

EFFECTIVENESS OF CUSTOM IN PRESENT ERA; IN THE LIGHT OF SEERAH (PBUH): AN ANALYTICAL STUDY

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- **Abstract:**

Customs and rituals are important in Islamic jurisprudence as a primary and secondary argument, which ensures the universality and flexibility of Sharia. In the present era, when new issues are emerging due to the rapid pace of the global economy and technology, the contemporary application of traditional jurisprudential principles has become a major challenge. This research paper examines the effectiveness of the principle of custom in this context: can the Sharia system maintain its full practical status without custom, which is the "principle of ease" (yusr) of Sharia?

The purpose of this paper is to clarify the principles of accepting custom as evidence in the era of the Prophet (PBUH), to analyze the need and usefulness of custom in the modern social, financial, and technological fields and to shed light on its role in modern contemporary issues.

This paper attempts to find answers to the following important questions. 1. What were the basic conditions for accepting custom in the era of the Prophet? 2. How can "offer and acceptance" and "possession" be determined on the basis of contemporary custom in digital transactions and online contracts? 3. Why does the application of Sharia rules become difficult in the absence of custom?

This research is based on analytical and deductive methods. In which the definition, types, and conditions of custom have been scientifically analyzed. Then, examples of the practical application of custom from the texts of the Prophetic era (Quran and Sunnah) are argued. Also, its role in modern contemporary issues is highlighted.

This research shows that in the modern era; custom is an indispensable element for implementing Sharia; rulings and as long as custom does not conflict with the basic principles of Sharia, it must be accepted for the formation of a dynamic legal system.

- **Key words:**

Custom, Ritual, Jurisprudence, Contemporary, Social, Financial, Technology, Issues,

- **Introduction:**

Islamic Sharia has the full capacity to cover the requirements of every era and the changes in human society. In the context of Islamic jurisprudence, 'custom and tradition' have fundamental importance. Literally, 'custom' refers to the identity that becomes so popular in a society that it becomes a part of the life of the people there.

There is no society in human history that does not have customs and traditions. There were many customs and traditions during the time of the Prophet (PBUH). He corrected these customs in the light of divine revelation and maintained such customs and traditions that were in accordance with humanity and morality. This methodology of the Prophet (PBUH) is a permanent beacon of light for ijtihād and law-making.

The article under review has conducted a scientific and research-based examination of the fact that what are the definition, types and conditions of 'Urf' and how the way of acting in accordance with common custom in the era of the Prophet (PBUH) can be helpful in solving the complex problems of the modern era. The main objective of this study is to clarify to what extent Islamic law accepts custom and tradition and what are the limits and restrictions beyond which a custom loses its legal status.

- **Research Methodology & Key Questions:**

The article has adopted a primarily descriptive and analytical method. First, the literal and terminological definition of customs and its types has been presented in a "descriptive" manner

in the light of authentic sources, after which these types have been deeply "analyzed" in the context of the biography of the Holy Prophet (peace and blessings of Allah be upon him) and the principles of jurisprudence.

The social background of the era of the Prophet (peace and blessings of Allah be upon him) and the customs of the pre-Islamic period have been studied historically in order to find out on what basis the social structure was established before Islam. Furthermore, a comparative analysis of ancient jurisprudential opinions with modern problems of the present era has been presented in order to create a scientific link between the "ancient" and the "modern".

The main questions of this research study are as follows:

- What are the types of customs and traditions that are used as the primary source in Islamic legislation?
- What method did the Prophet Muhammad (peace be upon him) adopt to reform the customs of the pre-Islamic period?
- What conditions have the jurists considered necessary for declaring a custom to be a "valid custom"?
- Do modern-day global customs fall within the scope of "common custom" of Islamic Sharia?

- **Definition and types of custom:**

The word "عرف" (custom) means to recognize and know. Custom refers to a word or action that becomes widespread in a society in such a way that the society adopts it and it becomes a part of their lives. It has the following types. Custom is divided into the following types from different aspects:

Oral custom: A word or phrase that becomes so famous in a particular meaning that the same meaning comes to mind as soon as it is spoken. (For example: the word 'ولد' is used only for a son, although the dictionary also includes a daughter).

Practical custom: Making an act of people a habit that is not frowned upon. (For example: When buying something from the market, paying money without verbally accepting it).

General custom: A custom that is prevalent in all Islamic cities and countries.¹

Special custom: A custom that is limited to a particular city, profession or group. (For example: terminology of a particular trade)².

Accurate custom: A custom that is not based on any text of Sharia (Quran and Sunnah). (For example: the prevailing methods of paying dowry or dowry).

Irregular custom: A custom that is contrary to any ruling of the Sharia. (For example: the custom of interest or un-Islamic rituals). This custom is not valid according to the Sharia.³

- **Status of Customs in the Era of the Prophet (PBUH):**

At the time of the Prophet's (PBUH), there were many customs in Arab society. He (PBUH) dealt with them in three ways:

1. Upholding (Taqrir): Those customs that were in accordance with humanity and morality were maintained. For example: hospitality, the method of paying blood money (dyt), and "Mudharibat" (partnership) in trade.

2. Reforming (Tahazib): Some customs had flaws, and he (peace be upon him) reformed them. For example: the methods of marriage were changed and women's share in inheritance was determined.

3. Abolishing (Abtal): Those customs that were based on oppression, polytheism, or immorality were eradicated. For example: burying daughters alive, usury, and the methods of war of the ignorance, etc.

There are some examples of customs from Qur'an and Hadith.

خُذِ الْعَفْوَ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ⁴

You should forgive, order “Urf” (good manners) and turn away from the ignorant.

According to the commentators, the meaning of 'Urf' here; is those good deeds that are well-known and prevalent among people.

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ⁵

And live with them (women) in well-mannered (according to good customs or traditions).

According to the commentators, it has been ordered to take into account the customs and traditions of each era in the fulfillment of conjugal rights.

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ⁶

And whoever has child, it is obligatory upon him to provide them (women) with food and clothing according to ‘urf’ (custom).

وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ-وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ⁷

And whoever is rich, let him refrain (from eating the orphan's wealth), and whoever is poor, let him eat (from the orphan's wealth) according to “Urf” (custom).

وَالْمُطَلَّاتِ مَتَاعٌ بِالْمَعْرُوفِ-حَقًّا عَلَى الْمُتَّقِينَ (241)⁸

And it is obligatory for the pious to provide some expenses for divorced women according to “Urf” (custom).

عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، أَنَّ هِنْدًا، قَالَتْ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِنَّ أَبَا سُفْيَانَ رَجُلٌ شَحِيحٌ فَأَخْتَنَاجُ أَنْ أَخَذَ مِنْ مَالِهِ، قَالَ: "خُذِي مَا يَكْفِيكَ وَوَلَدَكَ بِالْمَعْرُوفِ"⁹

It was narrated from Hazrat Aisha (RA) that Hind said to the Prophet (PBUH), “(Her husband) Abu Sufyan is stingy and I need to take from his wealth.” The Prophet (PBUH) said, “Take according to “Urf” (custom) what is sufficient for you and your children”.

فَمَا رَأَى الْمُسْلِمُونَ حَسَنًا، فَهُوَ عِنْدَ اللَّهِ حَسَنٌ، وَمَا رَأَوْا سَيِّئًا، فَهُوَ عِنْدَ اللَّهِ سَيِّئٌ"¹⁰

Whatever Muslims consider good (as a urf or custom) is also good in the sight of Allah, and whatever they consider bad is also bad in the sight of Allah.

● Conditions for Accepting Custom and Tradition:

The jurists (such as Allama Ibn Abidin Shami) have stated the following conditions for giving legal status to a custom:

1. It should not be against the Sharia (non-contradiction of the text)

The most basic condition is that the custom should not conflict with any clear ruling (text) of the Quran and Sunnah. If a custom declares a forbidden act as lawful (such as interest or gambling), then it will be called a "corrupt custom" and will be rejected.¹¹

2. That custom should be so prevalent in society that the majority adopts it. If only a few people have a particular way, then it will not be considered a legal "custom".

3. The custom on which the matter is to be decided must have existed before the occurrence of the matter. Newly created customs do not affect old contracts.

4. If there is a written agreement between two parties, then the words of the agreement will be preferred over the custom. The custom comes into play where there is silence or lack of clarity.¹²

- **Modern Issues and Customs:**

“Custom” is a source of ijthihad that helps in the Shariah solution of modern issues. Many examples of it are given below.

1. Economic and Commercial Issues and Customs:

- E-Commerce and Digital Transactions: The customary application of “Bee’-e-Ta’ati” (dealing without speaking) when purchasing on the Internet.
- Cryptocurrency (Digital Assets): Solving problems related to cryptocurrency.
- Service Charges and Online Taxes: Their Status in the Light of Commercial Customs of Different Countries.

2. Modern Social and Family Issues:

- Social Media Etiquette: The Emerging New “Global Customs” Regarding Privacy, Data Sharing and Digital Ownership.
- New Marriage Rituals: Local Customs and Shariah Limitations in the Payment of Dowry, Mahr-e-Mu’ajal and Mu’ajal.
- Medical Ethics: The role of society's "common sense" in matters such as organ donation or test tube babies.

3. International Relations and Diplomatic Customs:

- International Treaties: Viewing the UN Charter and international law in the context of "common sense".
- Diplomatic Immunity: An analysis of customary dealings with delegations in the light of the Prophet Muhammad's (PBUH) biography.

- **Executive Summary:**

The article under consideration comprehensively covers the Shariah status of "custom and custom" and its scientific and practical application in the modern era. The result of this scientific effort can be presented in the form of the following five key topics:

1. Custom: The balance between stagnation and mobility

The first important point of the research is that "custom" is not just a social habit, but a dynamic source of Islamic jurisprudence that serves as a means of keeping the Sharia in line with the changing conditions of each era. The article makes it clear that the Shariah did not reject human customs altogether, but rather accepted them under the "principles of permissibility" and maintained social continuity.

2. The Prophet's (peace be upon him) Style: A Revolutionary Model of Social Civilization

The most effective aspect of the article is the three principles derived from the biography of the Prophet (peace be upon him) through which he (peace be upon him) purified Arab society. Research proves that the Prophet Muhammad (peace be upon him) passed customs through a three-point filter of "speech, civilization and abrogation". This model still provides a clear roadmap for the Muslim Ummah to maintain its cultural identity in the face of the onslaught of global culture.

3. The line of distinction between authentic customs and corrupt customs

An important aspect of the discussion is the determination of the conditions that give legal status to a custom. The paper establishes the fact that any custom, no matter how ancient or common, if it conflicts with the "Islamic text" (the Quran and Sunnah), then it is a "corrupt custom" and is rejected. This discussion provides a solid scientific basis for rejecting these non-Islamic customs of the present day that have become part of society under the guise of religion.

4. Modern Issues and Customary Flexibility

The most recent part of the research clarifies the role of custom in complex contemporary issues (e.g. digital economy, e-commerce and social media ethics). The paper proposes that modern

jurisprudential ijtihad is indispensable to examine “global custom” in the modern era, so that Muslim society does not remain cut off from the development of the modern world.

5. Conclusion

The essence of the discussion is that “custom” are the waves in the vast ocean of Sharia that change with time, but do not separate from their original (text). If we take the principles set by the Seerat-e-Tayyaba (peace be upon him) as a guiding light, then through custom and tradition, the most difficult jurisprudential issues of the present era can be resolved in a way that is consistent with both the mood of Sharia and the demands of the time.

- **Research Findings:**

The following important points have emerged from this research study, which illustrate the importance of "Urf" at both the academic and practical levels:

1. The Legislative Status of Urf: The research has proven that Urf is not just a social necessity but an auxiliary source of Islamic jurisprudence. The jurisprudential rule "al-Adah Muhkamah" (custom or custom has a decisive status) argues that where the text is silent, Urf can be made a legal basis.

2. The eternal style of the Prophet's biography: The findings show that the way the Messenger of Allah (ﷺ) dealt with the customs of the past is a "purification formula" for the time being. He (ﷺ) proved that Islam is not only a "revolutionary" religion, but also a "reform" religion, which protects the positive values of society.

3. The balance of custom and text: An important conclusion of the research is that the acceptance of custom is subject to the supremacy of the "text" (Quran and Sunnah). If a custom conflicts with the definitive text, it loses its Sharia status. Therefore, social popularity cannot provide Sharia justification for an un-Shariah act.

4. Scope for the present era: The paper concludes that the new interactions of the digital age (e.g. e-commerce, virtual property, and global diplomatic etiquette) can be seen in the context of "common custom". This is a clear proof of the flexibility and scope of Sharia that it has the yardstick to judge the modern customs of every era.

5. The need for Ijtihad: The research makes it clear that modern Ijtihad is indispensable in the present era to prevent the dominance of "corrupt custom" (such as the practice of usury transactions or un-Islamic rituals). Only those customs can guarantee the welfare of society that meet the moral standards of the Prophet Muhammad (peace be upon him).

The conclusion is that custom is that beautiful aspect of Islamic law that keeps it "alive and immortal" in every era. The study of custom in the light of the Prophet Muhammad (peace be upon him) teaches us how to strike a balance between adherence to ancient traditions and harmony with modern requirements.

- **Recommendations:**

In light of this research study, the following practical steps are recommended:

1. Inclusion in the curriculum

The chapter on “Customs and Traditions and the Biography of the Prophet (ﷺ)” under “Principles of Jurisprudence” should be further expanded in the curricula of universities and madrassas. Students should be taught how the biography of the Prophet (ﷺ) reformed the customs of the pre-Islamic era, so that they can prepare a scholarly case against the un-Islamic customs of the present era.

2. Understanding of Customs in Fatwa-Making

Darul Ifta and religious institutions should give special importance to local conditions and “special customs” while issuing fatwas. Workshops should be organized to keep muftis

informed of changing economic and social customs so that the expansion of Sharia is reflected in fatwas instead of stagnation.

3. Role of the media

A campaign should be launched through the media and social media against the "evil customs" prevalent in society (such as frivolous wedding rituals, ignorant methods of warfare or economic exploitation). The public should be made aware that only those customs are worthy of pride that are molded in the mold of the ethics of the Prophet (peace and blessings of Allah be upon him).

4. Legal reforms

The legislative bodies of Muslim countries should take into account the "right customs" of the country while enacting laws that are directly related to public life. This will not only increase the acceptance of laws but also create social harmony.

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