

Qiyas

(Analogical Reasoning)

- **Definition**
- **Essential elements of Qiyas and their conditions**
- **Types of Qiyas**
- **Justification of Qiyas as a secondary source of Islamic law**

Definition

- Literal meaning:
 - 1) measurement i.e. measuring something with another e.g. Measuring the cloth with cubic.
 - 2) Comparison i.e. comparing something with another.
 - 3) Equation
- Technical meaning:

“Applying a case whose rule is not found by the text to a case whose rule is found in the text on account of equation of both cases in respect of effective cause of the rule.”

“Equating a case, whose rule is not mentioned explicitly in the text, with a case whose rule is mentioned, on the basis of the equality between effective causes found in the two cases.”

Essential elements of Qiyas

- Original case (asl)
- Legal ruling of original case (hukm al-asl)
- New or parallel case (far')
- Effective cause ('illah)

Examples of Qiyas

New Cases
(Toddy, Drug)

Effective Cause
(Intoxication)

Original Case
(Wine)

Legal Ruling of Original Case
(Prohibition)
(al-Ma'idah(5):90)

Example continue...

Wife with postnatal blood
(New Case)

Hurt/Causing harm
(Effective cause)

Wife with menstruation
(Original Case)

Prohibition of
Approaching
(Legal Ruling of Original Case)
(al-Baqarah(2):222)

Example continue...

Killer of the testator
(Parallel case)

Hastening a thing before its time
(Effective cause)

Killer of the legator
(Original case)

Disentitlement to
inheritance
(Legal Ruling)
The Sunnah

The Conditions of Qiyas

- 1) The condition of original case
- 2) The conditions of legal ruling of original case
- 3) Conditions of parallel case
- 4) Conditions of effective cause

The condition of original case

- The original case is not a parallel case. This means that the new case shall not be the original case.

The conditions of legal ruling of original case

- The legal ruling of original case is pertaining to conduct which is established by the Qur'an, Sunnah and Ijma'
- The legal ruling should be one which is based on effective cause that can be rationally understood. In case if legal ruling based on effective cause that cannot be understood, qiyas is not allowed. Example: the ruling to circle Ka'bah seven times, number of rakaat in prayer etc.

Continue...

- The legal ruling should be one which is based on effective cause that can be extended. If the legal ruling based on effective cause that cannot be extended, it cannot apply qiyas.

Example: The legal ruling which allow the traveler to brake the fast during day time. This ruling is based on effective cause that cannot be extended i.e. traveling.

- The legal ruling should not be restricted to original case only. In case if the legal ruling is specific to the original case only, qiyas is not permitted. Example: the ruling regarding the permission for the Messenger of Allah (peace be upon him) of marrying more than four wives or the prohibition of marrying his wives after death cannot be extended through analogy, since these legal ruling were specific to him.

Conditions of parallel case

- There is no explicit legal ruling mentioned by the text on parallel case. There shall be no qiyas in case where there is legal ruling mentioned by the text.
- The effective cause of the original case should be found in parallel case.

Conditions of effective cause

- Effective cause must be an apparent attribute. It can easily be perceived by sense.
- Effective cause should be a constant and stable attribute.
- Effective cause should be extendible and not confined to the original case.
- Effective cause should be an attribute that is compatible with the purpose of the law

Types of Qiyas

There are three types of Qiyas:

- 1) Qiyas of higher order (al-Qiyas al-Awla): The effective cause in the parallel case is of higher order than the effective cause in the original case.

E.g.

Saying 'uff' to parent
(Original case)

Prohibition
(Legal Ruling)
(al-Isra'(17):23)

Torment
(Effective cause)

Cursing/Beating parent
(Parallel case)

Types continue...

2) Qiyas of an equivalent order (al-Qiyas al-Musawi): The effective cause in parallel case is of the same strength with the effective cause in the original case.

E.g.

Consumption of orphan's property
(Original Case)

Prohibition
(Legal Ruling)
(al-Nisa'(4):10)

Destruction of orphan's property
(Effective cause)

Damaging of orphan's property
(Parallel case)

Types continue...

3) Qiyas of a lower order (al-Qiyas al-Adna): The effective cause in parallel case is of a lower order than the effective cause found in original case.

E.g:

Wine
(Original case)

Prohibition
(Legal Ruling)
(al-Ma'idah(5):90)

Intoxication
(Effective cause)

Toddy (Parallel case)

Justification of Qiyas as a source of Islamic law

- The majority of Muslim jurists are of the view that Qiyas is a source of Islamic law. It is relied upon in deriving legal rules.
- Muslims are obliged to follow the legal ruling which is validly derived from qiyas.

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- The justification of Qiyas as a source of Islamic law is established by the Qur'an and Sunnah.

The Qur'an

“ O ye who believe! Obey Allah and Obey the Messenger and those charged with authority among you. If ye differ in anything among yourselves, refer it to Allah and His Messenger...” (al-Nisa'(4):59)

Continue...

- The argument is that Allah has commanded after that (i.e. after obeying Allah, His Messenger and those in authority) to refer the disputed matters to Him and His Messenger.
- Referring the disputes to Allah and His Messenger signify referring them to the Qur'an and Sunnah. That will be by means of drawing conclusion from them by analogy.
- This is because analogy means referring the new case to the original case and applying to it its rule. In other words, referring the disputed case i.e. a case for which no rule has been provided in the text to a case for which a rule has been provided in the text.

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- The Sunnah

There are many cases in which the Messenger of Allah (peace be upon him) in response to queries of the Companions tried to give answers in a form that was supposed to train them in legal thinking and in many such cases the method is quite similar to analogy.

Continue...

- For example,
- “A woman came to the Messenger of Allah (peace be upon him) requesting him to give her legal opinion (fatwa). She said: Messenger of Allah my father has died and performance of hajj was due to him. May I perform the hajj on his behalf? Allah’s Messenger said: Tell me if your father owed a debt and you paid it, would that benefit him? She replied: yes. The Messenger of Allah (peace be upon him) said: Perform the hajj on his behalf, the debt due to Allah deserves most to be paid.” (It is reported by al-Bukhari and al-Nasa’i)

Continue...

- “The Messenger of Allah (peace be upon him) said to Umar ibn al-Khattab when he asked him about kissing the wife by one who was fasting: Tell me if you rinse your mouth with water then eject it, what will you do? Umar said: It doesn't matter. The Messenger of Allah said: It is all right.” (It is reported by Abu Dawood)