



The Authoritative Status and Contemporary Relevance of 'Urf and 'Ādah: A Research and Analytical Study

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Abstract

This research explores the authoritative status and contemporary relevance of 'urf (custom) and 'ādah (habitual practice) in Islamic jurisprudence. 'Urf and 'ādah are principles in Islamic legal theory that refer to actions and behaviors commonly practiced by people, provided that they do not contradict explicit Sharī'ah rulings. These customs play a significant role in shaping legal decisions and interpretations, especially in areas where Sharī'ah provides general guidelines, allowing for flexibility and adaptability to local cultures. The study investigates the historical and classical foundations of 'urf and 'ādah, highlighting their recognition by early Islamic scholars and jurists. It also examines how these concepts have been applied in different Islamic schools of thought and the conditions under which they are deemed valid sources of law. Furthermore, the research emphasizes the importance of these principles in modern legal contexts, where dynamic social, economic, and political changes require jurisprudential flexibility. A critical analysis is provided of the interaction between 'urf and Sharī'ah, focusing on the balance between adherence to divine principles and accommodation of cultural practices. The study also addresses contemporary debates concerning the relevance of 'urf in modern Muslim societies and the challenges it faces in maintaining its legitimacy in a rapidly globalizing world. Ultimately, this research underscores the enduring value of 'urf and 'ādah in fostering legal adaptability while preserving the ethical foundations of Islamic law.

Keywords:

Urf, 'Ādah, Islamic Jurisprudence, Sharī'ah, Legal Interpretation.

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1. Introduction

Law, in essence, provides proper guidance for human life. Since human beings are inherently prone to injustice and ignorance, Islamic Shari‘ah does not entrust them with the unrestricted responsibility of formulating law independently. From the Islamic perspective, the ultimate source of legislation is Allah Almighty. The Qur’an states:

“Indeed, judgment belongs to Him.”

The Qur’an further declares:

“Behold, to Him belong creation and command.”

Sound reason and pure human nature likewise require recognition of Allah as the Creator of the universe. He is fully aware of human needs, harms, and interests. Therefore, in matters concerning the realities of human life, His guidance is perfect and His direction leads to the straight path. By the command of the Creator of the universe, the Prophets and Messengers were also granted the authority to convey and establish normative guidance, and their teachings and directives possess legal significance.

Another important source considered in Islamic legal reasoning is the practice of the general public. When people commonly engage in a particular practice and respected members of society do not regard it as objectionable, such practice may be considered acceptable. Conversely, what people generally regard as reprehensible is commonly considered unacceptable. This is referred to as ‘urf (custom).

When a practice becomes established through social interaction and customary usage, disregarding it may cause collective hardship. Although such practices can be regulated and restricted, they cannot necessarily be dismissed altogether as legally irrelevant. The spirit of Islamic Shari‘ah is to protect human beings from undue hardship and difficulty. Allah Almighty states:

“He has not placed upon you any hardship in religion.”

For the purpose of protecting people from hardship, Islamic law has therefore attached considerable importance to ‘urf and ‘ādah. This article examines the authoritative status and contemporary relevance of ‘urf and ‘ādah, discussing their meanings, need and significance, evidentiary status, and relevance in the contemporary context.

2. The Concept of ‘Urf and ‘Ādah

Lexically, ‘urf may denote generosity, goodness, an elevated place, and recognition or knowledge. The term ‘ādah derives from ‘awd, meaning “to return” or “to recur”; therefore, an action repeatedly performed becomes known as ‘ādah. Technically, ‘urf refers to a statement or action that sound human dispositions accept and become accustomed to.

‘Abd al-Wahhāb Khallāf defines it as follows:

“‘Urf is that which people recognize and follow in the form of a statement, action, or omission.”

Thus, a matter concerning an action or omission that becomes generally accepted among people is regarded as ‘urf. Ibn Nujaym defines ‘ādah in the following terms:

“‘Ādah is that which becomes established within people through recurring matters that are accepted by sound dispositions.”

The contemporary scholar Shaykh Muṣṭafā al-Zarqā explains ‘ādah as a matter that repeatedly occurs without being based upon a rational connection. These definitions indicate a distinction between the concepts of ‘urf and ‘ādah, although there is no substantial difference between them in terms of their practical referent. When a repeatedly occurring, practice becomes established as a social custom and is accepted by sound dispositions, it becomes ‘urf. Ibn ‘Ābidīn therefore states:

“‘Ādah and ‘urf are identical with respect to their practical referent, although they differ conceptually.”

It follows that ‘ādah may eventually attain the status of ‘urf. This is why works of Islamic jurisprudence frequently discuss ‘urf and ‘ādah together or treat one under the heading of the other.

3. Types of ‘Urf

3.1 Verbal ‘Urf (‘Urf Qawlī / Lafzī)

‘Urf is initially divided into two categories: verbal ‘urf and practical ‘urf. Verbal ‘urf concerns the application and use of words and the attribution of meanings other than their strictly literal or lexical meanings. It is therefore also called linguistic or verbal custom. Muṣṭafā al-Zarqā writes:

“Verbal ‘urf is the widespread use among people of certain words or expressions in a particular meaning, such that this meaning becomes the immediately understood meaning in their minds when the word is used without any contextual indication or rational connection.”

Thus, when a word becomes conventionally established with a particular meaning, this constitutes verbal ‘urf. For example, the word walad, according to its lexical and Qur’anic usage, may refer to both male and female offspring; however, in customary usage it may refer specifically to male offspring. Similarly, although the Qur’an uses the term laḥm (meat) in relation to fish, customary usage does not ordinarily classify fish under the term “meat.” Legal rulings may therefore be formulated with consideration of such verbal custom.

3.2 Practical 'Urf ('Urf 'Amalī)

Practical 'urf relates to the interactions and customary practices of people. In other words, the manner in which people generally act in a particular matter constitutes practical 'urf. Muṣṭafā al-Zarqā writes:

“Practical 'urf is the habitual practice of people concerning ordinary actions or civil transactions.”

Accordingly, the prevailing practice of the majority in a particular matter constitutes practical 'urf. The permissibility of bay' al-ta'āfī (concluding a sale through mutual exchange without an explicit verbal offer and acceptance), as well as the legitimacy of contracts such as istiṣnā' and salam, may be discussed in this context.

Whether verbal or practical, 'urf is further divided into general and specific forms.

3.3 General 'Urf

General 'urf is a practice that is widely known and commonly followed among people without restriction to a particular region or social group. Muṣṭafā al-Zarqā states:

“General 'urf is that which is widespread throughout different lands among all people concerning a particular matter.”

Thus, universal agreement upon a particular usage of a word constitutes general verbal 'urf, while universal agreement upon a particular custom or mode of conduct constitutes general practical 'urf.

3.4 Specific 'Urf

Specific 'urf is a practice prevalent among the people of a particular region or among a particular social or professional group. Muṣṭafā al-Zarqā explains:

“Specific 'urf is that which is confined to one town or place rather than another, or to one group of people rather than another.”

There are numerous examples of this category. If people in a particular locality use a word to mean something specific while people elsewhere do not understand it in that sense, it constitutes specific verbal 'urf. Similarly, the particular practices of people in a given locality constitute specific practical 'urf.

3.5 Valid 'Urf ('Urf Ṣaḥīḥ)

With respect to validity and invalidity, 'urf is divided into valid and invalid custom. Valid 'urf is a custom that does not contradict a revealed legal text and does not result in making a prohibited matter lawful or nullifying an obligatory ruling. 'Abd al-Wahhāb Khallāf states:

“Valid 'urf is that which people commonly practice, does not contradict a Sharī'ah proof, does not make a prohibited matter lawful, and does not invalidate an obligation.”

It should be noted that if a customary practice appears to conflict with a particular legal text but its validity or permissibility is established explicitly or implicitly by another legal text, it may still be regarded as valid and legally recognized. The contracts of istiṣnāʿ and salam provide examples: although they may appear to conflict with texts prohibiting the sale of something not yet in existence, their permissibility is established through other legal evidence; therefore, they are treated as valid practices.

3.6 Invalid ʿUrf (ʿUrf Fāsid)

A custom that conflicts with a legal text and for which no explicit or implicit authorization can be established through another legal text is considered invalid and legally unrecognized. Khallāf states:

“Invalid ʿurf is that which people commonly practice but which contradicts the Sharīʿah, makes a prohibited matter lawful, or nullifies an obligation.”

Interest-based commercial practices and the collective normalization of prohibited practices fall within this category.

4. Legislative and Evidentiary Status of ʿUrf

As noted above, the spirit of Islamic Sharīʿah emphasizes ease and the avoidance of unnecessary hardship for people. Since ʿurf represents the established practices and modes of conduct of the majority, completely disregarding it may result in hardship. Several Qurʾanic verses and Prophetic traditions are relevant to the recognition of custom.

“Adopt forgiveness, enjoin what is customary and good, and turn away from the ignorant.”

Since technical terminology generally retains some relationship with its lexical meaning, and one of the lexical meanings of ʿurf is something agreeable or recognized as good, this verse may be considered indicative of the recognition of ʿurf in its technical sense.

“And whoever is poor may consume from it according to what is customary and reasonable.”

This indicates that the guardian of an orphan’s property may take reasonable compensation for his service. The expression al-maʿrūf indicates an amount consistent with what is customary and generally accepted.

It is narrated from ʿĀʾishah (may Allah be pleased with her) that Hind bint ʿUtbah, the wife of Abū Sufyān, complained to the Prophet (peace and blessings be upon him) that Abū Sufyān did not provide sufficient maintenance for her and her children, and she therefore took from his property without his knowledge. The Prophet (peace and blessings be upon him) said:

“Take what is sufficient for you and your children according to what is customary and reasonable.”

Thus, without the husband’s knowledge, a wife may take from his property an amount that is customarily regarded as sufficient for herself and her children.

‘Abd Allāh ibn Mas‘ūd (may Allah be pleased with him) is reported to have said: “What the Muslims regard as good is good in the sight of Allah.” Although this statement is not established as a marfū‘ report in terms of its chain of transmission, it is treated by some scholars as having the force of a marfū‘ statement in meaning. It indicates the recognized significance of the customary practices of Muslims.

The Prophet (peace and blessings be upon him) also retained many practices that were prevalent in pre-Islamic society, either in their existing form or with partial modification. These included agricultural practices such as muzāra‘ah and musāqāh and considerations of kafa‘ah (compatibility) in marriage. The continuation of such practices, with the relevant legal modifications, demonstrates the significance of established custom. In this sense, customary practice may also be considered among the matters affirmed by Prophetic approval. Furthermore, the agreement of jurists and independent legal scholars supports the recognition of ‘urf. Imām al-Bukhārī included a chapter concerning applying established practices across regions. In explaining the principle, Badr al-Dīn al-‘Aynī states:

“This is because referring to custom is among the established principles of Islamic jurisprudence.”

Jurists have likewise based numerous legal maxims upon ‘urf, including:

“That which is established by custom is like that which is established by a legal text.”

“That which is established by custom is established through a Sharī‘ah-based legal proof.”

“Custom is authoritative.”

The inclusion of these maxims in the writings of jurists and their use as foundations for legal rulings demonstrates the recognized role of ‘urf in Islamic jurisprudence. Nevertheless, the legal recognition of custom is subject to certain conditions.

5. Conditions for the Validity of ‘Urf

1. The custom must be contemporaneous: it must exist and be prevalent at the time when the legal ruling is determined.

2. The custom must not explicitly contradict a legal text. If it appears to conflict with one text but its permissibility is established explicitly or implicitly through another text, it may remain valid. If no such authorization exists, it cannot be legally recognized.

3. The custom must not result in the suspension or nullification of an established Sharī‘ah ruling. A custom that entails making a prohibited matter lawful or nullifying an obligation is therefore invalid.

4. The custom must be general or predominant. For a practice to qualify as legally relevant ‘urf, it should be followed by all or at least a substantial majority of the relevant people. The agreement of only a few individuals does not establish a custom in the technical legal sense.

6. Contemporary Relevance and Role of ‘Urf

The practice of taking ‘urf into consideration can be observed in every period and society from the time of the Prophet (peace and blessings be upon him) to the present. Regardless of debates concerning the precise manner in which custom may affect or qualify the application of Qur’anic and Prophetic texts, there is broad recognition in Islamic jurisprudence of the fundamental relevance and evidentiary value of ‘urf and ‘ādah. From the classical period to the present, works of fiqh contain numerous legal principles and maxims based upon custom, including:

“That which is established by custom is like that which is established by a legal text.”

“That which is customary is like a condition expressly stipulated.”

“Custom is authoritative.”

Fakhr al-Dīn al-Zayla‘ī writes:

“Legal principles may, in some circumstances, be set aside on account of established customary practice.”

These maxims demonstrate both the relevance and legal significance of ‘urf. Their implication is not that revealed texts cease to apply; rather, where a ruling is dependent upon custom, the practical implication of that ruling may change when the relevant custom changes. Custom itself is not static, because changes in time and place may produce changes in social practice. Consequently, legal rulings founded upon custom may change when the underlying custom changes.

‘Abd al-Wahhāb Khallāf explains this principle as follows:

“Rulings based upon custom change when the custom changes in time and place, because a derivative ruling changes when its foundation changes. For this reason, jurists describe such differences as differences of period and time, rather than differences of evidence and proof.”

Thus, custom is recognized in Islamic law, but changes in custom may affect rulings that are based upon it. The following examples illustrate rulings formulated with consideration of custom.

6.1 Example One

If two claimants dispute a matter and neither possesses witnesses, the statement of the party whose claim accords with the prevailing custom may be given consideration. This demonstrates that custom may function as an evidentiary basis when no other evidence is available.

6.2 Example Two

If a husband and wife dispute the immediate or deferred payment of the bridal dower and neither has witnesses, the custom of the relevant region or community may determine the matter. Here, too, the judgment may be based upon established custom.

6.3 Example Three

If a person swears an oath not to eat meat, eating fish would not necessarily constitute a violation of the oath. Although the Qur’an uses the term *lahm* in relation to fish, customary usage does not ordinarily classify fish as “meat.” Therefore, custom becomes relevant in interpreting the oath.

Similarly, Imām al-Shāfi‘ī adopted a position while residing in Baghdad and later adopted different positions concerning certain matters after moving to Egypt, owing in part to differences in the customs of Baghdad and Egypt. This is among the factors associated with the distinction between his earlier and later legal positions. It demonstrates how custom may influence jurisprudential rulings across different times and places.

7. Examples of Invalid ‘Urf in the Contemporary Context

Among contemporary examples of invalid custom are widespread practices involving prohibited acts and violations of Shari‘ah. The extensive presence of interest-based transactions in modern economic life is evident. Not only are interest-based commercial dealings widespread, but arguments are sometimes advanced in their justification. From the perspective of the source article, such practices conflict explicitly with the teachings of Allah and His Messenger. Likewise, the contemporary forms of mixed-gender education, issues concerning women’s dress and proper covering, and certain prevalent wedding customs—particularly the current forms of the *barāt* procession, *mehndī* ceremonies, and dowry—are presented as examples of invalid custom. Although some of these practices may be permissible under specific conditions and within defined limits, their contemporary forms may, in the circumstances described by the study, be classified as invalid custom.

8. Examples of Valid ‘Urf in the Contemporary Context

Alongside invalid customs, numerous examples of valid custom can also be found in the contemporary context. Examples exist in both acts of worship and commercial transactions. Abū Sa‘īd al-Khudrī (may Allah be pleased with him) reports that the Prophet (peace and blessings be upon him) said:

“Delay the Zuḥr prayer until it becomes cooler, for the intensity of heat is from the heat of Hell.”

This ḥadīth indicates the recommendation of delaying the Zuḥr prayer during periods of intense summer heat, whereas in winter it may be performed earlier. In many cities, however, a relatively fixed Zuḥr schedule is maintained throughout the year for the convenience of employees and businesspeople. The article presents this as an example of a beneficial contemporary custom.

Similarly, installment-based buying and selling has become widespread and provides considerable convenience. Another example concerns the purchase of electronic appliances such as refrigerators and air conditioners, where the purchaser commonly requires the seller to install the product at the purchaser’s home. Although such an installation condition may not arise directly from the basic requirements of the contract, its widespread customary acceptance can render the condition legally recognized. Numerous other examples of beneficial custom likewise demonstrate the contemporary significance and relevance of ‘urf.

9. Conclusion and Findings

The discussion above leads to the following conclusions:

- A repeatedly occurring practice becomes a recognized custom when it is accepted by sound human dispositions.
- If custom relates to verbal usage, it is verbal ‘urf; if it relates to conduct, it is practical ‘urf. Each may be general or specific depending upon the extent of its prevalence. A custom recognized by Sharī‘ah is valid when it does not conflict with a Sharī‘ah text or principle, when no legal evidence establishes its prohibition, and when it does not entail alteration or nullification of an established legal ruling. Otherwise, it is invalid and legally unrecognized.
- Several Qur’anic and Prophetic texts indicate the recognition of customary practice, and the juristic tradition contains numerous legal maxims based upon ‘urf.

- ‘Urf has remained relevant in every period and society. However, rulings based upon custom may change when the underlying custom changes.
- Both valid and invalid customs exist in the contemporary period. Invalid customs should be avoided, while valid customs may be recognized and followed within the limits established by Islamic law.

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