

Jurisprudence (Fiqh) and Customary Laws (Adat) - Review Questions

1. Define Fiqh and explain its significance in Islamic jurisprudence.

- **Answer:** Fiqh is the Islamic jurisprudence, which refers to the human understanding and application of Shari'ah (Islamic law). It encompasses the body of laws derived from the Quran, Hadith (Prophetic traditions), Ijma (consensus), and Qiyas (analogical reasoning). Fiqh is significant as it guides Muslims in all aspects of life, including worship, transactions, marriage, and criminal law.

2. What are the four primary sources of Islamic jurisprudence?

- **Answer:** The four primary sources of Islamic jurisprudence are:
 - **Quran:** The holy book of Islam, considered the literal word of God.
 - **Hadith:** The sayings, actions, and approvals of the Prophet Muhammad.
 - **Ijma:** Consensus among scholars on a particular legal issue.
 - **Qiyas:** Analogical reasoning based on the principles found in the Quran and Hadith.

3. Explain the difference between 'Ijtihad' and 'Taqlid'.

- **Answer:**
 - **Ijtihad:** The process of independent reasoning or interpretation of the sources of Islamic law to derive legal rulings.
 - **Taqlid:** The practice of following the legal opinions and rulings of established scholars without independently deriving new rulings.

4. What is 'Istihsan' and how is it applied in Islamic law?

- **Answer:** Istihsan (juristic preference) is a principle in Islamic law where a jurist may deviate from a strict analogy (Qiyas) if it leads to an unjust or inconvenient outcome. It allows for flexibility and ensures that the law serves the best interest of justice and public welfare.

5. Describe 'Maslahah Mursalah' and its role in Islamic jurisprudence.

- **Answer:** Maslahah Mursalah (public interest) is a principle that allows for the consideration of public welfare in legal rulings, even if not explicitly stated in the primary sources. It ensures that the law remains relevant and beneficial to the community by addressing contemporary issues.

6. What is 'Urf' and how does it influence Islamic legal rulings?

- **Answer:** Urf (custom) refers to the practices and traditions of a community. In Islamic jurisprudence, Urf can influence legal rulings if the custom does not contradict the primary sources of Islamic law. It ensures that the law is culturally sensitive and practical for the community.

7. Explain the principle of 'Istislah' and provide an example of its application.

- **Answer:** Istislah (consideration of public interest) is similar to Maslahah Mursalah. It is used to derive legal rulings based on the overall benefit and welfare of the community. An example is the regulation of traffic laws to ensure public safety, even though such regulations are not explicitly mentioned in the primary sources.

8. What are the conditions required for a valid contract in Islamic law?

- **Answer:** The conditions for a valid contract in Islamic law include:
 - Mutual consent of the parties involved.
 - A lawful subject matter.
 - Consideration (something of value exchanged).
 - Clarity and specificity of the contract terms.
 - The parties must have the legal capacity to enter into a contract.

9. Discuss the concept of 'Qiyas' and provide an example.

- **Answer:** Qiyas (analogical reasoning) involves deriving legal rulings for new situations by comparing them to existing cases with similar circumstances. For example, the prohibition of drugs can be derived through Qiyas by comparing it to the prohibition of alcohol, as both are intoxicants and harmful.

10. What is 'Ijma' and its importance in Islamic jurisprudence?

- **Answer:** Ijma (consensus) is the agreement of Islamic scholars on a particular legal issue. It is considered a significant source of Islamic law as it represents the collective wisdom and understanding of the learned community, ensuring that the law is uniformly applied and accepted.

11. Explain the difference between 'Hukm Shari' and 'Hukm Taklifi'.

- **Answer:**

- **Hukm Shari:** A ruling derived from the primary sources of Islamic law that dictates what is lawful (Halal) and unlawful (Haram).
- **Hukm Taklifi:** A ruling that imposes a duty or obligation on a person, such as obligatory (Fard), recommended (Mustahabb), permissible (Mubah), discouraged (Makruh), and forbidden (Haram).

12. What are the main objectives of Shari'ah (Maqasid al-Shari'ah)?

- **Answer:** The main objectives of Shari'ah (Maqasid al-Shari'ah) are to preserve and protect five essential values:

- **Religion (Din)**
- **Life (Nafs)**
- **Intellect (Aql)**
- **Progeny (Nasl)**
- **Property (Mal)** These objectives ensure the well-being and harmonious functioning of society.

13. Describe the role of 'Fatwa' in Islamic jurisprudence.

- **Answer:** A Fatwa is a legal opinion or decree issued by a qualified Islamic scholar (Mufti) in response to a specific question or issue. It serves as a guide for Muslims seeking religious and legal clarity. While not binding, a Fatwa carries significant weight and authority within the community.

14. What is the significance of 'Adat' (customary laws) in the application of Islamic jurisprudence?

- **Answer:** Adat (customary laws) are the traditional practices and norms of a community. In Islamic jurisprudence, Adat can be recognized and incorporated into legal rulings if they do not contradict the primary sources of Islamic law. This integration ensures that the law is culturally relevant and practical for the community.

15. Explain the principle of 'Darurah' (necessity) and its application in Islamic law.

- **Answer:** Darurah (necessity) is a principle that allows for exceptions to general legal rules in situations of extreme need or hardship. It permits actions that are normally prohibited if they are essential to preserve life, health, or essential

interests. For example, eating prohibited food is allowed if it is the only way to prevent starvation.

These questions provide a thorough overview of key concepts in Islamic jurisprudence (Fiqh) and customary laws (Adat), essential for the Shari'ah Bar Examinations.