

DEPARTMENT OF LAW
Dadabhoj Institute of Higher Education Karachi (DIHE)

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FINAL EXAMINATION

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Department / Faculty	Program	Semester	Course Title	Instructor	Date of Exam	Sources	Total Marks
LAW	BA.LLB	3 rd	Islamic Jurisprudence I	Sir Aijaz Ahmed Jatoi	20/02/21	Google, YouTube, Lectures and Voice notes.	40

Title Of Assignment

QUESTION NO 1:

EXPLAIN THE CLASSIFICATION OF ISLAMIC LAW?

CLASSIFICATION OF ISLAMIC LAWS

INTRODUCTION:

Islamic jurisprudence is a Law which is based on the Injunctions of our Holy Quran and Sunnah. The classification of Islamic Jurisprudence is divided in two kinds;

Primary Sources: (Holy Quran and Sunnah)

Secondary sources: (Ijma, Qiyas, Ijtehad, Istihsan and Istislah).

PRIMARY SOURCES:

There are various sources of Islamic legal knowledge. The first one of courses the Quran itself, which, Muslims believe, was revealed to the Prophet Muhammad, also called the Messenger of God (Rasulullah), by the angel Jibril (Gabriel). The second one is the sunna, that is, the deeds, utterances and tacit approvals of the Prophet, as related in the ahadith or traditions (the singular hadith is also used for tradition in general), handed down through a dependable chain

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of transmitters. Sometimes, the term sunna is used in a wider sense, including the deeds of Muhammad's Companions and successors. Note that this is not a critical study of the origins of Islamic law. We try to understand the Muslim view of Islamic law. Eminent Islam scholars such as argued that the sunna is in reality the practice of the Umayyad rulers of Damascus, only supported by hadith of dubious authenticity. More recent scholarship, however, tends to concentrate on the authenticity of individual hadith, rejecting wholesale branding of the hadith as forgeries. All this, however, lies outside the purview of this book. The Quran and the sunna are the primary sources. They are thought to contain God's infallible and immutable will, or sharia in a narrow sense. Of course present-day Muslims, living some 15 centuries after the time of Muhammad, see themselves confronted with problems on which the Quran and sunnah are the silent.

SECONDARY SOURCES:

- **IJMA (CONSENSUS):**

The underlying idea of ijma as a source of law is that truth is safe with the community of believers, Support is provided by a hadith according to which Muhammad said that 'my community will never agree on an error. Thus, after Allah and the Prophet, the Muslim community or ummacan also be a source of law. The trouble is that there is no consensus about what consensus consists of. Some following al-Shafii, define consensus as agreement among the entire community of believers whereas others restrict ijma to agreement among the scholars. Some political modernisers in the Muslim world give a liberal twist to consensus and see it as a foundation for democracy, with parliament as the body that produces ijma.

- **QIYAS OR ANALOGY:**

Qiyas or analogy is the second important secondary source, or the fourth 'root', of Islamic law. The idea is that, if a ruling is required on a situation not covered in the Quran or the sunna, a comparison can be made with situations which the Quran or the sunna did provide for. If, for instance, the Quran prohibits the use of wine, the use of other toxicants, with similar deleterious effects, can be assumed to fall under the prohibition as well.

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The classification is not logically watertight, in the sense that it covers all sources of law without overlap. Ijma, for instance, may use qiyas, and other sources of law are also accepted by many Muslims.

- **IJTEHAD:**

Ijtehad is the independent reasoning by a qualified jurist leading to new legal rules. Such a jurist may, or rather should, use qiyas. There is no unanimity on the question of whether there is still a place for ijtehad in the modern world. Some Muslim scholars opine that the door of ijtehad' or 'gate of ijtehad' was closed early in the tenth century, as at about that time scholars of the law schools felt that all important questions had been settled.

- **ISTIHSAN:**

Istihsan mean 'juristic preference' and points to exceptions that a jurist can make to strict or literal legal interpretations. Istihsan can be applied when qiyas or any other method, does not provide a definite answer, or when a ruling based on qiyas would put unreasonable burdens on the believers. Istihsan is concerned with equity.

- **ISTISLAH:**

Istislah literally means 'seeking the good' or taking the public interest, maslaha, into account. Jurists have differed over the scope of istislah or maslaha as a source of law. Some see no place for it, others want to consider it as legal only to the extent that it can be seen as part of another source of law, such as qiyas, but still others accept istislah or maslaha as an independent source of law, even in cases where it cannot be based on quotations from the Quran or the sunna.

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QUESTION NO 2:

FULLY DISCUSS ABOUT MARRIAGE IN VIEW OF ISLAMIC JURISPRUDENCE?

INTRODUCTION OF MARRIAGE:

Marriage has been ordained by Allah as the correct and legal way to produce children and replenish the earth. The family is the basic unit of an Islamic nation or society. Marriage in Islam is more than just a means of obtaining legal sex; it is an extremely important institution which safeguards the rights of men, women and children while satisfying the physical, emotional and intellectual needs of the family members. Islam therefore, advocates strongly marriage and discourages its dissolution.

THE CONCEPT OF MARRIAGE MARRIAGE:

The consent of marriage as prescribed by Allah, is the lawful union of a man and woman based on mutual consent. It is a mutual contract between a man and a woman whose goal is for each to enjoy the other, become a pious family and a sound society. Marriage is a solemn covenant that makes an incomplete human being a complete one. It is supposed to take a person out of the hectic lifestyle that one is in and place him in an organized environment giving them a path to follow in life and a shoulder to lean on. Marriage arranges one's life and provides spiritual, physical, emotional and psychological companionship.

THE PURPOSES AND BENEFITS OF MARRIAGE:

The general purpose of marriage is that the sexes can provide company to one another, love to one another, procreate children and live in peace and tranquility to the commandments of Allah. Marriage serves as a means to emotional and sexual gratification and as a means of tension reduction.

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PROCREATION:

This is one of the most important purposes of marriage; namely, to contribute through legitimate means to the continuity and preservation of the human race. The sexual urge serves the function of bringing the mates together for the fulfillment of this basic objective.

FULFILLMENT OF THE NATURAL URGE:

The sexual urge is perhaps the most powerful human inclination. Failure to fulfill this urge is likely to lead either to deviation or to maladjustment. Deviation is dishonorable and is strictly forbidden in Islam.

A HEALTHY RELAXATION:

In marriage there is comfort to the soul, there is beauty to look at, there is company, and there is play and joking and relaxation, all of which relieve the heart from its burdens and make the mind better able to concentrate during prayers and worship. To be always serious and deprive the soul of its joy is boring to the heart and could blind it.

A COMFORTABLE HOME MARRIAGE:

Spouses cooperate in the management of the house, in its upkeep, in cooking and washing, and so forth. And thus there will be more time for worship and seeking knowledge, and a climate conducive to concentration. It is therefore said that a righteous wife is not a worldly asset only; she is a sure way to success on the Day of Judgement.

SOCIAL IMPORTANCE:

Finally, by adding responsibilities upon the individual, marriage enhances his status in society and gives him an opportunity for training in bearing the hardships of life. The responsibility of rearing children and the need to earn for their living are added meritorious aspects arising from marriage.



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