Muslims to lead a righteous life.

The Sunnah:

The Sunnah, a term encompassing the actions, sayings, approvals, and practices of the Prophet Muhammad (peace be upon him), holds a pivotal role in Islamic jurisprudence. It provides a practical and contextual dimension to the divine guidance found in the Quran, offering Muslims a comprehensive blueprint for leading a life aligned with Islamic principles.

Defining the Sunnah: The Sunnah captures the Prophet's way of life and serves as an extension of the Quran. It includes not only the explicit teachings but also his tacit endorsements, actions, and demeanor. This collective body of knowledge was meticulously compiled by dedicated scholars and jurists, ensuring its authenticity and reliability.

Categories of the Sunnah:

The Sunnah is categorized into various components that shed light on different aspects of the Prophet's practices:

1. Hadith (Sayings):

These are the recorded statements and utterances of the Prophet Muhammad (peace be upon him). They provide insights into matters of faith, ethics, social conduct, and legal rulings.

2. Sunnah al-Fi'liyyah (Actions):

These encompass the physical actions of the Prophet, such as how he prayed, fasted, and interacted with others. These actions offer practical demonstrations of how to embody Islamic teachings.

3. Sunnah al-Taqreeriyah (Approvals):

These are instances where the Prophet remained silent in response to others' actions. His silence, in such cases, is taken as a form of approval, endorsing the action as permissible.

4. Sunnah al-Tarkeehiyyah (Abstentions):

These refer to instances where the Prophet refrained from certain actions. Such abstentions provide guidance on avoiding behaviors that are discouraged or prohibited.

The Role of Sunnah in Islamic Legislation:

The Sunnah complements the Quran by providing context, detail, and application. While the Quran lays down foundational principles, the Sunnah illustrates how these principles manifest in real-life situations. It ensures that Islamic rulings are practical, adaptable, and aligned with the evolving needs of society.

Guidance in Everyday Life:

The Sunnah serves as a beacon for Muslims navigating the complexities of daily life. From personal hygiene to business ethics, marriage to social interactions, the Sunnah offers a holistic approach to leading a life in accordance with Islamic values.

Example:

The Concept of Modesty عاجزی:

To illustrate, the Sunnah amplifies the Quranic emphasis on modesty. While the Quran instructs believers to be modest, the Prophet's teachings and actions demonstrate modest behavior in clothing, speech, and interactions. This practical guidance transforms abstract principles into tangible behaviors.

Synergy ہم آہنگی in Islamic Legislation:

Islamic legislation is intricately woven from the threads of the Quran and Sunnah, combining theological ideals with practical guidance. The Quran establishes the broader principles, while the Sunnah supplies the nuances and practical demonstrations. This partnership ensures that believers receive comprehensive guidance, from overarching principles to specific actions.

Example:

The Act of Prayer (Salah): To exemplify this synergy, let's consider the act of prayer (salah). The Quran emphasizes the importance of prayer and its fixed times, but the Sunnah further clarifies the number of units (rak'ahs), postures, and supplications involved in each prayer. By combining the Quranic instruction with the Prophet's practices, Muslims gain a complete understanding of how to perform this essential act of worship.

Conclusion:

The relationship between the Quran and Sunnah is akin to a teacher guiding a student: the Quran sets the foundational principles, and the Sunnah illustrates their application. This partnership is pivotal in Islamic legislation, bridging the gap between divine guidance and human understanding. Recognizing the integrated nature of these sources is crucial for appreciating the holistic approach of Islamic jurisprudence and its role in guiding the lives of believers.



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- Q. SUNNAH HAS A TWOFOLD ROLE IN ISLAMIC LEGISLATION IT EXPLAINS THE BRIEF INJUNCTIONS OF HOLY QURAN AND IT FRAMES LAW WHEN AND WHERE QURAN REMAINS SILENT. DO YOU AGREE?(A2019)
- Q. THE DENIAL TO THE ROLE OF SUNNAH IN ISLAMIC LEGISLATION WOULD LEAD TO CHAOS AND MISUNDERSTANDING OF INJUNCTIONS LAID DOWN IN QURAN. ILLUSTRATE (A2021)

Ans:

THE ROLE OF SUNNAH IN ISLAMIC LEGISLATION

The Sunnah's multifaceted role within Islamic legislation extends to its capacity for both expounding upon Quranic teachings and enriching the legal framework in areas where the Quran does not provide specific guidance. This dual function enhances the depth and applicability of Islamic law, ensuring a comprehensive approach to living by its principles. Disregarding the role of the Sunnah in Islamic legislation can have far-reaching consequences, potentially leading to confusion, misinterpretation, and chaos in understanding and applying the injunctions laid down in the Quran. The Sunnah, as the practical embodiment of the Quranic teachings, plays a vital role in clarifying, contextualizing, and implementing the divine guidance for Muslims.

Sunnah as Practical Exemplification of Quranic Teachings

Expanding Quranic Principles:

The Quran lays down foundational principles that serve as ethical and moral guidelines for believers. However, without the Sunnah's practical demonstrations, these principles can remain abstract and difficult to implement in real-life situations. The Sunnah bridges the gap between theory and practice, providing tangible examples of how to embody Quranic teachings in various contexts.

Example: The Principle of Mercy:

The Quran emphasizes mercy and compassion as core values. The Sunnah amplifies this principle by narrating instances where the Prophet Muhammad (peace be upon him) showed mercy to animals, children, and adversaries. Through these lived examples, the abstract concept of mercy becomes tangible, guiding believers in compassionate behavior.

Sunnah as a Source of Clarification

Contextualizing Quranic Verses:

Some Quranic verses are concise and require contextualization for proper understanding. Denying the Sunnah's role would hinder the interpretation of these verses, potentially leading to misinterpretations and erroneous conclusions. The Sunnah provides the necessary context, shedding light on the circumstances surrounding the revelation and the intended meanings of the verses.

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Example: The Verse on Divorce (Talaq):

The Quran contains verses addressing divorce. However, the Sunnah clarifies the procedural aspects, the waiting period (iddah), and the concept of reconciliation. Without the Sunnah, these critical details might be overlooked, leading to confusion and incorrect application of the divorce process.

Sunnah as a Living Commentary

Guidance on Changing Circumstances:

Societal dynamics evolve over time, introducing new scenarios that the Quran may not directly address. The Sunnah acts as a living commentary, offering guidance on emerging issues that require application of Quranic principles in a rapidly changing world. Ignoring the Sunnah in such cases could result in misjudgments and inappropriate responses.

Example: Technological Advances:

Technological advancements have introduced ethical and moral dilemmas not explicitly addressed in the Quran. The Sunnah's adaptable nature enables scholars to derive guidance by considering the underlying principles and extrapolating from the Prophet's teachings. Neglecting the Sunnah in such discussions would hinder the development of well-informed Islamic stances.

Expounding Quranic Injunctions:

One of the primary roles of the Sunnah is to provide elucidation and practical context for the concise injunctions found in the Holy Quran. While the Quran establishes fundamental principles and ethical guidelines, the Sunnah complements this by showcasing how the Prophet Muhammad (peace be upon him) implemented these principles in his own life. Through observing the Prophet's actions, sayings, and conduct, Muslims gain a more vivid understanding of how to apply Quranic teachings in various situations.

Example: The Act of Charity (Sadaqah):

To illustrate, the Quran encourages believers to give charity. However, it is through the Sunnah that we learn about the diverse forms of charity, the benefits of giving, and the importance of sincerity in charitable acts. The Sunnah's practical demonstrations extend the Quranic principle of charity into tangible behaviors that shape the lives of believers.

Filling Gaps in Quranic Guidance:

Another pivotal role of the Sunnah is to provide legal guidance in cases where the Quran does not offer explicit directives. While the Quran establishes overarching principles, it does not detail every possible scenario. The Sunnah steps in to address these gaps by offering specific laws and ethical guidelines that are rooted in the spirit of Islam.

Example: Business Transactions:

Consider the realm of business transactions. The Quran promotes honesty and fairness in trade, but it does not delve into the intricacies of various types of contracts. Here, the Sunnah steps in, offering guidance on contracts, transactions, and ethical business practices. The Sunnah's teachings enable Muslims to engage in commerce while adhering to Islamic values.

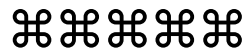
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Guidance in Complex Scenarios:

The Sunnah's adaptability extends to complex and unprecedented scenarios. In situations not directly addressed by the Quran, the Prophet's responses provide a framework for deriving solutions based on Islamic principles. By analyzing the underlying values and teachings of Islam, Muslims can navigate novel challenges while maintaining their faith-based integrity.

Conclusion:

The role of the Sunnah in Islamic legislation cannot be underestimated. Its absence or denial could lead to chaos, misunderstandings, and misapplications of Quranic injunctions. By serving as a practical embodiment of Quranic teachings, clarifying contextual meanings, and offering guidance in evolving scenarios, the Sunnah ensures a comprehensive and relevant approach to understanding and implementing Islamic principles. Recognizing and embracing the Sunnah's indispensable role is crucial for maintaining the integrity of Islamic jurisprudence and fostering a coherent and nuanced understanding of Quranic teachings.



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- Q. WHAT IS IJTEHAD AND WHAT ARE THE BASIC QUALIFICATIONS OF A COMPETENT MUJTAHID? CAN WE ENTRUST THE INCUMBENT PARLIAMENT WITH THE DELICATE ASSIGNMENT OF IJTEHAD ? EXPLAIN RATIONALLY.(A2019)(A2020)
- Q. IJTEHAD ALWAYS RESPONDS TO THE NEEDS OF MODERN TIMES WITH IN THE FRAMEWORK OF SHARIAH. DISCUSS (A2021)
- Q. IJTEHAD IS THE MOST IMPORTANT SOURCE TO RESOLVE THE MODERN TIME ISSUES. EXPLAIN AND DISCUSS.(S2019)

ANS:

IJTEHAD

Ijtihad, a cornerstone سنگ بنیاد of Islamic jurisprudence, embodies the process of independent reasoning and intellectual exertion by qualified scholars to derive legal rulings from the Quran and Sunnah. This concept is vital for maintaining the relevance of Islamic teachings across time, addressing new challenges, and ensuring the coherent evolution of Islamic jurisprudence.

The Essence of Ijtihad

Derived from the Arabic root "jahada," meaning to strive or endeavor, ijtihad encapsulates the scholarly effort required to deduce legal rulings where explicit guidance from the Quran and Sunnah may be lacking. This intellectual striving serves as a bridge between timeless principles and contemporary realities.

The Need for Ijtihad

The need for ijtihad, or independent legal reasoning, is crucial in Islamic jurisprudence to address the evolving complexities of the modern world. While the Quran and Sunnah provide fundamental principles, they do not cover every contemporary issue. Ijtihad bridges this gap by allowing scholars to apply these principles to novel circumstances, ensuring the continued relevance of Islamic teachings. As societies transform, new challenges emerge that require contextual interpretation and adaptation of existing laws. Ijtihad enables scholars to navigate these challenges while maintaining the essence of Islamic values. Without ijtihad, legal thought could become stagnant, unable to respond effectively to the complexities of our time. By engaging in ijtihad, scholars honour the spirit of dynamic intellectual engagement, ensuring Islamic jurisprudence remains a source of guidance for contemporary ethical, legal, and social dilemmas.

Ijtihad As Source of Islamic Law:

Ijtihad, a critical process in Islamic jurisprudence, serves as a significant source of Islamic law. Rooted in independent reasoning and scholarly acumen, it enables qualified jurists to derive legal rulings from the Quran, Sunnah, and other Islamic sources. Ijtihad fills gaps in guidance and adapts principles to contemporary contexts, ensuring the relevance of Islamic teachings. Scholars engaging in ijtihad apply analytical skills, legal principles, and contextual understanding to interpret and extrapolate laws for new and complex situations. While ijtihad complements established sources, its adaptive nature contributes to the evolving landscape of Islamic jurisprudence. By embodying the spirit of inquiry and intellectual rigor, ijtihad

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upholds the integrity of Islamic legal thought and accommodates the changing needs of society while remaining rooted in timeless values.

The Ijtihad Process

1. Mastery of Sources:

Effective ijthad begins with a deep comprehension of the Quran, Sunnah, and other relevant sources. Scholars must navigate linguistic intricacies, historical context, and the broader objectives of Islamic law.

2. Analytical Rigor:

Ijthad demands critical analysis of textual sources. Scholars scrutinize the wording of the Quran and Sunnah, seeking to understand the intended meanings and the wisdom behind the teachings.

3. Analogical Reasoning (Qiyas):

When addressing novel situations, scholars may employ qiyas, drawing parallels between established rulings and new cases based on shared underlying principles. This enables them to extend existing guidance to new contexts.

4. Public Interest (Maslahah):

Ijthad takes into account the broader welfare of society. Scholars consider the implications of their legal conclusions on the well-being of individuals and communities.

5. Historical Precedents (Ijma') and Analogy:

In addition to independent reasoning, ijthad may also incorporate consensus among previous scholars (ijma') and analogical reasoning (qiyas) to support and strengthen the derived rulings.

Historical Significance of Ijthad

Ijthad played a pivotal role in the formation of various Islamic legal schools (madhabs). Early scholars, known as mujtahids, employed ijthad to establish doctrinal frameworks that continue to shape Islamic jurisprudence today.

Ijthad in the Modern Context

In the modern era, discussions around ijthad continue. Traditional scholars uphold established methodologies, while contemporary scholars explore how ijthad can address emerging ethical, social, and technological challenges.

QUALIFICATIONS OF A COMPETENT MUJTAHID

A mujtahid is an individual who possesses the scholarly acumen and qualifications necessary to engage in ijthad, the process of independent legal reasoning in Islamic jurisprudence. These qualifications ensure the accuracy, depth, and integrity of the legal rulings derived through ijthad.

1. Mastery of Religious Sciences:

A competent mujtahid must possess a profound understanding of the various religious sciences that form the foundation of Islamic jurisprudence. This includes expertise in fields such as theology (aqidah), jurisprudence (fiqh), Quranic exegesis (tafsir), and the science of hadith (ilm al-hadith).

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2. Comprehensive Knowledge of Quran and Sunnah:

A mujtahid must exhibit a thorough command of the Quran and Sunnah, which are the primary sources of Islamic law. This entails not only memorization but also an in-depth understanding of the linguistic, historical, and contextual aspects of these sources.

3. Familiarity with Legal Principles:

A competent mujtahid should possess a comprehensive knowledge of the legal principles (usul al-fiqh) that guide the process of ijtihad. This includes understanding concepts like qiyas (analogical reasoning), ijma' (consensus), and istihsan (juridical preference).

4. Analytical Thinking and Reasoning Skills:

The ability to engage in critical analysis and reasoning is a hallmark of a competent mujtahid. This involves deducing legal rulings based on established principles, reconciling conflicting evidence, and deriving logical conclusions.

5. Mastery of Arabic Language:

A mujtahid must have a strong command of the Arabic language, as much of the primary Islamic sources are in Arabic. Proficiency in Arabic ensures accurate comprehension of Quranic verses, hadith texts, and scholarly works.

6. Understanding of Socio-Cultural Context:

Recognizing the socio-cultural context is vital for a mujtahid. This awareness helps ensure that the derived legal rulings remain relevant and applicable within the specific cultural and societal framework.

7. Pious Character and Integrity:

A mujtahid should exemplify a high standard of piety, ethics, and integrity. This is not merely a matter of knowledge but reflects the embodiment of Islamic values and principles.

8. Acknowledgment of Limitations:

While possessing extensive knowledge, a competent mujtahid should also acknowledge the limits of their understanding and not hesitate to consult with fellow scholars when dealing with complex or uncertain matters.

9. Continuous Learning and Humility:

A mujtahid is characterized by a commitment to lifelong learning and a willingness to accept constructive criticism. Humility is essential to ensure a scholarly attitude that prioritizes truth-seeking over ego.

Conclusion:

Ijtihad is the heartbeat of Islamic jurisprudence, merging critical thought with timeless principles. It bridges the gap between scriptural guidance and practical application, allowing Islam to maintain its relevance while honouring its foundational sources. As a dynamic force in Islamic scholarship, ijtihad ensures that the Islamic legal framework remains both a product of history and a guide for the future.



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Q. IJMA PLAYS A VITAL ROLE IN ISLAMIC LEGISLATION , KINDLY EXPLAIN .(A2020)

Ans:

IJMA

Ijma, or consensus, is a significant source of Islamic law. It represents unanimous agreement among qualified scholars on legal matters not explicitly addressed in the Quran and Sunnah. This collective scholarly consensus ensures legal certainty, guides Muslims in complex issues, and adapts Islamic teachings to changing contexts. Ijma reflects the collective wisdom of scholars, providing a cohesive framework alongside the Quran and Sunnah, and enriches Islamic jurisprudence with practical and relevant guidance.

Ijma, a term signifying consensus, holds a prominent position in Islamic jurisprudence, playing a vital role in the formulation of Islamic legislation. It represents a collective agreement among qualified scholars on a specific legal ruling, offering a unified interpretation of Islamic teachings and guiding the Muslim community.

Historical Significance:

Ijma's origins trace back to the early Islamic era when the community faced complex legal challenges. Scholars recognized the necessity of consensus to prevent fragmentation in interpreting Islamic law. Ijma emerged as a way to ensure uniformity and coherence in legal rulings.

Qualifications of Scholars:

For an Ijma to be recognized, it requires the consensus of qualified scholars who are well-versed in Islamic jurisprudence, Quranic exegesis, and hadith sciences. These scholars, known as mujtahids, engage in rigorous scholarly analysis before arriving at a unanimous decision.

Establishing Ijma:

Ijma emerges when a consensus is reached among accomplished scholars, known as mujtahids, regarding a particular legal matter. This consensus is achieved through thorough analysis and scholarly discourse. It signifies a unanimous understanding of the Quran and Sunnah and reflects the scholarly community's shared conviction regarding the accurate interpretation and application of Islamic principles.

Need of Ijma:

The need for Ijma, or consensus among scholars, arises from the Quranic injunction to seek guidance from those with knowledge (Quran 16:43). As Islamic societies encounter diverse challenges, the Quran and Sunnah may not provide explicit solutions. Ijma addresses this gap, offering collective wisdom and legal certainty. It prevents individual interpretations that could lead to fragmentation and confusion within the Muslim community. Ijma's role extends to adapting Islamic principles to changing contexts, ensuring relevance while preserving core values. It acts as a safeguard against personal biases and ensures a cohesive jurisprudential framework. By upholding a unified understanding of Islam's ethical and legal tenets, Ijma

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strengthens the social fabric, fosters community cohesion, and maintains the continuity of Islamic teachings through dynamic engagement with evolving circumstances.

Authority and Significance:

Ijma is endowed with significant authority due to its collective nature. It safeguards against individual errors in interpreting the Quran and Sunnah, as scholars collectively assess and deliberate upon complex issues. The consensus of qualified scholars provides a sense of assurance and credibility in legal rulings, offering guidance that carries weight both among scholars and within the wider Muslim community.

Enhancing Legal Certainty:

Ijma contributes to legal certainty by establishing definitive rulings in cases where the Quran and Sunnah do not provide explicit guidance. This is particularly valuable in intricate legal matters. The consensus reached by knowledgeable scholars offers clarity and removes ambiguity, giving Muslims confidence in their understanding and practice of Islamic law.

Adapting to Societal Changes:

Ijma also plays a dynamic role in adapting Islamic legislation to changing societal landscapes. While the Quran and Sunnah provide timeless principles, the consensus of scholars allows for the practical application of these principles across diverse cultural and historical contexts. This adaptability ensures that Islamic law remains relevant and responsive as societies evolve over time.

Example: The Prohibition of Interest (Riba): The prohibition of riba (interest) serves as a concrete example of the role of ijma. While the Quran contains general principles against exploitative financial practices, the precise definition of riba required scholarly consensus. Through ijma, scholars collectively arrived at a comprehensive understanding of riba, leading to a universally accepted and consistent interpretation that guides financial transactions in compliance with Islamic principles.

Conclusion:

Ijma is a cornerstone of Islamic legislation, enriching the jurisprudential landscape by providing a collective interpretation of Islamic teachings. Its authority, when combined with the Quran and Sunnah, offers legal certainty, guards against individual errors, accommodates changing circumstances, and fosters a balanced and comprehensive approach to addressing the diverse needs of the Muslim community. In essence, ijma encapsulates the collective wisdom and scholarship of Islamic jurisprudence, contributing to the ongoing development and adaptation of Islamic law.



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- Q. MUSLIM UMMAH REMAIN HIGHLY IN DEBATED TO THE CONTRIBUTION OF EARLY MUSLIM JURIST IN COMPLETION OF AND CODIFICATION OF ISLAMIC FIQH. EXPLAIN.(S2019)
- Q. EXPLAIN BRIEFLY THE ROLE AND CONTRIBUTION OF EARLY MUSLIM JURIST IN COMPLETION AND CODIFICATION OF ISLAMIC LAW.(A2019)
- Q. MUSLIM JURIST OF EARLY ERA HAVE SPECIFIED THE ISLAMIC LAW TO PRACTICE , WHILE CODIFYING THERE RESPECTIVE FIQHS. HIGHLIGHT IT BRIEFLY BY GIVING EXAMPLES.(A2020)
- Q. MUSLIM JURISTS, 14 CENTURIES BACK, HAVE EXPOUNDED CERTAIN NEW PRINCIPLES TO CARVE OUT ISLAMIC LAW, COINCIDING WITH MODERN THEORIES OF LAW. EPLAIN AND ILLUSTRATE (A2021).

Ans:

ISLAMIC FIQH

Islamic Fiqh, the jurisprudential heart of Islam, delves into the intricate fabric of Islamic law, elucidating the practical guidelines that govern the lives of Muslims. Derived from the Quran, Sunnah, and scholarly interpretations, Fiqh intricately weaves together principles, rules, and ethical compasses that illuminate the path of believers. It stands as a bridge between the divine revelations and the practical applications that shape Muslims' actions and decisions.

With roots tracing back to the early Islamic era, Fiqh has evolved over centuries through scholarly contemplation, adapting to diverse contexts and challenges. As a multidimensional field, Fiqh guides matters ranging from religious rituals to social interactions, family matters to financial transactions. It embodies the dynamic interaction between scriptural guidance and human intellect, facilitating a balanced life where faith and action harmonize.

Sources of Islamic Fiqh:

Islamic Fiqh draws from primary sources such as the Quran and Sunnah, which provide fundamental principles and guidance. It also relies on secondary sources including Ijma (consensus), Qiyas (analogy), and Istihsan (juridical preference) to derive legal rulings for situations not explicitly addressed in the primary sources.

BRANCHES OF FIQH

Islamic Fiqh, the intricate jurisprudential science, branches into distinct schools of thought, each offering nuanced interpretations and legal doctrines. These branches cater to diverse aspects of human life, offering guidance on matters ranging from worship and ethics to social interactions and commercial transactions.

1) Hanafi School:

The Hanafi School of Fiqh, attributed to Imam Abu Hanifa (d. 767 CE), represents a distinctive approach within Islamic jurisprudence. Noted for its rationality and adaptability, the Hanafi school emphasizes reason in legal reasoning. It places significance on qiyas (analogy) and istihsan (juridical preference), enabling scholars to derive rulings for contemporary matters.

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The Hanafi methodology prioritizes public welfare (maslahah) and aims to ease the hardships faced by believers. Its broader interpretation of evidence allows for flexibility and practicality in legal rulings. The school's reach extends across South Asia, Turkey, parts of Central Asia, and the Balkans.

Hanafi jurisprudence embodies a pragmatic and inclusive spirit, catering to the diverse needs of societies. Its legacy lies in the harmonious blend of reason and tradition, making it a significant contributor to the mosaic of Islamic legal thought.

2) Maliki School:

The Maliki School of Fiqh, named after Imam Malik ibn Anas, emphasizes the practices and traditions of the early Muslim community in Medina. This school prioritizes the Quran, authentic Hadith, consensus (ijma), and the practices of the people of Medina (amal al-madina) as primary sources for legal rulings.

Known for its practical and pragmatic approach, the Maliki School seeks to uphold the continuity of the early Islamic community's way of life. It places a significant emphasis on the customs of the people of Medina, considering them as valuable precedents for legal decisions. This school balances tradition with reason, emphasizing the application of established practices while accommodating new contexts.

The Maliki School is prominent in North and West Africa, parts of the Arabian Peninsula, and some regions in the Middle East. Its emphasis on local customs, community practices, and the preservation of early Islamic traditions contributes to its enduring influence in regions where it is followed.

3) Shafi'i School:

The Shafi'i School of Fiqh, founded by Imam al-Shafi'i (767-820 CE), embodies a meticulous approach to Islamic jurisprudence. Rooted in the Quran, Sunnah, consensus (ijma), and analogy (qiyas), this school places a profound emphasis on methodology and systematic reasoning.

The Shafi'i methodology harmonizes textual evidence with practical application, relying on Hadith sciences to derive legal rulings. This school emphasizes the Sunnah's importance and the significance of consensus as authoritative sources.

Known for its adaptable approach, the Shafi'i school considers local customs (urf) and rational deduction (istidlal) in its decisions. It upholds equity and public interest (maslahah) as guiding principles for legal judgments.

The Shafi'i school's influence extends across Southeast Asia, parts of the Middle East, and East Africa. Its legacy lies in fostering balanced jurisprudential principles that bridge traditional values with contemporary challenges, making it a dynamic cornerstone of Islamic legal thought.

4) Hanbali School:

The Hanbali School of Fiqh, established by Imam Ahmad ibn Hanbal, emphasizes a rigorous adherence to the Quran, Sunnah, and hadith. This school is known for its conservative and principled approach to Islamic jurisprudence. It places a strong

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emphasis on the literal interpretation of texts, maintaining a stricter stance on issues not explicitly covered by primary sources.

The Hanbali School prioritizes consensus (ijma) and analogical reasoning (qiyas) alongside the Quran and Sunnah in deriving legal rulings. It is characterized by its cautiousness in adopting new interpretations and its commitment to maintaining the practices of early Muslims. The school is particularly influential in Saudi Arabia and some Gulf countries. With its unwavering commitment to preserving the original teachings of Islam, the Hanbali School stands as a testament to the diversity of legal thought within the broader Islamic tradition.

Distinctive Features:

a) Doctrinal Emphasis:

While all schools share fundamental principles, they often prioritize different aspects in their legal rulings. For instance, the Hanafi school values qiyas (analogy), while the Maliki school gives weight to the practices of the people of Medina.

b) Sources of Rulings:

While the primary sources remain consistent, each school may derive specific legal rulings based on its interpretation of the Quran and Sunnah.

c) Flexibility vs. Strictness:

The schools vary in their approach to legal flexibility. Some schools, like Hanafi, emphasize adaptability, while others, like Hanbali, lean towards a more strict interpretation.

d) Cultural Influences:

Regional customs and cultural contexts have contributed to the development of these schools. Consequently, variations may emerge in rulings pertaining to issues such as dress codes, dietary practices, and social norms.

Unity within Diversity:

Despite their differences, these schools share a common goal: to provide Muslims with guidance for righteous living. Their existence reflects the diversity and richness of Islamic thought, allowing believers to choose a school that resonates with their understanding and cultural context.

THE ROLE OF EARLY MUSLIM JURIST IN COMPLETION AND CODIFICATION OF ISLAMIC LAW

Early Muslim jurists, esteemed as mujtahids, played a foundational role in shaping the contours of Islamic law, codifying legal principles, and ensuring the practical application of Islamic teachings. Their efforts not only preserved the essence of Islam but also established the groundwork for the development of jurisprudential thought.

Preservation of Sunnah and Hadith:

Mujtahids recognized the paramount importance of preserving the Sunnah and Hadith, which encapsulated the Prophet Muhammad's (peace be upon him) actions, sayings, and approvals. Through meticulous compilation and verification, they safeguarded the authenticity of these traditions, thereby securing a direct link to the Prophet's teachings and exemplary conduct.

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Interpretation of Quranic Verses:

Early jurists, such as Abdullah ibn Abbas and Ibn Jurayj, held a profound understanding of the Quran's linguistic nuances and historical context. Their expertise allowed them to derive legal implications from Quranic verses, offering insights into how divine guidance could be practically applied to various situations.

Application of Ijtihad:

Mujtahids demonstrated their intellectual prowess through the process of ijtihad. Confronted with legal issues that lacked explicit guidance in primary sources, they engaged in scholarly reasoning to deduce rulings. This methodological approach expanded the scope of Islamic jurisprudence beyond the boundaries of the Quran and Hadith.

Development of Legal Principles:

Prominent jurists like Imam Abu Hanifa and Imam Malik made significant contributions to the development of legal principles. Imam Abu Hanifa's emphasis on qiyas (analogy) and istihsan (juridical preference) paved the way for systematic reasoning, while Imam Malik's reliance on the practices of the people of Medina established a practical connection between tradition and legal rulings.

Compilation of Legal Manuals:

Early scholars recognized the need for organized legal guidance. Works like Imam Muhammad al-Shaybani's "Kitab al-Siyar" and Imam Malik's "Al-Muwatta" compiled legal opinions, judgments, and traditions into comprehensive manuals. These texts served as practical references for judges, scholars, and the wider community.

Balancing Tradition and Adaptation:

Mujtahids demonstrated a remarkable ability to balance tradition with adaptability. Imam al-Shafi'i's establishment of his legal school exemplified this balance by synthesizing the Quran, Sunnah, consensus (ijma), and analogical reasoning (qiyas), thereby bridging tradition with evolving contexts.

Standardization and Spread:

The foundational work of early jurists led to the establishment of distinct schools of jurisprudence, each with its unique methodologies and interpretations. The Hanafi, Maliki, Shafi'i, and Hanbali schools gained prominence in different regions, disseminating legal doctrines and shaping the cultural and legal landscapes.

Conclusion:

The legacy of early Muslim jurists remains an enduring testament to their intellectual rigor, devotion to preserving Islamic teachings, and their role in shaping the framework of Islamic jurisprudence. Through their meticulous efforts, they ensured that Islamic law remained relevant, practical, and adaptable, embodying the harmonious interplay between divine guidance, scholarly insight, and the ever-evolving needs of the Muslim community.



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Q. A NUMBER OF QURANIC INJUNCTIONS COULD ONLY BE UNDERSTOOD WITH THE REFERENCES OF SUNNAH OF HOLY PROPHET . DO YOU AGREE? KINDLY SUPPORT YOUR ANSWER WITH EXAMPLES.(S2019)

Ans:

QURANIC INJUNCTIONS & SUNNAH

Navigating the intricate depths of Islamic teachings often requires a dual exploration of both the Quran and the Sunnah. The Quran, the holy scripture of Islam, serves as the divine foundation that outlines principles, values, and overarching guidance for believers. However, it is through the Sunnah, the recorded actions, sayings, and approvals of the Holy Prophet Muhammad, that the Quran's teachings are illuminated with practicality, context, and a deeper understanding. Just as a key unlocks a treasure chest, the Sunnah unlocks the layers of wisdom within the Quranic verses. It is a complementary source that offers vivid examples and elaborations, rendering complex concepts accessible and relatable to daily life. The Quran lays the spiritual groundwork, while the Sunnah provides the practical roadmap, illustrating how the teachings of the Quran can be woven into the fabric of human existence. Together, the Quran and the Sunnah form a harmonious symphony, guiding believers towards a holistic understanding of Islam that encompasses both spiritual devotion and ethical conduct. Here are a couple of examples to support this point:

Prayer (Salah):

The Quran emphasizes the importance of prayer (salah) as a fundamental act of worship. However, it doesn't provide detailed instructions on how to perform the physical movements and recitations. The Sunnah, through the Hadith (sayings and actions of the Prophet), provides step-by-step guidance on how to pray, including the number of units (rak'ahs), recitations, and positions. Without the Sunnah, the specifics of how to pray would remain unclear.

Charity (Zakat):

The Quran directs believers to give a portion of their wealth in charity (zakat) to help those in need. However, the Quran doesn't outline the exact rules for calculating and distributing zakat. The Sunnah provides additional details on the types of wealth subject to zakat, the specific amounts to be given, and the eligible recipients. This information is essential for implementing the zakat obligation effectively.

Fasting (Sawm) Rules:

The Quran instructs believers to fast during the month of Ramadan, but it doesn't specify the exact timing for starting and breaking the fast, or the rules regarding exemptions (e.g., for travelers or the sick). The Sunnah provides precise guidance on these matters, outlining the times for suhoor (pre-dawn meal) and iftar (breaking the fast), as well as the conditions under which individuals are excused from fasting.

Pilgrimage (Hajj):

The Quran commands those who are physically and financially able to perform the pilgrimage (hajj) to the holy city of Mecca. However, it doesn't detail the specific rituals and procedures of the hajj pilgrimage. The Sunnah provides a comprehensive account of the rituals, including the tawaf (circumambulation of the Kaaba), sa'i (running between Safa and Marwah), and other essential acts of worship during hajj.

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In all these examples, the Sunnah of the Holy Prophet complements and supplements the teachings of the Quran by providing practical details, explanations, and context. Without the Sunnah, the understanding and application of many Quranic injunctions would be incomplete, highlighting the essential role that the Sunnah plays in guiding and interpreting the teachings of Islam.

Conclusion:

In the tapestry of Islam, the Quran and the Sunnah interlace, offering a complete and profound framework for believers. The Sunnah, like a guiding star, elucidates the Quranic injunctions, bridging the gap between divine principles and their real-world applications. Through the Sunnah's practical examples and contextual insights, the Quran's timeless wisdom is made tangible, enriching the lives of Muslims with guidance for both personal and communal endeavours كوششیں. Just as a compass points true north, the Sunnah directs believers on a path of righteous living, encapsulating the Prophet's embodiment of the Quran's teachings. Together, the Quran and the Sunnah stand as inseparable pillars, illuminating the way to spiritual growth, moral excellence, and a life deeply aligned with the essence of Islam.



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- Q. ISLAM HAS CATEGORISED THE CRIME IN REFERENCE TO PUNISHMENT IN THREE MAJOR AREAS. HADD, TAZIR AND QISAS AND DIYAT . EXPLAIN BRIEFLY.(A2019)
- Q. EXPLAIN THE DIFFERENCE OF HADD ,TAZIR AND QISAS AND DIYAT CRIMES . PLEASE SUPPORT YOUR BRIEF WITH EXAMPLE.(S2019)
- Q. ISLAMIC LAW HAS CLASSIFIED THE PUNISHMENTS MAINLY IN HADD , TAZIR , QISAS AND DIYAT KINDLY EXPLAIN EACH.(A2020)
- Q. WHAT ARE THE CLASSIFICATIONS OF PUNISHMENTS UNDER ISLAMIC SHARIAH. WHETHER HADD IS A COMPOUNDABLE CRIME?(A2021)

Ans:

CONCEPT OF PUNISHMENTS IN ISLAM

In Islam, the concept of punishment serves both as a means of justice and a deterrent against wrongdoing. It's rooted in the principles of divine guidance from the Quran and the teachings of Prophet Muhammad. The aim is to maintain social order, uphold moral values, and ensure the protection of individual rights. Islamic punishments are categorized into following categories:

- Qisas
- Hadd
- Tazir
- Diyat

Hadd punishments are specific and apply to severe offenses like theft and adultery, with penalties derived from Islamic sources. Tazir punishments, decided by judges, address lesser offenses and allow flexibility in considering circumstances. The overarching goal is not just retribution, but also correction, reform, and the betterment of society. Modern discussions emphasize a balance between tradition and human rights, seeking interpretations that align with contemporary ethical standards. We can better understand all types of crimes and punishments with following details:

QISAS:

Qisas, an essential concept in Islamic jurisprudence, pertains to the principle of "retaliation in kind" or "eye for an eye." It involves seeking justice by imposing a punishment on an offender equivalent to the harm they have caused to the victim. This principle is rooted in the Quran and Hadith and emphasizes the value of fairness and equality.

In cases of physical harm or homicide, Qisas allows the victim's family to seek retribution by inflicting a similar harm on the offender. However, forgiveness and reconciliation are highly encouraged in Islam. If the victim's family chooses to forgive, the offender might be spared from retaliation. This reflects Islam's emphasis on compassion, mercy, and the preservation of human dignity.

While Qisas seeks to provide closure and restitution, it also serves as a deterrent against violent actions. Islamic legal systems incorporate Qisas as a means to maintain social order and individual rights. Nevertheless, the practical application of Qisas varies across different

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countries and interpretations, often considering cultural norms and international human rights standards.

HADD:

Hadd crimes in Islamic jurisprudence refer to offenses that have specific and fixed punishments prescribed by the Quran and Hadith (teachings of Prophet Muhammad). These crimes are considered serious violations against divine and societal norms. The punishments are meant to serve as deterrents, maintain justice, and uphold the sanctity of Islamic principles. Here are some examples of Hadd crimes and their associated punishments:

i. Theft (Sariqa):

Theft is considered a violation of property rights. The punishment for theft is amputation of the hand, specifically the right hand, of the thief. This punishment aims to discourage theft and safeguard individual property rights. An example would be someone caught stealing valuable items from another person's home.

ii. Adultery (Zina):

Adultery is seen as a grave offense against marital sanctity and moral values. The punishment for adultery can vary between flogging and stoning to death, depending on interpretation and circumstances. An example might involve a married individual found guilty of engaging in extramarital relations.

iii. False Accusation of Adultery (Qazf):

Falsely accusing someone of committing adultery without evidence is unjust and damages reputations. The punishment for false accusation of adultery is eighty lashes. This penalty is intended to discourage baseless allegations that harm individuals' honor and dignity.

iv. Consuming Alcohol (Sariqah):

Consuming intoxicants, like alcohol, is prohibited in Islam as it impairs judgment and morality. The punishment for consuming alcohol can include flogging. For instance, if someone is caught consuming alcohol publicly, they might face this penalty as a deterrent.

v. Apostasy (Ridda):

In some interpretations, apostasy (abandoning the Islamic faith) is considered a Hadd crime. The punishment may vary, including imprisonment or execution. However, opinions differ on this topic, and not all scholars agree on the severity of the punishment.

It's important to note that the application of Hadd punishments can be complex and context-dependent. Many modern Muslim-majority countries have modified or suspended the application of these punishments due to human rights considerations and changing societal norms. Moreover, there are ongoing debates within the Islamic community about the relevance and proper implementation of Hadd punishments in today's world, as some argue for a more compassionate and contextual interpretation of Islamic law.

TAZIR:

Tazir refers to discretionary punishments that are not explicitly specified in the Quran or Hadith but are determined by judges or legal authorities based on their understanding of Islamic principles and the specific circumstances of a case. Tazir punishments are applied to

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offenses that are not covered by fixed Hadd punishments or when the evidence is insufficient for Hadd punishments.

Examples of Tazir Punishments:

- i. **Public Whipping:**
If someone is caught engaging in public indecency, a judge might order a specific number of lashes as a deterrent and a means of rectifying the behavior.
- ii. **Fine:**
In cases of minor theft or property damage, where the offense doesn't warrant a Hadd punishment, a judge may impose a monetary penalty. The amount of the fine could vary based on factors such as the value of the stolen property.
- iii. **Imprisonment:**
Tazir punishments can involve incarceration for a determined period. This might apply to offenses that are harmful to society or individuals but aren't explicitly covered by Hadd punishments.
- iv. **Community Service:**
Offenders might be required to perform community service as a way to contribute positively to society and make amends for their actions. This could be assigned for various offenses, such as vandalism or disturbing the peace.
- v. **Public Apology:**
An individual who has caused harm to another person's reputation or rights might be ordered to issue a public apology. This is meant to restore the dignity of the victim and correct the wrong.
- vi. **House Arrest:**
In certain cases, an offender might be confined to their residence for a specified period as a form of punishment. This is often used for minor offenses and aims to limit the person's movement without resorting to harsher penalties.

Tazir punishments are designed to serve several purposes, including retribution, deterrence, rehabilitation, and social harmony. Their flexibility allows judges to consider the unique circumstances of each case and apply punishments that are just and appropriate. However, the application of Tazir punishments can vary widely based on legal systems, cultural norms, and interpretations of Islamic jurisprudence in different countries.

DIYAT:

"Diyat" is a concept in Islamic jurisprudence that refers to financial compensation or blood money paid to the victim or the victim's family as a form of restitution in cases involving bodily harm, injury, or manslaughter. The term "Diyat" is derived from the Arabic word "diyah," which means blood money or compensation. This concept is rooted in the principles of justice, compensation, and reconciliation within Islamic law.

Key Aspects of Diyat:

- i. **Compensation for Harm:**
Diyat is intended to provide financial compensation to the victim or their family for physical harm or death caused by someone's actions. It recognizes the value of human life and aims to alleviate the suffering of the victim and their family.

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ii. Alternative to Qisas:

Qisas is the principle of "retaliation in kind," where the victim's family can seek retribution for harm or death caused by an offender. Diyat offers an alternative to Qisas, allowing the victim's family to choose between seeking retribution or accepting financial compensation.

iii. Islamic Ethical Values:

Diyat emphasizes forgiveness and reconciliation. It encourages the victim's family to choose the path of mercy and forgiveness instead of demanding retribution. This aligns with Islamic values of compassion and empathy.

iv. Calculation of Compensation:

The amount of Diyat is determined based on various factors, such as the severity of the harm, the extent of injuries, the financial situation of the offender, and prevailing social norms. Islamic legal scholars and authorities provide guidelines for calculating Diyat amounts.

Example of Diyat:

Imagine a scenario where an individual is involved in a car accident that results in the death of another person. In accordance with Islamic principles, the victim's family has the option to choose between Qisas (retribution) or Diyat (financial compensation). If they choose Diyat, the court will determine the appropriate amount of compensation that the responsible party must pay to the victim's family.

For instance, if the court determines that the compensation should be equivalent to a certain value, the responsible party would be required to pay that amount to the victim's family. This compensation serves as a means of providing support and assistance to the family in their time of loss and grief.

Diyat underscores the importance of accountability, restitution, and the well-being of the affected individuals and families within the framework of Islamic justice.

IS HADD A COMPOUNDABLE CRIME?

No, Hadd crimes in Islamic jurisprudence are generally not considered compoundable. A compoundable crime refers to an offense for which the victim or their family has the legal authority to forgive the offender and drop the charges in exchange for compensation or other arrangements. However, Hadd crimes are seen as offenses against the divine order and the rights of Allah, and therefore their punishments are considered obligatory and non-negotiable in many interpretations of Islamic law.

Hadd punishments are fixed and specific penalties that are derived from the Quran and Hadith. They are meant to serve as a deterrent and uphold the sanctity of Islamic principles. For example, the punishment for theft (amputation of the hand) or adultery (flogging or stoning) is set and cannot be waived by the victim or their family.

In contrast, Tazir punishments, which are discretionary and determined by judges, might be subject to negotiation, pardon, or settlement, as they are not explicitly specified in the foundational texts of Islam and can vary based on interpretation and context.

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It's important to note that interpretations of Islamic law can vary among different schools of thought and regions. However, Hadd crimes are generally treated as severe offenses with non-negotiable punishments.

Conclusion:

In the realm of Islamic jurisprudence, the concepts of Hadd, Tazir, Qisas, and Diyat intricately weave a tapestry of justice, mercy, and social order. Hadd crimes embody fixed and specific punishments rooted in divine teachings, emphasizing the sanctity of moral values and deterring grave offenses. Tazir punishments, guided by judicial discretion, exemplify flexibility in addressing a spectrum of wrongdoings, promoting rehabilitation and tailored justice. Qisas embodies the equilibrium between retribution and compassion, offering victims' families choices in seeking compensation or forgiveness. Lastly, Diyat, an embodiment of empathy, offers financial restitution for harms inflicted, fostering reconciliation and mitigating hardship. These legal concepts transcend time, reflecting both the evolving interpretations within Islamic jurisprudence and the delicate balance between accountability and humanity in the pursuit of equitable justice.



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Q. WRITE A SHORT NOTE ON PUBLIC RIGHTS AND PRIVATE RIGHTS.(S2019)(A2021)

Ans:

PUBLIC & PRIVATE RIGHTS

In the realm of Islamic jurisprudence, the interplay between public and private rights forms a dynamic framework that shapes legal, ethical, and social norms. These two intertwined concepts encapsulate the intricate balance between individual freedoms and communal interests within an Islamic society. Public rights encompass matters of collective importance, from upholding justice to regulating trade practices, while private rights safeguard personal dignity, property ownership, and familial relationships. The synthesis of these rights finds its roots in Islamic teachings, as the Quran and the Sunnah provide guidance on nurturing a just society where both individual autonomy and the common welfare coexist harmoniously. The exploration of public and private rights within Islamic jurisprudence reveals a profound approach to governance, emphasizing equity, compassion, and the pursuit of a cohesive community built upon ethical values and respect for individual liberties. Here we will discuss Public and Private rights in detail.

PUBLIC RIGHTS:

"Public rights" in Islamic jurisprudence refer to the collective interests, well-being, and stability of the entire community or society. These rights are often considered matters of common concern that impact the overall social order and harmony. They encompass a wide range of areas that are regulated by Islamic law to ensure the greater good and the equitable functioning of society. The concept of public rights is deeply rooted in the teachings of Islam, which emphasize justice, fairness, and the welfare of the community.

Key Aspects of Public Rights:

i. Justice and Fairness:

Public rights are anchored in the principles of justice and fairness. Islamic law seeks to establish a just social order where all members of society are treated equitably and their rights are respected.

ii. Common Welfare:

The focus of public rights is on the common welfare of the community. These rights are intended to promote social harmony, prevent harm, and ensure that the actions of individuals do not negatively impact society as a whole.

iii. Legal Regulation:

Many public rights are codified in laws and regulations that address various aspects of societal functioning. These regulations are designed to prevent exploitation, maintain order, and protect the vulnerable.

Examples of Public Rights:

• **Justice System:**

Ensuring access to a fair and impartial justice system is a fundamental public right. Islamic law mandates the establishment of courts that dispense justice equitably.

• **Protection against Corruption:**

Public rights encompass safeguarding against corruption and bribery, which undermine the trust and integrity of public institutions.

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- **Public Order:**

Maintaining public order is essential for the stability of society. Acts that disrupt public peace or security are addressed under the framework of public rights.

- **Trade and Commerce:**

Regulations regarding fair trade practices, prevention of fraud, and protection of consumers fall under public rights to ensure economic justice.

- **Environment:**

Protection of the environment is considered a public right as it impacts the well-being of present and future generations.

Islamic Principles and Public Rights:

Islamic jurisprudence derives principles related to public rights from the Quran, the Hadith (Prophet's traditions), and the consensus of legal scholars. The principles of justice, compassion, accountability, and the avoidance of harm guide the formulation and enforcement of laws pertaining to public rights.

In essence, public rights in Islamic jurisprudence reflect the holistic approach of Islam to social welfare and community well-being. By emphasizing justice, fairness, and the common good, Islamic law aims to create a society in which individuals coexist harmoniously, respecting each other's rights and contributing to the greater welfare of the entire community.

PRIVATE RIGHTS:

"Private rights" in Islamic jurisprudence encompass the individual freedoms, entitlements, and protections that each person is granted within the framework of Islamic teachings. These rights are deeply rooted in the principles of human dignity, autonomy, and personal well-being. Islamic law recognizes and safeguards these private rights to ensure that individuals are treated with respect, their property is secured, and their personal affairs are protected from undue intrusion. The concept of private rights reflects the balanced approach of Islam, which values both communal welfare and individual liberties.

Key Aspects of Private Rights:

- i. **Individual Autonomy:**

Private rights emphasize the autonomy of individuals to make choices and decisions that pertain to their personal lives, property, and relationships.

- ii. **Dignity and Honour:**

Islamic teachings uphold the inherent dignity and honor of every individual. Private rights protect individuals from defamation, slander, and harm to their reputation.

- iii. **Property Ownership:**

The right to own, use, and dispose of property is a fundamental aspect of private rights. Islam recognizes and protects the rights of individuals to possess and benefit from their property.

- iv. **Family Matters:**

Private rights extend to family matters, including marriage, divorce, custody, and inheritance. Islamic law provides guidelines to ensure fairness and equity in familial relationships.

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v. **Contracts and Agreements:**

Individuals have the right to enter into contracts and agreements, whether for business transactions, employment, or other lawful purposes. These contracts are upheld and enforced by Islamic law.

Examples of Private Rights:

- **Right to Privacy:**

Islamic teachings emphasize the respect for personal privacy and prohibit unauthorized intrusion into someone's private affairs.

- **Property Protection:**

Individuals have the right to protect their property from theft, damage, or trespassing. Islamic law establishes rules to safeguard property rights.

- **Inheritance Rights:**

Private rights include the entitlement to inherit from family members. Islamic law outlines inheritance distribution based on family relationships and shares.

- **Marriage and Divorce:**

Islamic law ensures that individuals have the right to enter into marriages based on mutual consent and also provides guidelines for divorce when necessary.

- **Legal Recourse:**

Private rights encompass the ability to seek legal remedies in cases of harm or breach of contract, ensuring access to justice.

Islamic Principles and Private Rights:

The Quran and the Hadith provide guidance on private rights, emphasizing the principles of justice, fairness, and compassion. The Prophet Muhammad's actions and sayings (Hadith) offer practical examples of how to respect and protect individuals' private rights.

Intersection in Islamic Jurisprudence:

The balance between public and private rights is a crucial aspect of Islamic jurisprudence. Islamic teachings, including the Quran and the Sunnah (traditions of the Prophet Muhammad), provide ethical guidance and principles that guide the formulation of laws and regulations. Islam encourages the establishment of a just and compassionate society where both individual and communal interests are protected.

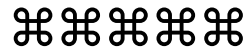
The interplay between public and private rights is evident in various Islamic legal concepts. For instance, laws against usury (riba) and unfair trade practices are aimed at protecting public interests by preventing economic exploitation, while also respecting individual rights to property and livelihood. Similarly, the principles of justice and fairness inherent in Islamic teachings guide the resolution of disputes, both at the individual and societal levels.

Conclusion:

In the tapestry of Islamic jurisprudence, the nuanced interplay of public and private rights weaves a comprehensive fabric of societal harmony and individual dignity. Public rights, safeguarding collective welfare through principles of justice and order, exemplify the shared responsibility to nurture a just community. Concurrently, the sanctuary of private rights embraces personal autonomy, dignity, and property protection, epitomizing the reverence for individual well-being. These intertwined concepts harmonize within Islam's ethical compass,

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reflecting a balanced approach that seeks to elevate both the communal tapestry and the unique threads of each individual. By cherishing public interests and honoring private liberties, Islamic jurisprudence embraces a holistic ethos where social cohesion is woven seamlessly with personal empowerment, fostering a world rooted in compassion, equity, and mutual respect.



ISLAMIC JURISPRUDENCE

- Q. WHAT ARE THE DIFFERENT INGREDIENTS OF CONTRACT OF SALE UNDER ISLAMIC LAW (A2019)
- Q. ISLAM HAS INTRODUCED THE CONCEPT OF HALAL AND HARAM WHILE LYING DOWN THE INGREDIENTS OF CONTRACT OF SALE AND PURCHASE. ELABORATE.(S2019)
- Q. WHAT ARE THE DIFFERENT INGREDIENTS OF CONTRACT UNDER ISLAMIC LAW. (A2020)

Ans:

CONTRACT IN ISLAM

In the realm of Islamic transactions, forming a contract is like building a strong bridge between people's agreements. Just like a bridge needs sturdy pillars, a valid contract relies on essential elements to stand firm. These building blocks ensure fairness and honesty in agreements. From the moment an offer is made and accepted to the consideration exchanged and the subject matter agreed upon, each step matters. Mutual understanding, clear terms, and lawful subjects serve as the strong foundation. Plus, everyone involved should willingly agree without being forced or tricked. This bridge of a contract protects individual rights, ensures everyone plays fair, and upholds the values of Islamic ethics. Let's explore these contract ingredients further to understand how they work together in this intricate construction of trust and responsibility.

Ingredients of Contract:

The key ingredients of a contract under Islamic law are as follows:

- 1) Offer and Acceptance (Ijab wa Qubul)
- 2) Mutual Consent (Meezan al-'Aqd)
- 3) Subject Matter (Mawḍū' al-'Aqd)
- 4) Price and Consideration ('Īwāḍ al-'Aqd)
- 5) Clarity and Certainty (Zuhūr al-Shart)
- 6) Contractual Capacity (Aḥliyyat al-'Aqd)
- 7) No Prohibited Elements (Ghāyir Muḥarram)
- 8) No Exploitation (Istiklāf)
- 9) No Ambiguity or Uncertainty (Gharar)
- 10) No Forbidden Activities (Ḥarām)

1) Offer and Acceptance (Ijab wa Qubul):

This ingredient involves one party making a clear offer, and the other party accepting it. Both parties must express their offer and acceptance explicitly and understand the terms.

Example: Ali offers to sell his motorcycle to Ahmed for PKR 50,000. Ahmed agrees to Ali's offer, confirming his acceptance of the price and terms.

2) Mutual Consent (Meezan al-‘Aqd):

Mutual consent is crucial for a valid contract. Both parties should willingly enter the contract without coercion or deception, and they should understand and agree to the terms.

Example: If Sana signs a contract to buy a laptop but is pressured by the seller's aggressive tactics, her consent might not be genuine, rendering the contract invalid.

3) Subject Matter (Mawdū‘ al-‘Aqd):

The contract's subject matter must be permissible according to Islamic teachings and legal in Pakistan. Transactions involving forbidden or illegal items or activities are not considered valid.

Example: A contract to sell alcohol or narcotics would be void due to the involvement of prohibited substances.

4) Price and Consideration (‘Iwād al-‘Aqd):

The contract should specify an agreed-upon price or consideration for the subject matter. The price should be known and clear at the time of the contract.

Example: Zahid agrees to buy a smartphone from Fatima for PKR 25,000. The price is explicitly stated in the contract.

5) Clarity and Certainty (Zuhūr al-Shart):

The terms of the contract must be clear and understandable by all parties. Ambiguity or uncertainty can invalidate the contract.

Example: If a contract to provide IT services lacks clear details about the scope and nature of services, it might be considered void due to uncertainty.

6) Contractual Capacity (Ahliyyat al-‘Aqd):

Both parties must have the legal capacity to enter the contract. Minors, mentally incapacitated individuals, and those lacking contractual capacity cannot form a valid contract.

Example: If a contract is entered into by a minor (someone below the legal age of adulthood), it may not be enforceable due to the minor's limited capacity to contract.

7) No Prohibited Elements (Ghāyir Muharram):

Contracts should not involve prohibited elements like interest (riba) or excessive uncertainty (gharar), which are considered unethical in Islamic law.

Example: A contract that involves paying or receiving interest on a loan would be considered invalid due to the prohibition of riba.

8) No Exploitation (Istiklāf):

Fairness is crucial. Contracts should not exploit the vulnerability of one party over the other, maintaining ethical business conduct.

Example: Selling essential goods, like food or medical supplies, at inflated prices during times of crisis or scarcity would be seen as exploitation and unethical.

9) No Ambiguity or Uncertainty (Gharar):

Contracts should not contain excessive uncertainty or ambiguity about terms or outcomes. A reasonable degree of certainty is required for a valid contract.

Example: Selling goods without specifying their quantity or quality would involve excessive uncertainty (gharar) and might render the contract void.

10) No Forbidden Activities (Harām):

Contracts should not involve activities that are prohibited or unlawful according to Islamic principles and Pakistani law.

Example: A contract involving the sale of haram goods, such as pork or intoxicants, would be invalid due to the involvement of prohibited activities.

THE CONCEPT OF HALAL AND HARAM

Indeed, Islamic principles of halal (permissible) and haram (forbidden) play a fundamental role in shaping the ingredients of a contract of sale and purchase. Halal and haram considerations are deeply intertwined with ethical and moral values in Islamic transactions, ensuring that business dealings are conducted in accordance with the teachings of Islam. Let's elaborate on how these concepts are integrated into the contract of sale and purchase:

Subject Matter (Mawdū' al-'Aqd):

The concept of halal and haram strongly influences the subject matter of the contract. Islamic law mandates that the subject of the contract must be halal, meaning it should be lawful and permissible according to Islamic teachings. Transactions involving haram substances or activities, such as alcohol, pork, or gambling, are categorically forbidden. The inclusion of halal subject matter aligns the contract with Islamic ethical standards.

Price and Consideration (Īwād al-'Aqd):

The concept of halal extends to the price and consideration involved in the contract. Money earned through haram means, such as interest-based transactions or illegal activities, is considered impure and unacceptable. Therefore, the price or consideration exchanged in a contract must also be halal. This ensures that the financial aspect of the contract is in harmony with Islamic principles.

No Prohibited Elements (Ghāyir Muharram):

The principle of halal and haram inherently guides the avoidance of prohibited elements in a contract. Contracts involving riba (interest), gharar (excessive uncertainty), or any form of exploitation are considered haram and unacceptable. By incorporating the concept of avoiding prohibited elements, the contract is shielded from practices that go against Islamic ethics.

No Forbidden Activities (Harām):

The contract's adherence to halal and avoidance of haram activities are essential. Transactions involving activities or goods deemed haram, such as the sale of alcohol or usurious transactions, are not permitted under Islamic law. By excluding forbidden activities, the contract aligns with the broader framework of Islamic values.

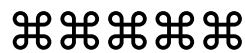
By integrating the concepts of halal and haram into the ingredients of a contract of sale and purchase, Islamic law ensures that business transactions are conducted ethically, with

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fairness, transparency, and respect for Islamic principles. This approach fosters an environment where economic activities are in harmony with moral values and promote the well-being of individuals and society as a whole.

Conclusion:

In Islamic law, the way contracts are made is like putting together puzzle pieces. These pieces, called "ingredients," ensure that the contract is fair and follows Islamic values. Imagine the ingredients are like rules that help everyone play nicely. These rules include things like making clear offers and agreeing on fair prices. It's also important that everyone agrees without being forced, and the things being bought and sold should be allowed in Islam (halal) and not forbidden (haram). Additionally, the ingredients make sure nobody tricks or exploits anyone else. By following these rules, contracts become like good friends, helping people do business fairly and in line with their beliefs.



ISLAMIC JURISPRUDENCE

Q. THEIR MATTERS ARE DECIDED AND DISCHARGE WITH MUTUAL CONSULTATION. EXPLAIN THIS PRINCIPLE WITH PARTICULAR REFERENCE TO THE CONCEPT OF SHURA AND ITS BINDING NATURE. (A2019)

Ans:

In the heart of Islam, there's a special idea: when big decisions need to be made, it's better to talk things over with others. This idea is like a teamwork puzzle called "Shura." It means getting advice and opinions from friends before deciding something important. Just like a group of friends brings different ideas to a project, Shura brings different thoughts to a decision. It's not just a rule, it's an important way to make fair choices. This idea comes from the Quran and how the Prophet Muhammad did things. Shura is like having a chat with friends before making a plan. It helps everyone work together and keeps things fair and friendly.

let's delve into a more detailed explanation of the principle "their matters are decided and discharge with mutual consultation," with specific reference to the concept of Shura and its binding nature:

The Principle of Mutual Consultation:

The principle "their matters are decided and discharge with mutual consultation" embodies the concept of Shura in Islam. Shura refers to the practice of seeking counsel, advice, and consensus among individuals before making significant decisions. This concept is rooted in Islamic teachings and highlights the importance of inclusive decision-making that considers various viewpoints.

Quranic and Prophetic Basis:

The Quran contains verses that emphasize the value of Shura. For instance, in Surah Al-Shura (42:38), Allah encourages the Prophet Muhammad to consult with his companions in matters of governance. Additionally, the Prophet's own actions exemplified the practice of Shura. He often sought the opinions of his companions before making important decisions, underscoring the significance of collective wisdom.

Ethical and Spiritual Significance:

The principle of mutual consultation is not just a procedural step; it carries ethical and spiritual weight. In Islam, decisions made collectively are believed to be more just and equitable. By engaging in Shura, individuals demonstrate humility, open-mindedness, and a willingness to consider diverse perspectives, aligning with Islamic values of compassion and empathy.

Application in Governance:

Shura finds application in governance structures within Islamic history, such as the Caliphate. Caliphs were expected to consult scholars, advisors, and community leaders when making important decisions. This practice served as a check on unchecked power and ensured that rulers were accountable to the people they governed. It also fostered a sense of community involvement and participation in governance.

ISLAMIC JURISPRUDENCE

Contemporary Relevance:

The concept of Shura aligns with modern notions of democratic governance and participatory decision-making. It promotes inclusivity and transparency in public affairs. While the final decision-maker may not always be bound by the majority opinion, the act of consultation enriches the decision-making process and helps ensure well-rounded, informed decisions.

Spiritual and Ethical Binding:

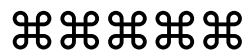
While the principle of mutual consultation is not legally binding in a coercive sense, it holds spiritual and ethical binding power. It reflects a commitment to justice, fairness, and the well-being of the community. Engaging in Shura aligns with the broader Islamic mission of promoting good deeds, social harmony, and the greater good.

Balancing Authority and Participation:

Shura strikes a balance between authoritative decision-making and collective participation. It acknowledges that leaders possess expertise and authority but recognizes that collective input enhances the quality and legitimacy of decisions.

Conclusion:

In conclusion, the principle "their matters are decided and discharge with mutual consultation" encapsulates the practice of Shura in Islam. Rooted in Quranic teachings and the actions of the Prophet Muhammad, Shura promotes inclusive, just, and spiritually meaningful decision-making. While not legally binding, it carries ethical and spiritual weight, fostering a sense of community ownership and accountability in matters that affect individuals and society.



ISLAMIC JURISPRUDENCE

Q. WHAT ARE THE THREE MAIN PILLARS OF MUSLIM STATE? WEATHER THEY CORRESPOND WITH THE CONCEPT OF THE MODERN STATE.(S2019)

Q. KINDLY EXPLAIN BRIEFLY THE SOVEREIGNTY AND THE SHURA AS THE FUNDAMENTAL PILLARS OF MUSLIM STATE.(A2021)

Ans:

MUSLIM STATE

The concept of a Muslim state, often referred to as an "Islamic state," is a vision rooted in the teachings of Islam, aiming to establish a society where Islamic principles, values, and ethics guide governance and public life. While interpretations and implementations can vary, the underlying idea is to create a framework where both spiritual and worldly aspects are aligned with Islamic teachings.

In a Muslim state, the Quran and the Sunnah (the practices of the Prophet Muhammad) serve as the primary sources of law and guidance. The state's structure is ideally built upon justice, equality, compassion, and accountability. The concept envisions a society where the needs and rights of individuals, especially the marginalized, are addressed in accordance with Islamic principles.

Islam encourages the protection of religious freedom, allowing non-Muslims to practice their faith within the framework of a Muslim state. However, the state's institutions and policies are influenced by Islamic values, promoting economic equity, social justice, and moral integrity.

It's important to note that the idea of a Muslim state has been interpreted and implemented differently throughout history and across cultures. Some advocate for a theocratic model where religious scholars hold authority, while others emphasize a democratic approach where elected representatives ensure Islamic values are upheld.

Pillars of Muslim State:

Islamic jurisprudence outlines several main pillars that form the foundation of a Muslim state. These pillars are derived from the Quran, the Sunnah (traditions) of the Prophet Muhammad, and scholarly interpretations of Islamic teachings. They collectively shape the governance and principles of an Islamic state. Here are the main pillars:

- 1) Sovereignty of Allah (Sovereignty of Sharia)**
- 2) Shura (Consultative Decision-Making):**
- 3) Leadership and Authority (Caliphate)**
- 4) Promotion of Justice (Adl)**
- 5) Implementation of Sharia**
- 6) Protection of Public Welfare (Maslaha)**
- 7) Protection of Religious Freedom (Dhimma)**
- 8) Preservation of Morality (Amr Bil Maruf, Nahi Anil Munkar)**
- 9) Social Welfare and Redistribution (Zakat and Sadaqat)**
- 10) Protection of Individual Rights (Hifz Al-Nafs, Hifz Al-Mal, Hifz Al-Ird)**

ISLAMIC JURISPRUDENCE

1. Sovereignty of Allah (Sovereignty of Sharia):

The sovereignty of Allah emphasizes that ultimate authority lies with God, and this authority is expressed through the principles of Sharia (Islamic law). In an Islamic state, laws and policies must align with Sharia, which encompasses moral, legal, and ethical guidance derived from the Quran and the Sunnah. This pillar ensures that governance is rooted in divine principles, promoting justice, compassion, and mercy.

2. Shura (Consultative Decision-Making):

Shura embodies the principle of seeking consultation and counsel in decision-making. It emphasizes the collective wisdom of a community and aims to prevent autocracy. While the ultimate authority rests with leadership, involving diverse viewpoints enhances the quality of decisions and fosters public participation. Shura is both a practical mechanism and a spiritual principle, rooted in the Quran and exemplified by the Prophet Muhammad's consultations with his companions. This pillar ensures that decisions are informed, just, and aligned with the needs and aspirations of the community.

3. Leadership and Authority (Caliphate):

The Caliphate represents the leadership within an Islamic state. The Caliph, or leader, is expected to be just, knowledgeable in Islamic teachings, and committed to upholding the welfare of the citizens. The Caliphate combines political leadership with spiritual responsibility, fostering an environment where both worldly and spiritual matters are addressed.

4. Promotion of Justice (Adl):

Justice is a core value in Islamic governance. The state is responsible for ensuring equitable treatment for all individuals, regardless of their background or status. Laws should be impartial and protect the rights of citizens. Islamic jurisprudence emphasizes that justice is central to the well-being of society.

5. Implementation of Sharia:

Sharia serves as the ethical foundation of an Islamic state's legal system. While interpretations may vary, Sharia provides guidelines for various aspects of life, including family law, contracts, commerce, and criminal justice. Laws are expected to reflect the moral and ethical principles outlined in Islamic teachings.

6. Protection of Public Welfare (Maslaha):

The principle of maslaha emphasizes the well-being and welfare of society. Policies and decisions are designed to promote public good and prevent harm. Islamic jurisprudence allows for flexibility in interpreting the best interests of society, adapting to changing circumstances while adhering to core Islamic values.

7. Protection of Religious Freedom (Dhimma):

An Islamic state respects the religious freedom of non-Muslim citizens, granting them protection and allowing them to practice their faith. This principle underscores the pluralistic nature of Islamic societies and fosters peaceful coexistence among individuals of diverse faiths.

8. Preservation of Morality (Amr Bil Maruf, Nahi Anil Munkar):

This principle involves promoting virtue and preventing vice within society. While respecting individual freedoms, the state encourages moral conduct and discourages actions that go against Islamic values. This serves to maintain social harmony and uphold ethical standards.

ISLAMIC JURISPRUDENCE

9. Social Welfare and Redistribution (Zakat and Sadaqat):

Economic justice is emphasized through concepts like zakat (obligatory almsgiving) and sadaqat (voluntary charity). These principles address wealth redistribution, support for the less fortunate, and the establishment of a safety net for the vulnerable.

10. Protection of Individual Rights (Hifz Al-Nafs, Hifz Al-Mal, Hifz Al-Ird):

This pillar underscores the state's responsibility to protect individual rights, including the right to life, property, and honor. Laws are designed to prevent harm, uphold dignity, and ensure justice for all citizens.

Muslim State Vs Modern State

A "Muslim state" and a "modern state" are two distinct concepts that reflect different approaches to governance, influenced by historical, cultural, and ideological factors. Here's a brief comparison between the two:

Muslim State:

A Muslim state is a governance model guided by Islamic principles and values, aiming to establish a society where Islamic teachings shape laws, policies, and societal norms. The state's laws are derived from Sharia (Islamic law), and the leadership often incorporates religious scholars to interpret and implement these laws. The concept of a Muslim state varies across different historical and cultural contexts, ranging from theocratic models to those emphasizing democratic participation while adhering to Islamic ethics.

Modern State:

A modern state is a governance model that typically follows a secular framework, where laws and policies are not based on religious doctrine. Instead, laws are developed through a legislative process that considers societal needs, human rights, and individual freedoms. The state separates religious matters from governance, allowing citizens of various beliefs to coexist under a shared legal framework. Modern states often emphasize democratic principles, separation of powers, and protection of individual rights.

Key Differences:

i. Basis of Law:

In a Muslim state, laws are derived from Sharia and guided by religious principles. In a modern state, laws are secular and based on societal needs, human rights, and legal frameworks.

ii. Religious Influence:

A Muslim state incorporates religious values and scholars in governance decisions. A modern state separates religion from governance, prioritizing neutrality in matters of faith.

iii. Rights and Freedoms:

While both systems aim to protect rights, a modern state emphasizes individual freedoms, including freedom of religion, speech, and association. A Muslim state seeks to balance individual rights with communal interests and religious values.

iv. Governance Structure:

Muslim states may adopt various governance structures, from theocratic to democratic, while incorporating Islamic principles. Modern states typically follow democratic principles with elected representatives and separation of powers.

ISLAMIC JURISPRUDENCE

v. Pluralism:

A modern state accommodates diverse beliefs and backgrounds, allowing citizens of various faiths to coexist. A Muslim state may give prominence to Islam but may vary in its treatment of non-Muslim minorities.

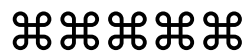
vi. Cultural Context:

A Muslim state often emerges from societies with a strong Islamic heritage. Modern states can be found in diverse cultural and historical contexts.

It's important to note that the definitions and implementations of both concepts can vary widely based on historical, cultural, and political factors. Some states may seek to balance Islamic values with modern governance principles, creating hybrid models that integrate elements from both frameworks.

Conclusion:

In the tapestry of governance, the divergence between a "Muslim state" and a "modern state" underscores the complexity of balancing religious values with secular principles. While a Muslim state seeks to harmonize governance with Islamic teachings, a modern state emphasizes the separation of religion and governance, prioritizing individual freedoms and rights. Each concept reflects unique historical, cultural, and ideological trajectories, shaping the approach to law, leadership, and societal cohesion. In an ever-changing world, the ongoing dialogue between these models reveals the dynamic nature of governance. The challenge lies in crafting systems that honor religious heritage while safeguarding human rights, fostering a sense of community, and upholding justice. Ultimately, the path chosen by a society is a reflection of its identity, values, and aspirations, with each approach contributing to the evolving mosaic of global governance paradigms.



Q. WHAT ARE THE TRADITIONAL SOURCES OF REVENUE OF A ISLAMIC STATE. (A2020)

Ans:

SOURCES OF REVENUE OF A ISLAMIC STATE

In the intricate tapestry of an Islamic state's economic framework, the threads of traditional revenue sources weave together a fabric of compassion, justice, and communal welfare. These sources, deeply grounded in Islamic principles, provide a roadmap for generating funds that sustain public services, alleviate poverty, and uphold the values of equity and social responsibility. From the obligatory almsgiving of zakat to the dynamic spectrum of voluntary donations, these revenue streams not only finance state operations but also echo the core teachings of Islam. This harmonious interplay between economic sustenance and ethical commitment reflects the essence of an Islamic state's mission – to nurture an inclusive society where individual contributions coalesce into a collective effort to uplift the lives of all citizens. Sources of Revenue of Islamic State are described below:

1. **Zakat**
2. **Sadaqat (Voluntary Charity)**
3. **Jizyah**
4. **Khums**
5. **Fay (Revenue from State-Owned Resources)**
6. **Customs and Trade Taxes**
7. **Property Tax (Kharaj or Ushr)**
8. **Awqaf (Endowments)**
9. **Profits from State Enterprises**
10. **Fines and Penalties**

1) **Zakat:**

Imagine a wealthy merchant named Ahmed who has a successful business. He is required to give a portion of his wealth, typically 2.5%, as zakat to help those in need. This zakat is collected and distributed by the state to provide food, shelter, healthcare, and education to the less fortunate, ensuring a fair distribution of wealth.

2) **Sadaqat:**

In addition to zakat, Ahmed feels a sense of generosity and donates extra money to build a school in his community. These voluntary contributions, or sadaqat, support projects that benefit society beyond the mandatory zakat.

3) **Jizyah:**

In an Islamic state, non-Muslim citizens like Sarah pay a jizyah tax to the state. In return, they are protected and provided with essential services, just as Muslim citizens are. This tax recognizes their citizenship and contributes to the state's revenue.

4) **Khums:**

Mohammad, a successful trader, pays khums, a tax on his business profits, to the state. A portion of this tax supports the religious leaders and scholars who provide guidance to the community, as well as other community welfare projects.

ISLAMIC JURISPRUDENCE

How the prisoners of war(POWS) treated under the golden Islamic principle of war and peace.(S2019)

How the prisoners of war are treated in a islamic state .(A2020)

5) Fay:

The state owns a valuable mine that extracts precious minerals. The revenue generated from mining operations, called fay, contributes to the state's coffers and supports public infrastructure projects like roads and bridges.

6) Customs and Trade Taxes:

When goods are imported into the Islamic state, customs duties are collected at the border. These taxes generate revenue for the state and help regulate trade.

7) Property Tax (Kharaj or Ushr):

Farmers like Fatima pay a percentage of their agricultural produce as kharaj to the state. This tax helps fund public services and ensures the equitable distribution of resources.

8) Awqaf:

An individual named Ali donates a piece of land as an endowment (awqaf) to build a hospital. The income generated from the hospital's operations supports healthcare services for the community.

9) Profits from State Enterprises:

The state operates a textile factory that produces clothing. The profits from the factory's sales contribute to the state's revenue and fund public programs.

10) Fines and Penalties:

If someone violates a traffic law, they pay a fine to the state. The collected fines go into the state treasury and support various government activities.

Conclusion:

In the realm of finances for an Islamic state, these traditional revenue sources aren't just about money. They reflect kindness, fairness, and caring for the community things Islam holds dear. Think of zakat as a way to help those in need, while sadaqat lets people give extra for good causes. Jizyah used to be paid by non-Muslims for protection and services, and khums helped out with community needs. Fay was money from things the state owned, like resources. Trade taxes kept things fair in business, and property tax helped keep things going smoothly. Awqaf are like gifts of land for good purposes. Profits from state businesses and fines helped too. These ways of collecting money aren't just about economics; they're about living the values of Islam and taking care of everyone in the community.



ISLAMIC JURISPRUDENCE

- Q. HOW THE PRISONERS OF WAR (POWS) TREATED UNDER THE GOLDEN ISLAMIC PRINCIPLE OF WAR AND PEACE.(S2019)
- Q. HOW THE PRISONERS OF WAR ARE TREATED IN A ISLAMIC STATE .(A2020)

Ans:

ISLAMIC PRINCIPLE OF WAR AND PEACE

The Islamic principles of war and peace emanate from the core teachings of Islam, encapsulating a holistic approach to handling conflicts and nurturing harmonious relations. Rooted in the Quranic guidance and the practices of Prophet Muhammad, these principles offer a comprehensive framework for navigating the complexities of human interactions. In Islam, the pursuit of peace is not a passive endeavor; it is an active commitment to justice, compassion, and the well-being of all. Simultaneously, the principles guiding times of conflict underscore the sanctity of life, the necessity of proportionality, and the ethical conduct that must be maintained even amidst hostilities. These principles form an intricate tapestry that weaves together notions of human dignity, moral responsibility, and the collective aspiration for a world where peaceful coexistence and justice thrive. Understanding these principles is paramount in appreciating how Islam addresses the challenges of war and peace while embodying its profound message of harmony, justice, and compassion.

PRINCIPLES OF PEACE:

In Islam following principles of peace are adopted:

1. Salaam (Peace):

Islam places a high value on peace. The concept of "Salaam" goes beyond the absence of conflict; it signifies a state of well-being, security, and tranquility. Muslims are encouraged to spread peace and greet others with the words "As-Salaam-Alaikum" (Peace be upon you).

2. Forgiveness and Reconciliation:

Islam emphasizes forgiveness and the mending of relationships. The Quran encourages believers to forgive and reconcile, especially when someone sincerely seeks forgiveness. This principle is exemplified in the Prophet Muhammad's practice of pardoning his adversaries.

3. Justice:

Justice is a foundational principle in Islam. Even in times of conflict, Muslims are instructed to uphold justice. The Quran says, "O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives" (4:135). This underscores the importance of impartiality and fairness.

4. Diplomacy and Negotiation:

Islam promotes peaceful solutions through dialogue and negotiation. The Prophet Muhammad engaged in diplomatic negotiations and signed treaties to prevent conflicts. These actions serve as models for resolving disputes without resorting to violence.

PRINCIPLES OF WAR:

Following principles of war are observed in Islam.

1. Self-Defense:

Islam allows the use of force in self-defense when there is a genuine threat to life, property, or the practice of religion. The Quran acknowledges the right to self-defense: "And fight in the way of Allah those who fight you" (2:190).

2. Proportionality:

If war becomes necessary, Islam mandates the principle of proportionality. Muslims are forbidden from causing excessive harm or destruction that goes beyond the necessary response to the threat.

3. Avoiding Harm to Non-Combatants:

The sanctity of non-combatants is a critical principle. The deliberate targeting of civilians, women, children, and the elderly is strictly prohibited in Islamic warfare. The Quran states, "Do not kill the soul which Allah has forbidden, except by right" (17:33).

4. Offering Peace:

Muslims are encouraged to seek peaceful resolutions even during conflict. If the adversary shows willingness for peace and a halt to hostilities, Muslims are advised to accept such offers and work toward reconciliation.

5. Ethical Conduct:

Islam places great emphasis on ethical conduct during warfare. Acts such as mutilation, torture, and the destruction of resources are unequivocally forbidden. Islamic law dictates that captives must be treated with dignity and care.

In summary, the principles of war and peace in Islam are deeply rooted in the teachings of the Quran and the practices of Prophet Muhammad. They emphasize the importance of justice, compassion, proportionality, and ethical behavior. These principles reflect the core values of Islam – promoting harmony, seeking justice, and preserving human dignity even in the most challenging circumstances.

Conclusion:

In Islam, the ideas about war and peace are like threads that weave together a strong fabric of values. When it comes to peace, Islam really likes it – it's not just about no fights, but about making things good and calm. Forgiving and being fair are super important too. When there's trouble, self-defense is okay, but only as much as needed. Islam says, "Be fair even if it's against yourself" – showing how much justice matters. The Prophet Muhammad showed us that talking and making agreements is smart. When things get tough, Muslims must still remember to treat everyone kindly, especially those who aren't part of the fight. So, in Islam, war and peace are all about making the world better by being fair, kind, and respectful, whether we're getting along or dealing with challenges.



ISLAMIC JURISPRUDENCE

Q. JEHAD IS PRIMARILY A LAW OF WAR OFTEN MISUNDERSTOOD BY MODERN THINKERS. KINDLY EXPLAIN IT ELUCIDATING THE TREATMENT GIVEN TO PRISONERS OF WAR. (A2021)

Q. ISLAM HAS ORDAINED SPECIFIC GUIDING PRINCIPLE DURING THE COURSE OF WAR(JEHAD). PLEASE EXPLAIN AND COMPARE THE SAME WITH MODERN TIME WARS. (A2019)

Ans:

JEHAD

"Jihad" is an Arabic word that means "struggle" or "effort." In Islam, it holds a range of meanings and contexts, often misunderstood due to misinterpretations. Jihad is not solely about armed conflict, as commonly portrayed in media. Instead, it encompasses various forms of striving to live according to Islamic principles.

1. Greater Jihad (Jihad al-Nafs):

This refers to the inner struggle against one's own weaknesses, desires, and temptations. It's about striving to become a better person, cultivating self-discipline, and aligning oneself with ethical values.

2. Lesser Jihad (Jihad al-Sayf):

This pertains to physical defense in situations where Muslims face threats or oppression. It includes self-defense, protecting others, and fighting for justice. However, strict guidelines are outlined, such as avoiding harm to non-combatants and conducting warfare ethically.

3. Jihad of the Tongue and Pen:

This involves using words and knowledge to spread goodness, truth, and justice. It's about advocating for what's right and standing against falsehood and oppression through peaceful means.

Jihad, in its various forms, aims to uphold values of justice, compassion, and self-improvement. While armed conflict can be a part of it, it's just one aspect. Understanding the broader spectrum of jihad helps dispel misconceptions and appreciate its holistic significance in Islam.

CONCEPT OF JIHAD:

"jihad" is often misunderstood as primarily a law of war due to misinterpretations, but its scope is broader. It encompasses both spiritual and physical dimensions. In the context of armed conflict, Islamic teachings provide clear guidelines to ensure ethical conduct, including the treatment of prisoners of war (POWs).

Jihad as a Law of War:

Jihad, in the context of armed conflict, is subject to strict ethical guidelines to ensure that even in times of war, Islamic values of compassion, justice, and human dignity are upheld. This is to prevent any misuse or misinterpretation of the concept and to ensure that warfare is conducted within ethical boundaries.

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Treatment of Prisoners of War:

Islamic teachings emphasize the humane treatment of POWs, setting an example of ethical conduct that stands in contrast to the inhumane treatment that was prevalent during conflicts of the past. The following points elaborate on the treatment of POWs:

i. Dignity and Respect:

The Prophet Muhammad's teachings highlight that POWs should be treated with respect and kindness. This includes refraining from humiliating or degrading treatment.

ii. Basic Needs:

Providing for the basic needs of POWs is a fundamental principle. They should have access to sufficient food, clothing, and shelter to maintain their dignity and well-being.

iii. Protection of Non-Combatants:

Just as civilians are protected from harm in Islamic warfare, the same principle extends to non-combatant POWs. Women, children, the elderly, and anyone not actively involved in fighting must be safeguarded.

iv. Ransom and Agreements:

Islamic law allows for the possibility of releasing prisoners in exchange for ransom or other agreements. This demonstrates the emphasis on both humane treatment and the potential for reconciliation even after conflict.

v. Kindness and Reintegration:

The Prophet Muhammad's actions illustrate the importance of treating captives with kindness and empathy, with the aim of fostering goodwill and facilitating the reintegration of former adversaries into society after conflicts cease.

The principles governing the treatment of prisoners of war within the context of jihad are indicative of the broader Islamic values of mercy, justice, and respect for human life. These guidelines underline the importance of maintaining ethical conduct, even in the midst of armed conflict, and dispel misconceptions about jihad as merely a path of violence. Instead, they showcase a holistic approach that encompasses compassion, fairness, and the pursuit of reconciliation.

Principles of Jihad

Islam has established specific guiding principles for conducting warfare (jihad) that are rooted in ethical considerations and human rights. These principles reflect a commitment to justice, compassion, and the protection of human dignity even in times of conflict. Comparing these principles with modern times allows us to highlight both the timeless wisdom of Islamic teachings and the evolving challenges of contemporary warfare.

Islamic Guiding Principles during War (Jihad):

• **Proportionality:**

Islamic teachings emphasize proportionality in the use of force. This means that the level of force used should be proportional to the threat posed. Excessive force that results in unnecessary harm is discouraged.

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- **Protection of Non-Combatants:**

Islam strictly prohibits the targeting of non-combatants, including civilians, women, children, and the elderly. The Quran emphasizes the sanctity of innocent lives and their protection.

- **Ethical Conduct:**

The Prophet Muhammad set an example of ethical conduct during warfare. Islam prohibits acts of cruelty, torture, and the destruction of property that is not involved in hostilities.

- **Treatment of POWs:**

Islamic teachings stress the humane treatment of prisoners of war. POWs must be treated with dignity, provided with basic necessities, and protected from harm.

- **Offering Peace and Reconciliation:**

Islam encourages the pursuit of peace even during conflict. If the enemy expresses a desire for peace, Muslims are advised to accept it and work towards reconciliation.

Comparison with Modern Times:

While these Islamic principles remain timeless, the nature of modern warfare has introduced new complexities:

- **Technological Advancements:**

Modern warfare involves advanced weaponry and technology that can cause extensive collateral damage. Balancing proportionality and minimizing harm to civilians is a challenge.

- **Asymmetric Warfare:**

Many modern conflicts involve non-state actors and insurgencies, blurring the lines between combatants and non-combatants. Protecting civilians becomes more challenging.

- **Global Reach:**

Modern warfare can have global implications due to interconnectedness. Ensuring compliance with ethical principles becomes vital for international relations and human rights.

- **Media and Propaganda:**

The role of media in modern warfare affects public perception and can influence military strategies. Upholding ethical conduct is crucial in the age of information.

- **Humanitarian Concerns:**

Humanitarian organizations play a significant role in modern conflicts, advocating for the protection of civilians and compliance with international laws.

In comparing Islamic principles with modern warfare, it becomes evident that the ethical considerations outlined in Islam align with universal human rights values. While challenges persist, adherence to these principles remains essential for fostering global stability, justice, and a more humane approach to conflict resolution.

Conclusion:

In conclusion, the guiding principles that Islam has ordained for conducting warfare (jihad) offer a timeless framework that emphasizes the importance of ethical conduct, protection of human dignity, and the pursuit of justice even in the midst of conflict. These principles stand

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as a testament to the holistic nature of Islamic teachings, transcending time and culture. As modern warfare introduces new complexities and challenges, the comparison between Islamic principles and contemporary conflicts reveals a striking alignment with universal human rights values. While the evolving nature of warfare presents unique hurdles, the essence of these principles remains relevant for shaping a more just, humane, and peaceful world. By embracing the ethical tenets of proportionality, protection of non-combatants, humane treatment of captives, pursuit of reconciliation, and ethical conduct, societies can strive for a more equitable and compassionate approach to conflict, reflecting the essence of Islamic teachings and the aspirations of humanity as a whole.



ISLAMIC JURISPRUDENCE

- Q. WHAT ARE THE DIFFERENT QUALIFICATION FOR THE COMPETENCY OF WITNESSES IN DIFFERENT CASES UNDER THE ISLAMIC LAW OF EVIDENCE.(A2020)
- Q. ISLAM HAS ITS UNIQUE SYSTEM OF EVIDENCE AND WITNESSES IN DIFFERENT CASES, DISCUSS. (A2021)
- Q. ISLAM HAS GRANTED WOMAN AN EXTREMELY RESPECTABLE STATUS. WHAT IS THE POSITION OF FEMALE AS A COMPETENT WITNESS IN THE ISLAMIC LAW .(S2019)
- Q. ALL CASES ARE BASED ON THE STRENGTH OF THE EVIDENCE PRODUCED BEFORE JUDICIAL AUTHORITY. ISLAM EMPHASIZES ON THE QUALITY OF WITNESS IN DIFFERENT CASES EXPLAIN BRIEFLY.(A2019)

Ans:

WITNESS(EVIDENCE) IN ISLAM

In the Islamic legal framework, the role of witnesses is pivotal in establishing the truth and maintaining justice. The qualifications for the competency of witnesses vary according to the nature of the case, reflecting the nuanced approach Islamic jurisprudence takes towards ensuring the authenticity and credibility of testimonies. These qualifications stand as a testament to the emphasis Islam places on ethical conduct, moral character, and reliability in matters of law. From financial transactions to criminal cases and family matters, each category carries specific criteria that witnesses must meet to provide valid and reliable testimony. This system of witness qualifications is a reflection of Islamic principles aimed at safeguarding the integrity of legal proceedings, upholding the rights of individuals, and ensuring a just and equitable society based on honesty, trustworthiness, and the pursuit of truth.

Competency and Qualifications of Witness in Islam:

In the Islamic law of evidence, the competency and qualifications of witnesses vary based on the nature of the case being presented. These qualifications ensure the credibility and reliability of testimonies, promoting a just and equitable legal system. Here are the qualifications for witnesses in different cases under Islamic law:

1) Financial Transactions (Mu'amalat):

In cases involving financial transactions, business dealings, contracts, and debts, the following qualifications are generally required for witnesses:

- Muslim: Witnesses must be Muslims.
- Adulthood: Witnesses should be adults.
- Sound Mind: Witnesses must possess sound mental faculties.
- Honesty and Trustworthiness: Witnesses should have a reputation for honesty and integrity.
- Knowledgeable: Witnesses should have knowledge about the transaction they are testifying for.

2) Criminal Cases (Hudud and Tazir):

For cases involving criminal offenses, such as theft or murder, stricter qualifications are required due to the seriousness of the matter:

- Muslim: Witnesses must be Muslims.
- Adulthood: Witnesses should be adults.
- Trustworthiness: Witnesses should have an unblemished character and reputation.
- Truthful: Witnesses must be known for telling the truth consistently.
- Moral Integrity: Witnesses should be individuals of high moral standing.

3. Family and Personal Matters (Nikah, Divorce, etc.):

In cases related to family matters or personal status, such as marriage or divorce, the qualifications are as follows:

- Muslim: Witnesses must be Muslims.
- Adulthood: Witnesses should be adults.
- Uprightness: Witnesses must be known for their good moral character and integrity.
- Sound Judgment: Witnesses should possess sound judgment.

It's important to note that the qualifications for witnesses might vary among different schools of Islamic jurisprudence and in different cultural contexts. Additionally, the number of witnesses required may differ based on the specific case. These qualifications serve to ensure the credibility of witnesses, the authenticity of testimonies, and the overall fairness of legal proceedings in accordance with Islamic principles.

WITNESS OF WOMAN:

In Islamic law, the position of female witnesses is often a subject of discussion and interpretation among scholars, with different schools of thought offering varying perspectives. Generally, Islamic jurisprudence recognizes the competency of female witnesses in certain cases, while their testimony may carry different weight compared to male witnesses in certain situations. Here's an overview:

1. Financial Transactions (Mu'amalat):

In cases related to financial transactions, business deals, contracts, and debts, most Islamic scholars agree that female witnesses are considered competent and their testimony is admissible on an equal footing with male witnesses. This is based on the principle of equity and justice in financial matters.

2. Criminal Cases (Hudud and Tazir):

For cases involving serious criminal offenses, such as theft or murder, some schools of thought hold that the testimony of female witnesses may carry less weight compared to male witnesses. This is due to historical and contextual reasons, as well as interpretations of certain Quranic verses.

3. Family and Personal Matters (Nikah, Divorce, etc.):

In cases related to family and personal matters, such as marriage, divorce, or inheritance, the opinions among scholars are more varied. Some schools of thought accept the testimony of female witnesses, while others may require the presence of

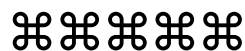
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multiple female witnesses or combine female testimony with male testimony to establish legal validity.

It's important to note that Islamic jurisprudence is not uniform on this matter, and interpretations can vary. The overall objective is to ensure the credibility and authenticity of testimonies while taking into consideration the cultural and societal contexts of the time. Modern scholars continue to engage in discussions about the position of female witnesses, aiming to reconcile Islamic principles with evolving societal norms and the pursuit of gender equality.

Conclusion:

To sum it up, Islam cares a lot about how good and trustworthy witnesses are in different situations. It's like making sure they know what they're talking about and that they're honest. In money matters, it's about knowing the deal. In serious crimes, it's about being really reliable and honest. And in family stuff, it's about being a good and truthful person. Islam wants fair and honest evidence so that justice can be done. So, having the right kind of witnesses who are knowledgeable and truthful is super important in Islam's legal system.



ISLAMIC JURISPRUDENCE

Q. SHARIAH HAS INTRODUCED A BALANCE CONCEPT OF OWNERSHIP, DIFFERENT FROM CAPITALISM AND COMMUNISM. EXPLAIN IN CONTRAST. (A2021)

Ans:

OWNERSHIP IN ISLAM

In the world of how things are owned and shared, Islam has a different way that's kind of in the middle of Capitalism and Communism. Capitalism is all about everyone owning stuff on their own, while Communism says everyone should share everything. Islam's idea is balanced. It's about owning things but also looking out for others and being fair. Capitalism sometimes leaves people with too much, and Communism can take away personal freedom. Islam wants you to have things, but also make sure others aren't left behind. It's like being responsible for what you have and sharing with those who need help. This Islamic approach finds a sweet spot between being fair to yourself and helping out the community, showing how ownership can be more thoughtful and caring. We will get better idea when we will compare it with other world systems.

Capitalism

Ownership in Capitalism is a fundamental concept that revolves around the idea of individuals or private entities having the right to own, control, and trade resources, assets, and property for their personal gain. In this economic system, ownership is a cornerstone of economic activity, as it encourages individual initiative, competition, and entrepreneurship.

In Capitalism, ownership extends beyond just personal possessions to encompass businesses, land, real estate, and various forms of property. The central principle is that individuals have the freedom to accumulate wealth, make decisions about how to use their resources, and engage in economic transactions based on their interests and goals.

Private ownership in Capitalism is characterized by several key features:

- **Private Property Rights:** Individuals have the legal right to own, use, and transfer property without significant government interference. This right is protected by law.
- **Entrepreneurial Freedom:** Individuals are encouraged to start businesses and invest in ventures to generate profits. The profits earned from these ventures belong to the owners.
- **Market Economy:** The ownership of resources and property drives the market economy. Supply and demand interactions determine prices and allocations of goods and services.
- **Incentive for Innovation:** The potential for financial gain provides an incentive for individuals to innovate, create new products, and improve existing ones.
- **Wealth Accumulation:** Capitalism allows for the accumulation of wealth and assets over time, contributing to economic growth and personal financial well-being.
- **Consumer Choices:** Ownership of businesses leads to a variety of products and services being available, allowing consumers to make choices based on their preferences.

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However, critics of Capitalism point out that unfettered private ownership can lead to income inequality, exploitation, and environmental degradation. The concentration of wealth in the hands of a few can lead to disparities in opportunities and access to resources.

In summary, ownership in Capitalism centres around individuals' rights to own and control resources, assets, and property. It forms the basis of economic activity, incentivizing innovation, entrepreneurship, and competition. While Capitalism can stimulate economic growth and individual prosperity, it also raises debates about social equity and the potential for negative externalities.

Communism

In Communism, ownership takes on a distinct form compared to other economic systems. In this ideology, the concept of private ownership of means of production, land, and resources is replaced by collective or state ownership. The primary goal of Communism is to eliminate class distinctions and ensure that wealth and resources are shared equally among all members of society. As a result, the traditional notion of personal property is redefined within the framework of the common good.

In a Communist society, key characteristics of ownership include:

- **Collective Ownership:** In Communism, the means of production, such as factories, land, and resources, are collectively owned by the entire society. This eliminates the concentration of ownership in the hands of a few individuals or groups.
- **Absence of Private Property:** Private ownership of the means of production is abolished. Individuals do not own these resources for personal gain, and there is no private accumulation of wealth through ownership.
- **State Control:** In many Communist systems, the state acts as the custodian of the collective ownership. It manages and allocates resources based on societal needs and priorities.
- **Equitable Distribution:** The central tenet of Communism is the equitable distribution of wealth and resources among all members of society. This aims to eliminate socio-economic disparities.
- **Focus on Collective Benefit:** The concept of ownership in Communism centers around the idea that resources are used for the benefit of the entire society rather than for individual gain.

However, while the goal of eliminating inequality is noble, the practical implementation of Communism has faced challenges. It can lead to bureaucratic inefficiencies, limited personal incentives, and restrictions on individual freedoms. The absence of private property ownership can also impact innovation and creativity.

Islamic Concept of Ownership:

The Islamic concept of ownership is rooted in a unique and balanced approach that considers both individual rights and societal well-being. It is guided by the principles of Shariah, the Islamic legal framework, and aims to foster responsible stewardship, ethical conduct, and social justice. Key features of the Islamic concept of ownership include:

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➤ **Stewardship (Amanah):**

Islam teaches that humans are trustees of the resources and wealth they possess. This concept encourages responsible management and utilization of wealth while recognizing that ultimate ownership belongs to Allah.

➤ **Private Ownership:**

Islam acknowledges the importance of personal ownership and the right to possess and enjoy property. However, this ownership comes with responsibilities to use resources in a lawful and ethical manner.

➤ **Equitable Distribution:**

Islam promotes the distribution of wealth and resources to ensure social justice. Practices such as Zakat (charitable giving) and Sadaqah (voluntary charity) are integral to redistributing wealth and supporting the less fortunate.

➤ **Zakat:**

This obligatory form of charity involves giving a portion of one's wealth to those in need. It acts as a mechanism to reduce inequalities and provide for the welfare of the community.

➤ **Prohibition of Exploitation:**

Islam prohibits practices such as usury (riba) and unjust accumulation of wealth. Unethical economic activities are discouraged to prevent harm to individuals and society.

➤ **Business Ethics:**

Islam emphasizes honesty, transparency, and fair dealing in economic transactions. Fraudulent or deceitful practices are condemned.

➤ **Inheritance Laws:**

Islamic inheritance laws ensure the fair distribution of wealth among family members, preventing excessive concentration of wealth and providing for dependents.

➤ **Individual and Collective Welfare:**

While Islam supports private ownership, it also emphasizes the collective welfare of the community. Resources should not be hoarded to the detriment of others.

The Islamic concept of ownership seeks to strike a balance between individual rights and societal responsibilities. It encourages individual entrepreneurship while promoting social solidarity and ethical behaviour. This approach reflects the broader principles of justice, compassion, and fairness that underpin Islamic teachings.

Conclusion:

In conclusion, the Islamic concept of ownership offers a holistic and balanced approach that transcends the extremes of individualism and collectivism. Rooted in the teachings of Shariah, it promotes responsible stewardship, ethical conduct, and the equitable distribution of resources. By recognizing individual ownership rights within the framework of social obligations, Islam seeks to create a harmonious society where the well-being of all members is upheld. This approach stands as a response to the limitations of other economic ideologies, offering a nuanced perspective that values both personal enterprise and communal welfare. Through practices such as Zakat and adherence to ethical business conduct, the Islamic concept of ownership reinforces the principles of justice, compassion, and human dignity. Ultimately, it underscores the profound interplay between individual rights, ethical responsibilities, and the broader goal of building a just and compassionate society.

ISLAMIC JURISPRUDENCE

Q. WRITE SHORT NOTE ON THE FOLLOWING TOPICS:

- **Darul Islam**
- **Dar Ul Harb**
- **Shura**

DARUL ISLAM

"Darul Islam," meaning "Abode of Islam," refers to regions or territories where the principles of Islam are not only embraced by individuals but also form the foundation of governance, laws, and societal norms. In a Darul Islam, the state's institutions are structured in accordance with Islamic teachings, and the application of Sharia (Islamic law) is central to various aspects of public and private life. This concept encompasses the idea of a society where Muslims can freely practice their faith without any hindrance.

In a Darul Islam, the governance framework draws inspiration from Islamic principles, emphasizing justice, equity, and social welfare. The legal system is rooted in Sharia, and public policies are designed to align with Islamic ethics and values. While the practical implementation of Darul Islam has varied throughout history and across different cultural contexts, the concept signifies an aspiration for an environment where Islamic teachings guide both individual conduct and the collective life of the community.

Darul Islam is not merely a geographic entity but a reflection of the desire to establish a society where individuals can live in harmony with their faith and where the principles of Islam influence the shaping of laws and regulations. The concept underlines the importance of the integration of religion and governance in Muslim-majority regions, seeking to create an environment that upholds the tenets of Islam in both spirit and practice.

DAR AL HARB

"Dar al-Harb" translates to "Abode of War" in English. This term is used in Islamic jurisprudence to refer to regions or territories where Islamic law (Sharia) is not established, and where Muslims may face challenges or restrictions in practicing their faith due to the absence of an Islamic framework. It's important to understand that the term "Dar al-Harb" doesn't necessarily imply active conflict or warfare, but rather signifies a context where the conditions for the practice of Islam are less favourable.

In traditional Islamic legal thought, the concept of "Dar al-Harb" was often contrasted with "Dar al-Islam" (Abode of Islam), where Islamic principles were established and Muslims could freely practice their faith. The categorization into "Dar al-Harb" and "Dar al-Islam" was a way to address the legal and religious implications of Muslims living in regions with varying degrees of Islamic influence.

However, it's essential to note that these terms and concepts have evolved over time, and their relevance and interpretations may vary among Islamic scholars and in different cultural contexts. Contemporary discussions emphasize the diversity of Muslim experiences in a globalized world, where the binary categorization of "Dar al-Harb" and "Dar al-Islam" may not fully capture the complexities of Muslim life and interactions in various societies.

SHURA

"Shura" is an Arabic term that translates to "consultation" or "mutual decision-making" in English. In Islamic governance and ethics, Shura refers to the practice of seeking advice, counsel, and consensus from individuals or a group before making important decisions. It is a fundamental concept derived from the Quran and exemplified in the practices of Prophet Muhammad.

Shura emphasizes the importance of inclusivity, transparency, and participatory decision-making within the framework of a community. It ensures that leadership is not authoritarian but considers the input of various stakeholders. Shura can be applied in various aspects of governance, including political, economic, and social matters.

In an Islamic context, Shura is regarded as a means to ensure justice, prevent arbitrary rule, and uphold the welfare of the community. The Quran references Shura in verses that highlight the significance of consultation and deliberation in decision-making. For instance, in Surah Al-Shura (42:38), it is mentioned: "Those who respond to their Lord and establish prayer and whose affair is [determined by] consultation among themselves, and from what We have provided them, they spend."

Shura fosters unity, cooperation, and accountability. While ultimate authority remains with leadership, Shura ensures that decisions are well-informed and reflect the collective wisdom of the community. It aligns with Islamic values of justice, compassion, and consideration for the well-being of all. Shura serves as a practical mechanism for harmonizing individual and communal interests, contributing to effective and just governance.

