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Religion and Cultural Transformation in the Arab World: An Analytical Study from an Islamic Perspective

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Abstract

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The concept of dīn in the Arab region occupies a pivotal position in Islamic thought, reflecting a dynamic interaction between religious principles and local customs, traditions, and culture (‘urf). This study delves into the evolution of religious concepts in the Arab world, emphasizing their nuanced relationship with regional customs and practices within the framework of Islamic legal traditions. Grounded in its universal and natural outlook, Islamic jurisprudence has historically demonstrated an exceptional capacity to accommodate the diversity of cultural practices across different times and regions while ensuring their alignment with core religious principles. This paper presents an analysis of how historical and contemporary transformations—such as modernization, globalization, urbanization, and the unprecedented rise of digital communication—have reshaped the role of religion in society and its interaction with cultural norms. Special attention is given to the dual trends of secularization and re-Islamization, which have emerged as significant forces influencing societal cohesion, political stability, and the cultural fabric of the Arab region. Moreover, the study explores the mechanisms through which Islamic legal traditions adapt to evolving societal norms, emphasizing their capacity to maintain religious relevance while fostering inclusivity and adaptability. The findings underscore the potential of harmonizing

traditional Islamic principles with modern realities, ensuring a balanced approach to contemporary challenges and preserving the region's unique cultural and religious identity.

Introduction:

Religion (dīn) is a comprehensive and encompassing term. Its meaning includes a way of life, conduct, obedience, behaviour, dealings, and accountability. Whether it refers to a person's interaction with another human being or the relationship between the Creator and His creation, all such dimensions fall under the concept of dīn. In Sahih Bukhari, dīn is defined as follows:

"الدِّينُ: الْجَزَاءُ فِي الْخَيْرِ وَالشَّرِّ."¹

"Religion is the name of recompense for good and evil." The Holy Qur'an uses the term dīn when referring to the mission of the Prophet Muhammad (PBUH):

"He it is Who has sent His Messenger with guidance and the (dīn) religion of truth."²

Thus, dīn refers to a system that is complete and perfect in every respect, encompassing all aspects of life—from the individual to the global level. It must provide effective and practical guidance in every sphere of human activity, remaining relevant and applicable across all domains of life.

The Importance of Customs, Traditions and Culture: A Social and Religious Perspective. In any society, habits that are consistently adopted acquire a sanctity due to their continued presence. The result is that customs and traditions are not criticized after they are adopted by the majority of the people, but rather the adoption of ancient traditions is considered a preferred practice. The result of this behaviour is that people do not consider deviation from the ancient traditions of the society as good and even adopt such traditions vigorously due to which the majority suffers. As a result of this blind imitation, such traditions are considered above criticism, and even if these traditions conflict with religious beliefs, some people prefer traditions.³

From the time of the Prophet ﷺ to the present age, jurists and legal experts have taken into account the customs and traditions of societies while formulating laws and principles. Because the importance of customs and traditions has always been important in different societies and tribes. Islam has also given importance to such traditions found in societies that do not deprive the rights of any individual or group, in this regard, the Prophet ﷺ has said.

يَبْسُرُوا وَلَا تُعْسِرُوا، وَيَبْسُرُوا، وَلَا تُعْسِرُوا.⁴

"Facilitate and do not make things difficult; give glad tidings and do not repel others".

Therefore traditions of any society, once adopted permanently, transform into collective values, which is why Islamic law has paid special attention to them. And these traditions and values have been recognized in the context of the formation of social norms and the promotion of harmony among different groups.

Shah Waliullah (RA) articulates this principle as follows:

"وَمَا كَانَ مِنْ بَابِ الْعَادَاتِ وَغَيْرِهَا، فَيَبِّينُ آدَائِهَا وَمَكْرُوهَاتِهَا مِمَّا يَخْتَرُ بِهِ عَنْ غَوَائِلِ الرِّسْمِ، وَنَهَى عَنِ الرِّسْمِ الْقَاسِدَةِ، وَأَمَرَ بِالصَّالِحَةِ، وَمَا كَانَ مِنْ مَسْأَلَةٍ أَصْلَبَةٍ أَوْ عَمَلِيَّةٍ تَرَكْتُ فِي الْفِتْرَةِ أَعَادَهَا غَضَّةً طَرِيَةً كَمَا كَانَتْ، فَتَمَّتْ بِذَلِكَ نِعْمَةُ اللَّهِ، وَاسْتِقَامَ دِينُهُ."⁵

"Matters related to customs and traditions were addressed by elucidating their proper etiquette and pointing out their undesirable aspects to safeguard against the pitfalls of harmful practices. Harmful traditions were forbidden, while beneficial ones were encouraged. Moreover, those creeds and practices that had been abandoned during the suspension of revelation (fatrah wahi) were revived in their original form, thus completing the blessings of Allah upon humanity and establishing His religion."

In Islamic teachings, it is imperative for judges, muftis, and even mujtahids to be well-versed in local customs and traditions. As Imam Ibn Nujaym (RA) states:

وَاعْلَمُوا أَنَّ اغْتِبَارَ الْعَادَةِ وَالْعُرْفِ يُرْجَعُ إِلَيْهِ فِي الْفِقْهِ فِي مَسَائِلَ كَثِيرَةٍ حَتَّى جَعَلُوا ذَلِكَ أَصْلًا.⁶
 "Be aware that customs and traditions hold significant importance and are frequently referred to in jurisprudential matters to the extent that scholars have considered them a foundational principle."

In numerous instances, legal opinions (fatwas) are issued in accordance with the prevalent customs of the time. Therefore, when earlier jurists recorded multiple opinions on a given issue without specifying a preferred one, it is suggested that, just as they relied on the customs of their era, contemporary scholars should base their rulings on the customs of their time. This principle is mentioned in Sharh Uqood Rasam al-Mufta:

"The rulings have changed with the changing times—either due to necessity, customs, or circumstantial evidence."⁷

In summary, every aspect of human life is intrinsically bound to customs and traditions, which cannot be ignored. People are often ready to endure even the most difficult tasks if they align with tradition. Conversely, actions, no matter how simple, that go against customary practices require extraordinary effort and perseverance.

The Influence of Customs and Traditions in Deriving Religious Rulings: Insights from the Prophetic Era and the Period of the Companions

The significance of customs and traditions can also be understood from the fact that the Prophet Muhammad ﷺ himself retained certain customs and traditions from the Meccan and Medinan societies that did not conflict with the general spirit of Islam. In fact, the Prophet ﷺ upheld several rulings based on the prevalent societal customs of the Arabs, including matters such as buying and selling and the concept of compatibility in marriage (kafa'ah).

During the era of the Companions (Sahabah), the Islamic boundaries had expanded significantly beyond the Arabian Peninsula, bringing Muslims into contact with new regions and diverse customs and traditions. The Sahabah followed the example of the Prophet ﷺ by upholding righteous customs and traditions while abolishing harmful ones. They also reformed amendable traditions to align them with Islamic principles. Many rulings from that era demonstrate how the Prophet ﷺ and the Sahabah deduced solutions to issues based on customs and traditions. Below are some notable examples:

Hind bint Utbah, the wife of Abu Sufyan, came to the Prophet ﷺ and complained, "O Messenger of Allah, Abu Sufyan is a miserly man. He does not provide for me and my children adequately. Can I take from his wealth without his knowledge?" The Prophet ﷺ replied:

"Take what is sufficient for you and your children according to what is customary (bil-ma'roof)." ⁸

In explaining this hadith, Imam Ibn Hajar states that the Prophet ﷺ allowed Hind to take what was needed for maintenance, basing it on customary norms without specifying a fixed amount. Ibn Taymiyyah also comments on this hadith, stating:

"فَأَمَرَهَا أَنْ تَأْخُذَ الْكِفَايَةَ بِالْمَعْرُوفِ وَلَمْ يُقَدِّرْ لَهَا نَوْعًا وَلَا قَدْرًا" ⁹

"The Prophet ﷺ commanded her to take what was sufficient for her needs according to custom, without defining a specific type or amount."

Provisions Based on Social Status

Imam Ibn Qudamah (d. 620 AH) elaborates that every individual is obligated to provide for their family according to the customs and norms of their community. A wealthy person is required to spend generously, while a person of modest means is expected to spend moderately. A poor person should provide for their family based on necessity. Ibn Qudamah concludes:

"وَالصَّحِيحُ مَا ذَكَرْنَاهُ، مِنْ رَدِّ النَّقْصَةِ الْمُطْلَقَةِ فِي الشَّرْعِ إِلَى الْعُرْفِ فِيمَا بَيْنَ النَّاسِ فِي نَقْصَاتِهِمْ، فِي حَقِّ الْمَوْسِرِ وَالْمُعْسِرِ وَالْمَتَوَسِّطِ"¹⁰

"The correct approach is to refer to customary practices in society when determining financial obligations for the affluent, the financially constrained, and those in between."

The Permissibility of Bai' Salam (Forward Sale)

A Salam sale, wherein the price is paid upfront and the sold item (mubi') is delivered later, does not align with the conventional rules of sale and purchase. This is because it falls under the category of "بيع ما ليس" "بيع ما ليس عندك" "Bai' Ma Laysa 'Indak"—selling something that is not in the seller's possession at the time of the contract. However, the permissibility of Salam in Islamic law is derived exclusively from custom and its acceptance as a recognized transaction among people. The Quran states:

"يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوهُ"¹¹
 "O you who have believed, when you contract a debt for a specified term, write it down." (Surah Al-Baqarah, 2:282)

In this verse, the phrase "when you contract a debt" has been interpreted to refer to Salam, as narrated from Abdullah ibn Abbas (RA).¹² Similarly, Imam Tabari in his Jami' al-Bayan also considers this verse to refer to the practice of Salam.¹³

The following incident about the permissibility of Salam is mentioned by Badr al-Din Ayni in Al-Binayah:

"أنه عليه السلام: نهى عن بيع ما ليس عند الإنسان ورخص في السلم."¹⁴
 "The Prophet (peace be upon him) forbade the sale of what a person does not possess but permitted Salam."

In the Sahihayn (Bukhari and Muslim), Ibn Abbas (RA) narrated:
 قَدِمَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْمَدِينَةَ وَالنَّاسُ يُسَلِّفُونَ فِي التَّمْرِ الْعَامَ وَالْعَامَيْنِ أَوْ قَالَ عَامَيْنِ أَوْ ثَلَاثَةَ شُكَّاتٍ إِسْمَاعِيلُ فَقَالَ مَنْ سَلَفَ فِي تَمْرٍ فَلْيُسَلِّفْ فِي كَيْلٍ مَعْلُومٍ وَوَزْنٍ مَعْلُومٍ.¹⁵
 "When the Messenger of Allah (peace be upon him) arrived in Madinah, people used to contract Salam for fruits for a year or two in advance (or, as the narrator Isma'il said, two or three years). The Prophet (peace be upon him) said: 'Whoever engages in Salam should do so for a specified measure and weight in specified terms.'

This method of transaction differed from the trade customs of Makkah. However, after the Prophet's migration to Madinah, he did not apply the customs of Makkah as the standard but rather validated the practices of the people of Madinah. This demonstrates that in matters of trade, measurement, and commercial dealings, the customs of each region are to be considered and respected.

It is also worth noting that Imam al-Bukhari included a chapter in his Sahih, titled:

بَابُ مَنْ أَجْرَى أَمْرَ الْأَمْصَارِ عَلَيَّ مَا يَتَعَارَفُونَ بَيْنَهُمْ فِي الْبَيْعِ وَالْإِجَارَةِ وَالْمِكْيَالِ وَالْوِزْنِ، وَسُنَّتِهِمْ عَلَى نِيَّاتِهِمْ وَمَذَاهِبِهِمْ الْمَشْهُورَةِ.¹⁶

“Chapter on Following the Customs of Different Towns in Sales, Rentals, Measurements, and Weights, Based on Their Intentions and Recognized Practices.”

In this chapter, he compiled several narrations and incidents to establish that during the time of the Prophet (peace be upon him) and the Companions (may Allah be pleased with them), customs played a significant role in transactions from a Shari‘ah (Din’s) perspective. Commenting on this, Ibn Hajar states:

"مقصوده بهذه الترجمة إثبات الاعتماد على العرف"¹⁷
 "Imam al-Bukhari's objective with this chapter is to affirm reliance on custom."

Blood money (Diyah) borne by the 'Aqilah' (relatives of the perpetrator).

In the study of the Prophet’s life (Sīrah), one finds numerous examples of rulings and practices being established based on prevailing customs. One such instance is the concept of blood money (Diyah) borne by the 'Aqilah' (relatives of the perpetrator). In ancient societies, when retributive justice for murder (an eye for an eye) could not be achieved, compensation was paid to the victim’s heirs in the form of money or goods. However, this practice was absent in the laws of the Israelites. Islam endorsed the customary practice of Arab societies in this regard.

Hazrat Abbas (RA), while explaining the Quranic verse,

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ.¹⁸

“O you who believe, prescribed for you is legal retribution for those murdered” (Surah Al-Baqarah, 2:178), clarified that forgiveness includes the acceptance of blood money even in cases of intentional murder. The concept of Diyah borne by the 'Aqilah' was prevalent in pre-Islamic Arab society, and the Prophet Muhammad (peace be upon him) upheld this tradition, issuing rulings in accordance with it.

For example, a narration states:

"أَفْتَتَلْتُ امْرَأَتَانِ مِنْ هُدَيْلٍ فَرَمَتْ إِحْدَاهُمَا الْأُخْرَى بِحَجَرٍ فَقَتَلَتْهَا فَاخْتَصَمُوا إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَضَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ دِيَةَ جَنِينِهَا غُرَّةَ عَبْدٍ أَوْ وَلِيدَةٍ وَقَضَى بِدِيَةِ الْمَرْأَةِ عَلَى عَاقِلَيْهَا".

"Two women from the Hudhayl tribe quarreled, and one of them threw a stone at the other, killing her. The matter was brought before the Messenger of Allah (peace be upon him), who ruled that the compensation for the deceased woman’s unborn child was a slave (male or female), and the blood money for the woman was to be borne by her 'Aqilah' (relatives)." ¹⁹

Decisions Based on Local Customs

From the Prophet's life, we also learn that in cases of disputes, local customs and traditions were often considered when making judgments. In one instance, an Ansari (resident of Madinah) had a disagreement with Hazrat Zubair (may Allah be pleased with him) regarding the use of water from the Harrah canal, which was used to irrigate date palms. The Prophet (peace be upon him) instructed:

"سُقِ يَا زُبَيْرُ فَأَمْرَهُ بِالْمَغْرُوفِ ثُمَّ أُرْسِلَ إِلَى جَارِكٍ" ²⁰ -
 "O Zubair, irrigate your land first and then let the water flow to your neighbor." (Sahih al-Bukhari)
 This ruling aligned with the customary practice of water allocation, balancing fairness and neighborly relations.

Expiation for Oaths and Customary Practice

Regarding expiation for breaking oaths, Allah commands in the Quran:

"فَكَفَّارَتُهُ إِطْعَامُ عَشْرَةِ مَسَاكِينَ مِنْ أَوْسَطِ مَا تُطْعَمُونَ" ²¹ -
 "Its expiation is the feeding of ten needy persons with the average of what you feed your own families." (Surah Al-Ma'idah, 5:89)
 The verse leaves the quantity and quality of the food undefined, referring instead to a moderate standard, which must be interpreted based on local norms. Ibn Taymiyyah elaborates on this:

"أَنَّ ذَلِكَ مُقَدَّرٌ بِالْعُرْفِ لَا بِالشَّرْعِ؛ فَيُطْعِمُ أَهْلَ كُلِّ بَلَدٍ مِنْ أَوْسَطِ مَا يُطْعَمُونَ أَهْلِيهِمْ قَدْرًا وَنَوْعًا.. وَهُوَ مَذْهَبُ دَاوُدَ وَأَصْحَابِهِ مُطْلَقًا. وَالْمَنْقُولُ عَنْ أَكْثَرِ الصَّحَابَةِ وَالتَّابِعِينَ" ²² -

"This is determined by customary practices ('Urf) rather than a fixed Shariah standard. Therefore, one should provide food of an average quality and quantity as is customary in their locality for their own households. This is also the opinion of Imam Dawud and the majority of the Companions and Tabi'in."

Contract of istisna' in Islamic jurisprudence

An example of the legal consideration of customs in Islamic jurisprudence is the contract of istisna—a contract for manufacturing goods on order. According to the principles of Islamic law, transactions involving the sale of goods not yet in existence are impermissible because they involve selling something that is nonexistent. However, based on societal customs and practices, this form of transaction has been permitted. In Bada'i al-Sana'i, Allama Kasani writes:

"In principle, this transaction should not be permissible because it involves the sale of something that is not present at the time of the transaction and does not qualify as a salam sale. The Prophet (peace be upon him) prohibited selling what one does not possess, although he specifically allowed salam sales" ²³.

In practical life, one sometimes encounters situations where the customs of one region differ from those of another, or where customs vary between different social groups. In such cases, Islamic law recognizes the validity of regional customs. For instance, a person once asked Abdullah bin Mas'ud (may Allah be pleased with him) whether a vow to sacrifice a *badanah* (a large sacrificial animal) could be fulfilled by offering a cow instead. Ibn Mas'ud inquired about the tribal affiliation of the person who made the vow, and upon learning that he was from the tribe of Banu Rabah, responded that since the Banu Rabah customarily raised camels and not cattle, the term *badanah* in their context would specifically refer to a camel. Thus, the vow could only be fulfilled by sacrificing a camel.

Regarding this incident, the author of *Sharh al-Siyar al-Kabir* comments:

"The conclusion is that in every region, the local customs of the people concerning the terms they use will be deemed valid".²⁴

This illustrates how regional and communal practices are incorporated into Islamic rulings, ensuring that legal interpretations remain relevant to societal norms.

The Influence of Customs and Traditions in Deriving Religious Rulings: Perspectives from the Era of Legal Codification

The evolution, expansion, and universality of Islamic legislation and jurisprudence owe much to the consideration of customs and traditions. Beyond the Quran and Hadith, numerous examples in the juristic deductions and opinions of Islamic scholars demonstrate the direct relationship of customs to matters such as transactions, social conduct, and other familial laws and rulings. Owing to the significance of customs, it has been deemed essential for jurists and those engaged in *ijtihad* (independent reasoning) to remain acquainted with the prevailing customs of their time.

After the era of the Companions of the Prophet (peace be upon him), the period of the *Tabi'un* began, followed by the golden era of the *Muhaddithun* (scholars of Hadith) and *Fuqaha* (jurists). This era saw the rapid development of Islamic sciences. Highlighting the importance of customs and traditions, Allama Ibn Abidin explains:

"قالوا في شروط الاجتهاد: أنه لا بد فيه من معرفة عادات الناس، فكثير من الأحكام تختلف باختلاف الزمان لتغير عرف أهله ولحدوث ضرورة أو فساد أهل الزمان بحيث لو بقي الحكم على ما كان عليه أولاً، للزم منه المشقة والضرر بالناس، ولخالف قواعد الشريعة المبنية على التخفيف والتيسير ودفع الضرر والفساد".²⁵

"Among the prerequisites for ijihad, scholars have stated that understanding the customs of the people is essential. This is because many rulings change over time due to the evolution of societal norms, the emergence of new needs, or the corruption of the people of that era. If the original ruling were to remain unchanged, it would lead to undue hardship and harm for the people, which would contradict the principles of Shariah that are based on ease, facilitation, and the prevention of harm and corruption".

In addition, jurists have established principles regarding the role of customs in matters of jurisprudence. They have equated issues proven through customs with those established by other forms of Shariah evidence. Allama Sarakhsi notes:

"أَنَّ الثَّابِتَ بِالْعُرْفِ ثَابِتٌ بِدَلِيلِ شَرْعِيٍّ" ²⁶

"What is established through custom holds the same status as what is established by textual evidence in Shariah".

The Role of Customs in the Four Schools of Jurisprudence:

Among the four major schools of Islamic jurisprudence, it is often claimed that Imam Shafi'i gave less importance to customs compared to the other Imams. However, this does not imply that Imam Shafi'i completely disregarded customs. Numerous examples in Shafi'i texts confirm his recognition of customs. For instance, Imam Suyuti states:

"اعلم أن اعتبار العادة والعرف رجع إليه في الفقه في مسائل لا تعد كثيرة" ²⁷

"Know that the consideration of customs and traditions in jurisprudence applies to such a large number of issues that they cannot be counted due to their abundance".

After this assertion, Imam Suyuti mentions numerous issues to illustrate the significance of customs. These include matters such as the age of menstruation, the onset of puberty, the occurrence of emission, the usual and predominant duration of purity, actions that invalidate prayer, quantities defined as few or many, issues related to defects in goods, eating fallen fruit in an orchard, hiring transportation, and the acceptance or rejection of gifts, among many others.

The Hanbali View:

In Hanbali jurisprudence, the explanations provided by Imam Ibn Qayyim al-Jawziyyah (d. 751 AH) hold great significance on this topic. He devoted an entire section to the changes in legal rulings due to shifts in time, circumstances, regions, and customs. In the introduction to this discussion, he eloquently emphasizes the importance of customs and traditions in shaping legal rulings. The essence of his argument is that the core purpose of Shariah is to express its rulings while considering the changing times and circumstances. The primary benefit of this approach is

that it helps people avoid hardship and distress, while also aligning with the principles of justice, mercy, and wisdom in Islamic rulings. Any issue that lacks mercy, benefit, and wisdom cannot truly be part of the Shariah, even if it is presented as a legal ruling. Imam Ibn Qayyim's words are as follows:

"فإن الشريعة مبناهما وأساسها على الحكم ومصالح العباد في المعاش والمعاد، وهي عدل كلها، ورحمة كلها، ومصالح كلها، وحكمة كلها؛ فكل مسألة خرجت عن العدل إلى الجور، وعن الرحمة إلى ضدها، وعن المصلحة إلى المفسدة، وعن الحكمة إلى البعث؛ فليست من الشريعة.²⁸

"For the Shariah is based and founded on the judgments and interests of the people in both their worldly and spiritual matters. It is entirely justice, mercy, benefit, and wisdom. Any issue that deviates from justice into oppression, from mercy into its opposite, from benefit into harm, and from wisdom into recklessness, is not from the Shariah".

The Hanafi View:

In the Hanafi school of thought, customs and traditions are considered highly significant when deriving legal rulings. Among the Hanafis, this viewpoint is widely held. Ibn Nujaym al-Misri (d. 970 AH) mentions customs and traditions in nearly ten different categories in his book *Al-Ashbah wa al-Naza'ir*, where he discusses the position, importance, and the rulings related to customs and traditions. This clarifies the prominent role that customs hold in Hanafi jurisprudence. One such statement emphasizes the importance of customs:

"واعلم أن اعتبار العادة والعرف يرجع إليه في الفقه في مسائل كثيرة حتى جعلوا ذلك أصلاً، فقالوا في الأصول في باب ما تترك به الحقيقة: تترك الحقيقة بدلالة الاستعمال والعادة."²⁹

"Know that the consideration of custom and tradition in jurisprudence is prevalent in many issues, to the extent that the scholars have accepted it as a source of evidence. In the principles of jurisprudence, they say that the literal meaning is abandoned in favor of customary use and tradition".

Moreover, the Hanafi scholars assert that it is not permissible for judges or legal scholars (muftis) to disregard customs. This is supported by Allama Shaami (d. 1069 AH), who states:

"ليس للمفتي ولا للقاضي أن يحكمان على ظاهري المذهب، ويتركا العرف وهذا صريح فيما قلنا أن المفتي لا يفتي بخلاف عرف زمانه."³⁰

"It is not permissible for a mufti or a judge to rule contrary to the customary practice of the time and instead base their judgment solely on the apparent meaning of the tradition. This clearly affirms that a mufti cannot issue a fatwa contrary to the custom of his time".

The Maliki View:

The famous Maliki scholar Imam al-Qarafi (d. 684 AH) extensively discusses customs and traditions in his book *Al-Furuq*. His discussion

spans the entire book, where he classifies customs into several types, such as:

- Customary verbal practices
- Customary actions
- Sharia-based customs
- Temporal customs
- Linguistic customs He provides examples for each type and discusses the legal rulings associated with them, distinguishing between verbal and actionable customs as well.³¹

In relation to issuing fatwas, he emphasizes that legal rulings should consider changes in customs and traditions. He states:

"If a custom changes or becomes nullified, the fatwas based on that custom will also become void. The fatwa cannot be issued based on that custom anymore, as it no longer has a foundation. It is crucial to observe how fatwas evolve as customs change, just like the value of currency changes with time."

The View of Al-Shatibi:

In his work Al-Muwafaqat, Al-Shatibi also provides detailed discussion on the relationship between legal rulings and regional customs. He gives an example of how the judgment regarding the practice of covering one's head may vary based on geographical location. For instance, in Eastern countries, it may be seen as inappropriate to leave the head uncovered, while in Western countries, it may not be considered offensive. He writes:

"كشف الرأس، فإنه يختلف بحسب البقاع في الواقع، فهو لذوي المروءات قبيح في البلاد
المشرقية، وغير قبيح في البلاد المغربية، فالحكم الشرعي يختلف باختلاف ذلك، فيكون عند
أهل المشرق قادحا في العدالة، وعند أهل المغرب غير قادح-³²

"The practice of uncovering the head differs based on the location. In Eastern countries, it is considered improper for those of good character, while in Western countries, it is not considered improper. The legal ruling changes based on this, as it would be seen as an affront to one's dignity in Eastern countries, but not in Western countries."

It is observed in recent times that in Pakistan, certain fruits are bought and sold by the dozen, while in Arab countries, they are purchased and sold by weight. During Hajj or Umrah, or when a Pakistani first visits the Arab lands and buys bananas or oranges based on weight, they are often surprised, as this practice contradicts their own local customs. Similarly, if an Arab person sees these items being bought and sold by the dozen in Pakistan, they too would be surprised. However, neither of these individuals has the right to declare the other's custom wrong or insist on

their own, as both are acting in accordance with the regional customs and practices of their respective cultures.

The Use of Customs and Traditions in Deriving Legal Rulings in the Contemporary Era

In issues of Ijtihad, it is necessary to consider the customs and traditions of each era. This is the point that has led scholars to clarify that legal rulings may change based on customary practices. If all ijtihadi rulings were to remain fixed without taking into account changes in customs and traditions, it would result in hardship and harm to people, which would contradict the Islamic philosophy of ease and alleviation.

In Islamic jurisprudence, when rulings are based on custom, traditions, and practices, it is unreasonable to insist on the previous specifics when customs change. Customs and traditions are products of specific circumstances, and certain actions are performed under particular needs. People then begin to follow these actions, finding them beneficial according to the situation and necessity. Over time, these practices evolve into social norms and eventually attain the status of customs. An action that was useful in a particular context is not necessarily beneficial in every situation. Often, changes in circumstances occur where continuing the same practice becomes harmful. The same applies to customs and traditions: as circumstances change, it is essential for customs to evolve as well. Failure to do so may lead to even good practices becoming harmful over time.

In today's society, many harmful customs might have originally been beneficial and useful when they were first introduced. However, with the change in circumstances and the lack of proper adaptation of these customs to new realities, they have now become detrimental. If these customs continue to be followed blindly, they will undoubtedly lead to destructive consequences for society.³³

Just as scholars and hadith scholars in the early centuries changed rulings based on customs and traditions, contemporary scholars have followed a similar approach. Today, many issues still require scholars to take current customs and practices into account when issuing rulings. In this regard, contemporary scholar Salih bin Muhammad states:

"When a legal ruling or term is linked to a legal judgment and is not defined in the law or language, then it is referred to the custom, and the custom becomes the deciding factor. This is what scholars mean when they say, 'Custom is binding' (al-ʿurf muhkam)."³⁴

Examples of Considering Contemporary Customs and Practices in the Modern Era

The Qur'an and Hadith prohibit extravagance. However, neither Islamic law nor the Arabic language specifies a numerical limit for what constitutes extravagance. Thus, determining extravagance in any given region depends on the customs and practices of that area. Since these norms vary across regions and social classes, what is considered extravagant in one context may not be so in another. Therefore, extravagance will be defined based on the prevailing understanding of the local community.

If a seller and buyer agree to the sale of a piece of land, the contemporary understanding is that the term "land" includes the land itself and everything situated upon it unless otherwise specified. Therefore, even if the seller and buyer do not explicitly stipulate this condition during the transaction, it is presumed that the sale includes any structures or elements associated with the land.³⁵

The concept of warranties offers another example of how contemporary practices are considered in deriving rulings. Today, many companies and individuals sell products with a warranty, whereby they assume responsibility for repairing or replacing defective goods within a specified period. This arrangement, commonly known as a warranty, is an established practice, and buyers often purchase items based on this assurance.

However, by drawing an analogy with the classical jurisprudential example of paying for a bathhouse (hammam), where the amount of water and soap used is not predetermined, the legitimacy of the buffet system can be established based on prevailing customs. Just as the use of water and soap in a hammam is considered lawful due to established societal norms, the buffet system may also be deemed permissible under the same principle.³⁶

Conclusion

The key points summarized from the discussions presented in this article can be outlined as follows:

1. **Islam as a Natural (dīn) Religion**
Islam is a religion rooted in human nature, taking into full account the traditions, cultures, and customs of different regions.
2. **Balanced Approach to Regional Customs and Culture**
Islam does not entirely disregard the customs and traditions of people residing in various regions, nor does it grant them unrestricted autonomy. Instead, it refines and organizes them to a reasonable extent.

3. Equity Among Regional Customs in Shariah (Islamic Law)
Islamic law does not prioritize the customs of one region over those of another. It recognizes and values the customary practices ('urf) of all regions and eras equally, maintaining a balanced approach.
4. Temporal Flexibility of Custom-Based Rulings
Insisting on the continued application of rulings based on the customs of a particular era, even when those customs no longer exist, does not align with the inherent principles and dynamic nature of Islamic jurisprudence.
5. Incompatibility Between Customs of Different Regions
Forcing the customs of one region upon another, especially when they do not align, can be considered inappropriate and counterproductive.
6. Contextual Interpretation in Islamic Teachings and Legal Opinions.

Whether it pertains to the interpretation of Islamic teachings or the process of issuing fatwas, it is essential to deeply consider the regional customs and practices. Ignoring these cultural nuances can render certain jurisprudential details impractical and lead to stagnation in legal thought.

The Arab region's socio-political and religious landscapes are undergoing significant transformation. While democratization has brought about a degree of secularization, re-Islamization and the political ascendancy of religious parties reflect a counter current. Religion continues to play a central role in shaping the region's future, both as a source of identity and a framework for governance. At the same time, the increasing interconnectedness of Arab societies with the global community fosters a pluralistic understanding of religion, promoting social harmony and political stability. The evolution of religious concepts in the Arab region illustrates the intricate relationship between dīn, regional customs, and societal changes. Islam's emphasis on natural law and its dynamic legal traditions have allowed it to adapt to diverse cultural and temporal contexts. Modern influences such as globalization and digital communication further shape the region's religious landscape, challenging traditional norms while fostering greater openness and diversity. As the Arab region navigates these transformations, the enduring relevance of Islamic principles balanced by respect for regional customs will continue to define its socio-political and religious identity.

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