

The Sources of Islamic Law

- Meaning
- Classification of the sources
- Order of priority

Sources of Islamic Law

(Masadir al-Ahkam al-Shar'iyyah)

- Sources of Islamic law: Proofs of Islamic Law
(adillah al-ahkam)

Adillah (proofs) is the plural of *Dalil*.

- Definition of *Dalil (proof)*
- -Literal meaning: A guide (in any matter).
- -Technical meaning: What can lead to a law with a right vision.
- It leads to the law either in a definitive or probable manner.

Classification of the sources

- Agreed upon and disputed sources
- Transmitted (*Naqliyyah*) and Rational Sources (*'Aqliyyah*)
- Definitive (*Qat'iyyah*) and Probable (*Zanniyyah*) Sources
- Primary and Secondary Sources

Agreed upon and disputed sources

- Unanimously agreed upon: *Qur'an & Sunnah*
- Agreed upon by majority of Muslim jurists especially by four well-known schools of law: *Qur'an, Sunnah, Ijma'* and *Qiyas*
- Disagreed upon: Juristic Preference (*Istihsan*), Consideration of Public Interest (*Istislah/Masalih Mursalah*), Custom (*Uruf*), Blocking the Means (*Sadd al-Zara'i*), Opinion of a Companion (*Qawl al-Sahabi*), Previous Revelation (*Shar' Man Qablana*), Presumption of Continuity (*al-Istishab*).

Transmitted (*Naqliyyah*) and Rational Sources (*'Aqliyyah*)

- -Transmitted Sources: The manner of their existence is through transmission and no involvement of human reason in creating it. *Qur'an, Sunnah, Ijma'*, Previous Revelation and Opinion of a Companion.
- -Rational Sources: It exists through mental process of human being. *Qiyas, Istihsan, Masalih Mursalah, Istishab*.

Definitive (*Qat'iyyah*) and Probable (*Zanniyyah*) Sources

- a-With respect to transmission
 - Definitive Transmission: Transmitted by a large group of persons, it is impossible that they would agree on fabricating a falsehood: Qur'an & Sunnah Mutawatirah.
 - Probable Transmission: Sunnah Ahad

Definitive and Probable Continue...

- b-With respect to meaning
 - Definitive meaning: Texts of Qur'an & Sunnah have only one meaning
 - Probable meaning: Texts of Qur'an & Sunnah give more than one meaning
- Qur'an: - Definitive with respect to transmission
 - Definitive and Probable with respect to meaning
- Sunnah - Definitive and probable with respect to transmission
 - Definitive and probable with respect to meaning

Primary and Secondary Sources

- Primary Sources: Qur'an & Sunnah
- Secondary Sources: Ijma', Qiyas etc.

Order of Priority: With respect to reference or searching for a law

- -Qur'an
- -Sunnah
- -Ijma'
- -Qiyas

Order of Priority Continue...

- **Authority:**
- Al-Qur'an
- “O ye who believe! Obey Allah, and obey the Messenger of Allah and those charged with authority among you. If ye differ in anything among yourself, refer it to Allah and the Messenger of Allah, if ye do believe in Allah and the Last Day.” (al-Ma'idah(4): 59)

Authority continue...

- Sunnah:

“When the Messenger of Allah intended to send Mu’az bin Jabal to Yeman (as judge), he asked: How will you judge when the occasion of deciding case arises? He replied: I shall judge in accordance with Allah’s Book. He asked: (What will you do) if you do not find guidance in Allah’s Book? He replied (I will act) in accordance with the Sunnah of the Messenger of Allah. He asked: (What will you do) if you do not find guidance in the Sunnah of the Messenger of Allah?

Authority continue...

- He replied: I shall do my best to form an opinion and spare no pains. The Messenger of Allah then patted him on the breast and said: Praised be to Allah who helped the messenger of the Messenger of Allah to find a thing which pleased the Messenger of Allah.”
(Reported by Abu Daud and al-Tirmizi)

Authority continue...

- Practice of Companions
 - It is reported by Maymun bin Mahran that Abu Bakr when he had a disputed parties, he searched a ruling from the Qur'an, he gave judgment in accordance with it(if there was a ruling). If there was no ruling, he looked into Sunnah. He gave judgment in accordance with it (if there was a ruling), If he exhausted, he assemble a prominent leader among them and consulted them. If they agreed on something,, he gave judgment in accordance with it.
 - It is report that Umar also did the same.