



Concept of 'urf (Custom) in Islamic Law and its Application in Social Affairs: An Analytical Study

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ABSTRACT

The paper delves into the concept of 'urf (custom) within the framework of Islamic law and its crucial role in the regulation and adaptation of social affairs. 'Urf, recognized as an important source of Islamic jurisprudence, facilitates the harmonization of legal principles with prevailing social norms, thereby ensuring relevance and applicability in diverse contexts. Through a meticulous analytical study, this paper explores how 'urf is integrated into Islamic legal systems, detailing the conditions under which customs can be considered legitimate sources of law. It also examines various case studies to illustrate the implementation of 'urf across different Islamic societies, highlighting its dynamic capability to adapt legal and ethical norms to local conditions. This study underscores the significance of 'urf in bridging the gap between rigid legal frameworks and contemporary social practices, thus fostering a flexible, yet principled approach to modern legal challenges. The study finds that 'urf (custom) plays a critical role in adapting Islamic law to local social realities, ensuring that legal applications remain both relevant and respectful of community norms. This flexibility highlights 'urf's vital function in maintaining the dynamism and applicability of Islamic jurisprudence in diverse societal contexts.

Keywords: 'Urf, Islamic law, Social norms, Jurisprudence, Legal adaptation

Maximum number of authors of a paper shouldn't be more than two and contribution of second author (if any) should be mentioned below:-

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1.1 Definition of URF

Urf (Custom) is "repeated usages by the people of society and acceptable for majority of its members. " But, useless customs with negative impact on society are not included in such custom. (Hassan, 2010). This rule is used as the guiding instrument for scholars, in case of adaptation of the customs in society. Although, time and space are applied on their mode of changeability. This rule can be changed in Islamic jurisprudence with altering in time span and place of application. This might be the reason for equivocation of customs as a resilient by some scholars.¹

In Arab society, there were used two words frequently 'Urf (custom) and ādah (usage). There was no documentation of 'Urf (custom) and ādah (usage) in Arab society before the advent of Islam. Society was running by unwritten norms and traditions of that time. Therefore, old 'Urf (custom) and ādah (practices) are taken as precious source of Islamic act. Therefore, khulafa" al rashidun reserved many useful norms and traditions of pre-Islamic society in Islamic constitution, as a rich source of usages was available from that society which is already accepted by the great masses. Moreover, these were the 'urfs, norms and values, thought to be legal in the eyes of holy Prophet Hazrat Muhammad (PBUH), and they did not contradicted the Divine law.

In Arabic language technically and literally, 'Urf and ādah, are taken with different meanings. But in daily life the usage of these them are frequently overlay. But, from legal point of view of Islam these two terms are in use, 'Urf and ādah, for describing customs of the society. In Islamic legal technicity, the prospect of 'urf is far greater than that of ādah. Ibn al-Fāris, has described its literary meaning in these words "„Arafa (عرف) is originated from 'ain, rā and fā and gives two active use:

(1) advent of two components, one is connected and tracked by the other harmony and peacefulness. ²

Ibn „Ābidīn has defined 'Urf or „ādah as the living practice of people it means it is well rooted in the social order that it is not needed

¹ - Hafiz Abdul Ghani, Conditions of a Valid Custom in Islamic and Common Laws, *International Journal of Business and Social Science*, (2012): 306-318

²- Fāris, Ibn; Fāris, Abū al-Hasan Ahmad b. *Mu„jam Maqāius al-Lughah*, Beirut, Dār al-Ma„rifa,1313.

for the people to memorizing it. They adopt it as sanctified practice in social system. "Imām Rāghib al-Isfahānī has defined 'Urf as: "„Urf is something that is effective, in use from past, well known and owned by masses." Similarly, it is again mention in Qur'an, the children main and forth most social sustainer is their father and fulfill this duty in accordance to their "bi'l-ma'ruf" prevailing custom³. There are all the guidance rules in Islam in regarding the acceptance of custom on the bases of halal and haram. The customs practices in accordance to fu is the real time exhibition of Shari'ah in practical manner. Therefore, any adopted 'urf is universal or precise, Islamic society will be considered lawful or hukam of Shari'ah.⁴

Sometime customs are needed to be changed by the will of people in accordance with the change in socio cultural behavior of the society. Likewise, ijtiḥad can be used to formulated of modifying the prevailing custom of the society on hypothetical similarity in directions of fiqh. The rules of ijtiḥad in fiqh are variable with variance in time and conditions of societies. To show no variance in fiqh in matter of socio-cultural change with passage of time is seemed brutal for the people. Shari'ah bans them as people have to feel difficulties in practicing such customs which are not harmonized and changed in accordance with the modernization of society. It is therefore, the same mujtahid has to transformed his prior ijtiḥad from time to time, for bringing synchronization with the predominant or changed custom by a certain society. For instance, Imam Shafi'i rested the foundation of two schools or madrasas one in Iraq and other is in Egypt which are based on different principle customs in accordance to these countries' norms and values.⁵

The customs, which were predominated before the advent of Islam are accepted in Islamic culture which were got tacit approval by Prophet Muhammad (PBUH) at that time. Those practices are accepted as his sunnah. Such pre-Islamic Arabian practices were also later on claimed or mentioned by Prophet's companions. They used to say that we were doing such practices in the presence of our Prophet also'. (Raheem, 1911)

Although Islamic culture has overruled the cruel and unethical practices of that Arab society, but reserved many pre-Islamic Arabian

³ - Al-Quran, 2:233.

⁴ - Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Islamic Texts Society, Cambridge, 1989.

⁵ - Muhammad Abu Zahrah, *Usul al-Fiqh*, Dar al-Fikr al, Arabi, 2003.

norms and values which were not contrary to the teaching of Islam at the same. To harmonized some of the customary laws of Arab with philosophy of the Shari'ah, were also have been endeavored to revise and legalize by Islam. There are many examples of customs can be quoted which have their roots in pre-Islamic era. They were Arabian custom, which have been supported and incorporated within the Sunnah of Hazrat Muhammad (PBUH). For example, the rules of 'aqilah were also accepted by Sunnah. This was the payment for the diyah (the amount of money in place of blood shed), in regarding the obligation of the kinsmen of murderer. Likewise, the rules of mortgage (rahn), (kafa'ah) in marriage and rules of advance sale i.e. salam was also regulated by Sunnah. Although, they were practices before the advent of Shari'ah.

Custom has been accepted in Shari'ah by through Islamic law preference (istihsan) and in the favor of community interest (maslahah) by their deliberations. For the compatible customary rules, based on stipulation (darurah) ijma' is used to provide harmony with the Shari'ah.⁶

1.1.1 'Urf in pre-Islamic era

Ancient customs, traditions and norms in the pre-Islamic era have been coming through the Ibrahimi religion. These old practices were the nitty-gritties of Arab culture. Some of them have been in practicing through ages of or effects from Christianity and Judaism. Influence of geographical environment cannot be neglected in this regard. There is the list of some of the 'urfs that have been in practicing as mandatory in law (Al-Asfahānī, 1423):

1. Transactions and treaties are obligatory to respect
2. They used to worship for descendants, better health and economy in their religious places and prostrated.
3. Holy places like Makkah is regarded sacred place
4. Fasting was considered a mandatory religious duty. Day of Ashura was considered sacred and Quraysh used to fast. Fasting has been remained mandatory religious duty in Jews and the Christianity. Fast of observing silence was also famous.

⁶ - Badran Abu al-'Aynayn Badran, *Usul al-Fiqh*, Dar al-Ma'arif, 1969.

5. Holy months are regarded to be respected are they do not fight in these respectful months
6. They used to wear leaves around their neck and around their camels, as a sign that they are coming back from the Makkah and no one dare to harm them on the way back to home.
7. Arab used to wash their dead ones. Circumcision was also practicing.

1.2 Justification of Urf

According to Muhammad Hashim Kamali, "The *Shari'ah* has, its own rule and regulation to approve custom. Because *Shari'ah* has to deal with *halal* and *haram*. " There is no direct verse is given in Quran in the favor of 'urf, as to contain it the part of jurisdiction. There is only some implication from Hazrat Muhammad (PBUH) and from his companions in this regard to use certain customs⁷ (Kamali, 1989). For example, coitus interruptus '*azl*' was practiced by some of the companions for birth control. This practice was allowed by the Prophet (PBUH) himself as mitigate of birth control measure in Islam. It means that it was allowed by Allah almighty because if Allah does not like that, He could change it by His command.

Some customs of pre-Islam were adopted with modification according to the *Shari'ah*, like slavery. Slaves were treated like animals. Islam forbidden it and order to treat them on humanitarian ground and not to over burden him with work beyond his physical capacity. According, to Islam it is the duty of master to provide the food and shelter to his slave. There were many customs at the advent of Islam which were eliminated by revelation of Quranic verse or either prohibited by the Prophet (PBUH) himself.

For example, the adopted son before Islam was treated like one's own son, to marry his divorcee or widow was considered unthinkable or unlawful. Allah order in Qur'an 33:37 to His prophet to marry the ex-wife of Zayd. Just to sow that adopted son was not to be treated as the real (blood) son. Any custom is acceptable if it is given with the regulation with sharee'ah if it is not then it cannot be the part of Islamic culture. It will be considered as corruption as it will be difficult to the people to follow

⁷ - Mohammad Hashim Kamali, Principles of Islamic Jurisprudence

it as in the words of Qur'an that Allah does not wants to convey hardship to you rather, He provided you easiness.⁸ "

1.2.1 The use of 'urf in Islamic Shari'ah

Our glorious Rabb has created this exalted world with a certain reason. He enforces His law purposefully and logically. He created religions and send His messengers. Then gave them guide lines through His holy transcripts. Islam is the extension of Allah supervision and course. Islam is the most advanced religion and form society from the collective ethics of all he previous religion in the favor of humanity. It consecrated the greatest dignified usages, norms and practices of anthropological history. Islamic civilization has adopted many of such norms and tradition completely, while some of them partially. Hence, logical harmony is remained the key principle in favor of mankind. This logical harmony with sequence is also seen in the teaching of prophets. Their basic teaching is same with the massage of Allāh's Oneness, they ordered to worship the creator of all. According to them only His injunctions are applicable on human being and their societies (Ibn e Ābidīn). All the religions including Islam has some common values like:

1. Fight is allowed against the enemies of Allah
2. Oath can be taken only in name of Allah
3. Scarification is allowed in the name of Allah only
4. Life can be sacrificed only in the cause of Allah
5. Homosexuality is taken as sinful deed

There are many other examples of injunctions, which have similarities in religious conviction of Muhammad (PBUH) and Ibrahim (Ali, 1380). These customs were being in practicing by previous religious societies, which were later on accepted by the most advanced religion. In fact, these customs are authentic at collective insight of humanitarian regulation and social system. Islam did not follow all those customs blindly, as described before many of them accepted with alteration or adopted partially, while some of them eradicated entirely. Like, it was

⁸ - Al-Qur'an 2:185

forbidden in Islam that the that Arabs used to circumambulate naked around the Ka'aba.

It was a common rite before the advent of Islam. The custom of scarification was having been sanctioned, even it was also was the common practice of Arabs. It is Islam that eradicated completely the tradition of buried alive the baby girls in that Arab society. The 'urfs have showed greater role in the norms and values of the social systems⁹ (Ghani, 2011). Allāma Ibn Qayyim has quoted more than hundred examples in this regard the role of 'urf in the tradition of social system:

1. In the dealing of a business, it will be comprehensively used the currency of the area or commonly used currency. Even if it was not mention in the contract.
2. The rule applies on the use of whip on a borrowed animal
3. Hire a service of expert if someone unable to do that work
4. To return a borrowed item to a family member of its owner instead of him
5. In a rented home one through party or invites his friends and family even it is not mention in the contract paper between the landlord and renter
6. One can do tayammum from the soil of any ground performs namaz without having the permit of its owner
7. Rented garments can be washed in accordance with sharīah
8. One can hires a legal adviser to accomplish his business
9. It is not illegal to protect the house hold items of one's neighbors, by excavating or raising a wall. Only in case if came to that flood is coming and may spoil his neighbor's household items. As it the act of kindness in good societies.

Customs were the basic foundation of the law in past but in Islamic society they can be taken as one source of law. Even in qur'anic words the customs are discuss as the source of law. As Allah said that be merciful and instruct 'urf and come out of ignorance. " Abdullāh bin Mas'ūd has also said that whatever is be good according to Muslim is be consider as good in the eyes of Allah.

⁹ - Ghani, *Conditions of a Valid Custom*

Imām Shatibi has described that 'urf could become the source of law directly or indirectly and clarify the concept and use of words 'urf and ādah in the eyes of law.¹⁰

To be the part of law 'urf and adah needed to be evidenced with its causes and effects in the social system. (Zaydan A. a., 1970)

It is irrefutable truth that sharī'a laws are all for the well fare of the masses and 'urf and „ādah should have to be depend on.

If norms and customs are not be proved by sharī'a laws, then they will bring unrepairable damage to the social system and become the source of social problems in the society (Al Shatibi, 2004).

1.2.2 The use of Ma'rūf in the Qur'ānic verses

'Urf or customs are those practices of the societies which are trusted by people through ages and accepted by the large masses on the bases of collective conscience. In Arabic literature such customs are recognized as Ma„rūf, is which an Islamic term. Ma„rūf means an action which is famous and easy to adopt and useful for the integrity of society.

'Urf as Ma„rūf, has been also discuss in the verses of Quran. More than forty verses can be quoted in this regard. The Holy Quran guided people how to react and treat if someone injured his brother. How to made payment as an act of kindness. " At some other places the rule and custom of inheritance are given in Islam and the rights of women in all the cases whether she is daughter or widow have been given in Quran. The matter of divorce is also given and its *ahsan tareekiat*. The norms to treat parents and wife are also given clearly in divine words. These quoted examples are the guiding line for the formulation of law these practices do not needed to be proven as they are the words and commands of Allah. They all are al-ma„rūf, and liked by masses and for the well fare of civilizations.

Abū Sinah Ahmad Fahmi elucidates the purpose that why such, urfs are reliable, because "Allah orders them to perceive by His Prophet and later on by all umma. Prophet ordered them to do by practicing or

¹⁰ – Irfan Khalid Dhilon, *'Ilm-i 'Usul-i Fiqh Aīk Ta'āruf* (Islamabad, Shahriah academy IIUI, 2012).

some time verbally or practically¹¹ (Ghani, Urf -o-Ādah (Custom and Usage) as a Source of Islamic law, 2011).

Imām al-Qurtubī has wrote that according to the Holy Quran:

"Urf Maroof and 'urf Arifa are those practices which are considered as good as they contended the heart and soul, when someone adopts them and perform as a good custom¹² (Al-Qurtubi & Al-Imam, 2014). On the other hand, some of the scholars have disagreement with those 'urf and ma„rūf which adoped on the bases of inspiration and between the orders of Allah almighty and His prophet sunnah. They are divided into to two groups on bases of use of 'urf in Sura Araf verse 199 in Holy Qur"ān,:

1. Ala al-Dīn Tarablusi and many other imams of juris pudance have apprehended opinion that 'Urf in accordance of shari„a are similar and unquestionable.
2. but most of the experts go with the opinion that if 'Urfs are acceptable if the habits or practices of the people, have no disagreement with any legal transcript

Both of these opinions are respected and thought to be lawful. According to Imām al- Tabarī commentaries in his tafsir that ma„rūf is an accustomed practice and admirable by Muslims. They adopted them religiously. Imām al-Rāzī has mentioned another concept to clarify the ma„rūf. He said that 'Urf is an authoritative, accustomed, and purposeful practice. " The Qur"ānic 'urfs can be taken as ma„rūf and reliable in everyday matters of life by authorized sanctions. That is the reason that dr M. Zarqa inscribes that "there plenty of 'urf are available in law about criminalities and punishments¹³

As reference, Sura al-Hajj (22:78) can be taken from Qur'an stating, 'Allah does not lay any hardship in matter of religion. ' The previously discuss verse that can be quoted again that it is instructed the Prophet to be merciful and, ordered to observed customs and drive far from the illiteracy. According to the Imams and Maliki school of thoughts, this

¹¹ - Hafiz Abdul Ghani, 'Urf-o-Ādah (Custom and Usage) as a Source of Islamic law, 306-318

¹² - Al-Imam Al-Qurtubi, *Al-Jami li-Ahkam Al-Qur'an*, Dar Al-Kotob Al-Ilmiyah (DKI)

¹³ - Hafiz Abdul Ghani, 306-318.

saying of Allah in Quran is unambiguous which gives us the vibrant expert witness for the implementation of 'urf. Therefore, 'urf is obviously indorsed by the Quran as a resilient of Shari'ah¹⁴ (Badran, 1969). The overview of ulema, on this verse with special to 'urf is taken as literally, which means accustomed and virtuous, but not can be taken as to custom. On the other hand, it is comprehended that any accepted custom is easily indorsed by masses but also by the expert. The word 'urf is used technically in Qur'an. It is the profession of the faith' in Islam. The meaning of 'urf which is given in Quran and the meaning gives in literature are verifying each other and harmonious to use.¹⁵ (Kamali, 1989)

Dr M. Zarga explains the implications of customs and the habits in monetary complications, conventions, matrimonies and businesses. Though, the part of customs is limited in the sense of religious matters. The majority of jurists have innovative the prior description from Hadith literature to validate ijma, istihsan in case of acceptability of 'urf. Ibn Hammam mentioned and then remarked on the authenticity of „urf, that according to Hadrat Muhammad (PBUH so forth what is acceptable by the Muslims esteem as virtuous, is also virtuous in the view of Allah. " (Dhilon, 2012) It means that what is common among Muslims and he feels contended after observing that is also acceptable by his greatest Lord Almighty. But then again, some of juristic have shown different opinion concerning chain of transmission in this regard. For example, if there is the consensus on the meaning of the text is concerned, the letters alif, lam, which are Divine secret then it cannot be acceptable as predict overview. Consequently, the manuscript, denotes to the agreement according to their point of view, but not the practice of their words and action. Let's make it clearer it might be good according to the believer but not be proven as the 'urf of society. Ibn Hazm inscribes that "The consensus of the Muslims is good according to some Muslims is good and with Allah. " Imam-e-Āmadi and with a number of researchers have said in favor it in regardless of facing disapproval and discrepancy, they all devastating majority of jurists approve these sections of Holy Quran (especially 7:199). Moreover, they verify the 'urf as a source of Islamic law, as it is perceived by the elucidations of the analytics of the Holy Qur'an and jurists.

¹⁴ – Irfan Khalid Dhilon, *'Usul al-fiqh*

¹⁵ – Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*,

1.2.3 The proof of 'urf from the Confirmative Sunnah

All the denoted speeches and actions were articulated in the presence of the Holy Prophet. Whatever, performed throughout his time period, or was reported to him and he did not disapprove or he remained silence and did not prohibit are defined as confirmative sunnah (Sunnah taqririyya). His silence is a sign of his acceptability. "Sunnah taqririyya and customs are related to each other. 'Urf (customs) which were in practicing in the time of prophet and were not prohibited by him or he kept silence on them are also taken as Sunnah taqririyya. There is many examples could be quoted from the era after the migration Muslims to Madina. He abolished many of the customs and remained silence on many of the practices i. e. he maintained many of the business of laws. Let's discuss the instance of customs and practice from the time of the Prophet (PBUH) for the level of Sunnah taqririyya:

"Once Prophet Muhammad (PBUH) gave dinar to hazrat Urwa to buy one sheep but he brought two sheep by those dinars. Then he sold one of them for a dinar and brought the dinar. He prayed for him and praised him in the words that if Urwa that he earns profit if he will sell soil. " By this example one can understand that customs carry significance in Shari'ah, if they are coming from Sunnah taqririyya. Abd Allah b. Mas'ud (Shatibi, 2004) have correspondingly grasped an assumption that this is the saying of 'Abd Allah b. Mas'ud. But there is hadith mentioned by Amidi¹⁶ that the deem of muslimun' is taken as the will of Allah. Although critics have rose with the opinion that 'urf are different and changes from one area to other for the endorsement of Muslims cannot granted in that case. In answer to this problem, it has been recommended that 'Muslimun' in that background are only the experts and law makers who are the sensible member in Islamic Muslim society¹⁷

1.2.4 Practical consent as the proof of 'urf

When a bigger sum of society members practicing any action at border sense through the collective consensus, then it is common practice with regularity it is called practical consensus. Moreover, when it not disapproved by well-informed then such customs are called to be achieved practical consensus.

¹⁶ - Ihkam, I.214

¹⁷ - Hafiz Abdul Ghani, 306-318.

The lateral Muta'akhhirun or fuqaha have been transformed verdicts of the prior lawyers. They are all founded upon customs. In the following example 'urf has been taken as acceptance by the jurists but not acknowledged as a valid basis of ijtihad. It is considered as to be reformed on that gauge:

1) Mubashir is the rule in fiqh that if a person misinforms any news to another person then and that person on having this false information commit a crime. In such case, offender is the second person and he will be punished as he will be taken as responsible for commit crime. Though, spreading a false information is a social crime and corruption. The future fuqaha' could be authenticated a withdrawal from this verdict in favor of the false reporter who was the main accountable for the losses¹⁸ (Zahrah, 2003).

2) Hadith has been provided that about 'udul in the matter of eyewitness. 'Udul means that 'Muslims are trustworthy in relationship for each other'. Imam Abu Hanifah, has said that if qadi has trust on the personality of the witness, on the bases of his previous experience then again, he can trust him and tazkiyah or reexamination is not needed. This is based on prior given hadith.

According to Abu Hanifah's said rule seemed suitable for the time in which it was articulated. Nonetheless, present time has provoked the apprehension over its implications. At present time the behavior of the witness is depend upon many situations and bounded by social pressure some times. It is therefore become obligatory to take precautionary measure to avoid untruthfulness. Islamic ulema also agree on the opinion that tazkiyah have to be practical standard for all type of bystanders. Hanifah's followers were conveyed to give a fatwa in this regard. According to which tazkiyah should be the part of systematic jurisdictional practice. Subsequently, tazkiyah has to fulfill the required conditions too. Therefore, no testimony will be accepted without tazkiyah in case of the decision of law court (Zahrah, 2003).

3) Teaching holy Quran is considered a great 'ibadah or worship in Islam. The reward for this service only can be expected from Allah. According to the Abu Hanifah, it is not permissible to anyone to charge

¹⁸ - Muhammad Abu Zahrah, *'Usul al-Fiqh*

fee for it and consider it unfair to take an amount for coaching the Quran. Therefore, most of the time it is seen that people are reluctant to have money for their services in this regard. But, later on it is seemed and observed that an incentive is needed to promote Quranic teaching among the Muslims in present social system. It is inevitable to pay to cope up this economic system for the teachers of Islam. Therefore, there is fatwa available for charging fees for the teaching of Qur'an¹⁹ (Zahrah, 2003).

4) There is rule in fiqh that it could be change with the change in custom with passage of time. Let's discuss the rule for mafqud in fiqh period for consideration of mafqud, lost person, to be declared dead until his he would reach to the average age of a person to be expected dead will be considered. Accordingly, the experts from Hanafia have arose wth different view with passage of time. They resolute this period of his age at seventy, ninety and one hundred, according to the governing law (Kamali, 1989).

5) Al-ghabn al-fahish is the transactions in sells and purchase. It is the rule for settling down difference among the bazaar prices of an article and authentic worth or value that charges from the customers. It is again resolute with the help of prevailing 'urf of social system. It can be changed by people who are practicing it. The change in the amount to al-ghabn al-fahish showed the changed in custom²⁰

1.3 TYPES OF 'Urf

The two categories of customs are:

1.3.1 Verbal (qawli)

Verbal 'urf is also known as qwali. They transfer to generation after generation on the bases of verbal communication. People practicing them only on the bases verbal agreement among one and other but they do not their literary meaning in true sense and in the result, they become to hold a special position in a culture best exemplary words are *salah and hajj*, etc ²¹

¹⁹ - Muhammad Abu Zahrah, '*Usul al-Fiqh*

²⁰ - Muhammad Tahir Mansoori, Shariah Maxims Modern Applications in Islamic Finance Islamabad, Shariah Academy,

²¹ - Abid, Rameez,, The Role of 'Urf (Custom) in Islamic Law, <https://thethinkingmuslim.com/2013/12/26/custom-islamic-law/>

As it is mention that qwali or verbal 'urf are the main source of custom bit do not have any literary system. There are included all the 'urf to convey by words, terminologies, phrases and idioms in social system. They cannot be found in any dictionary of literature. They are so common that if verbally convey, they become understand by true sense. They are speech oriented and understand by great number of masses with complete meaning.

Mustafa al-Zarqa said that verbal customs with right motive. are so commonly understandable and people catch them easily²² (Dhilon, 2012).

The people understand them and observe in their life by mean it with true motives, as they perceive them. It means that 'urf are used to interpret their certain meaning according to cultural norms and values of that society. In such scenario people do not have to understand the literary meaning of the prevailing customs. They understand their meaning unanimously without any difference in opinion. For instance, in Urdu language the literary meaning of word "sharbat" is to drink but now a days it is taken for a special cold sweet drink which is served in summer. Islamic law expert Ibn Abidin, embraced the absolute meaning of 'urf-e-qawli precisely acknowledged by common people of a society and well practice among commonalities. But the supporters of Imām al-Shafi,ī do not rise with the same point of view.²³ They consider they meaning of another Arabic word for 'urf-e-qawli, that is walad. Literally, it's the meaning of a boy or a girl in different situation. Nonetheless, it is essentially use as in the meaning of boy individual. The word samak that is use for fish, in the language of Arabia, but the lahm word is active with the meaning of fish in the words of the Quran and monolingual dictionary, while in the society it is understanding with the meaning of meat only. "And He it is Who has controlled the sea to be of provision that you eat fresh meat from thereafter, and fetch into the world from thereafter knick-knacks which you attire. " Additional illustration is the term dābba. According to Arabic monolingual dictionary, this word mentions to every single instinctive that creeps on the ground. But when we consider its meaning practically its mean that all the animals on the earth, as Imām Amidi has inscribed: "The

²² - Dhilon, '*Usul al-fiqh*

²³ - Hafiz Abdul Ghani, Conditions of a Valid Custom in Islamic and Common Laws, International Journal of Business and Social Science, 2012, 306-318

term *dābba* is precise to *faunae* as goes to tradition and customs in social set up. Although in the dictionary of monolingual language especially Arabic lexicon recommends that the term is communal to use for all the animals that creep on earth"²⁴ (Al-Amadi, 2008).

According to Ahmad Fahmi, when there is a man rose with just a stick and gave a serious threat to another bear handed man that he will not spare him and finish him (Dhilon, 2012). Then in that situation one can understand that he can only beat him severely and not in a position to kill him. Here one understands the meaning of sentence in the context of situation. There is another trait of '*urf-e-qawali* that it self-explanatory and intellectual meaning or practice is not needed in common use in special reference-based context. The preaching of knowledge is context base by the students. It is the edification that is conveyed. Therefore, the envisioned sagacity is not that the edifice of the bench of knowledge is accountable. The discussed examples are governed their meanings on the petition of the context option by using logical determination.

It means that according to the Islamic law the customs and the practices or '*urf* should be understand in the meaning of the context of the dialogue of the orators etymological and with the society norms and values. So, one has to understand the Islamic rules for the implementation of the meaning of the '*urf-e-qawali*. The connotation and understanding of '*urf-e-qawali* may be different from the understanding of the masses and with the meaning of the same custom in the lexicon of that language of the social system. And the orators, in that social system people do not go for their literary meaning that lexicon. In order to facilitate people, jurists in Islamic law direct them in their agreements. "The verbatim connotation of a convinced word is unrestricted because of tradition, practice and custom"²⁵

Lexicons may recommend numerous forms of conventions for a convinced term. Nevertheless, if public essentially preordained a specific convention, formerly that connotation will be effective, and all the other connotations will convey no weight. According to this opinion, lawful researchers have assumed numerous instances. Like if a man is taking the pledge that he will not pass in at the place of this guy in future. He

²⁴ - Al-Amadi, Imam Sayf al-Din, *Al-Ihkam fi Usul Al-Ahkam*,

²⁵ - *Majallat al Ahkam al Adliyyah*.

actually wanted to say that he will not visit his home in future. It does not mean that he will go there on riding on some vehicle or on an animal back. The case of divorce can understand in the same context, when a man says to divorce his wife. It is commonly known by the same meaning that man do not want to live with his wife any more. But in case time period is matter according to fiqh. In the time of Ibn Abidin, if man says that divorce is on me that means that he is divorcing his wife and marriage will not be continue after uttering these words by him. Although the dictionary does not show the same meaning literarily. But the number of masses took this word in the prior meaning in this case²⁶

1.3.2 Actual (fi'li) (عملی عرف)–

Urf 'amali is any kind of act which has found repetition by people in a specific area. They are comprising of practices which are performing and accepted by people commonly and regularly. Mustafa al-Zaraqqa describes the term in these words: "Urf-e-amali is a state of affairs, when the great masses of certain area are become used to of doing certain practices and adopted them as their life style. They become used of them in the way that they become the part of their socio- cultural system" (Zaydan & Hassan, 2014).

Al-afal al-adiyya is a suitable phrase of the description of habitual practices. Like the example of different norms and values of a society such as eating habits, drinking habits, type of clothes style and type of businesses they are dealing in. likewise, for communal anthropological rights and agreements, a phrase al-muamalat al-madaniyya is used for actual 'urf. There some more instances to explain the term in better conceptual understanding of the argument:

1. According to Ibn Qudama, it is legitimized that one can keep silence when he is buying or selling something. This situation is taken as normal and valid from the all of legal aspects of the Islam.
2. There are many goods like coal, wood, barley and wheat etc. , which are purchasing by a customer according to the custom of the particular society. Moreover, according to the custom it is not the duty of the seller to deliver these purchased items to the house of the customer.

²⁶ - Mohammad Hashim Kamali,

3. It is also legal to use the bath rooms, without time bounding for the consumers or user of the bath room at public place. While this facility has been availing by him by the fix amount which has been fixed earlier. Nobody could ask him how much time he is going to spent there and how much amount of water he is going to consume there. Furthermore, it is his legal right²⁷

4. Normally, if there is no amount of payment is fixed between the seller and buyer then it will be settled down after getting the order or settle according to the norms and values of that society beforehand. The matter should be fixed in accordance of usage.

5. The rent of a shop or house should be pay according to the norms of the certain society of that area in which people are living (Ghani, 2012).

Some examples below will further help to understand the social matters like contracts, business dealing, transactions and other procedures related to social dealing:

1. In these days it is seemed that when people are used to do shopping in superstores, they used to select the buying items themselves and observer the price themselves. They do not need to ask from the owner. They just have to bring those items at the counter and pay the price to the cashier. This king of buying or selling without uttering any word is legitimized in the eyes of the law scholars as it is mentioned earlier.
2. It will be liable to a gust to follow the norms and values of the society in a social system, when he is staying in his host home. He could eat and drink and consumes edibles according to the norms of the society, he doesn't have ask for permission. Such customs are already settled in the social system.
3. In the matters of property related some subjects are understood. In the matter of sell and purchase, all expenses will have to pay from the buyer in many societies in accord to the local custom and usage.
4. In the normal business transaction, the buyer and seller do not have to mention the type of currency in the legal agreement. It is obvious that the transaction will be in traditional currency but if

²⁷ - Karkhana, Majallat al Ahkam al Adliyyah, Karachi, Noor Muhahammad Karkhana Tejarat e Kutub 1968.

there are more than one type of currency are in use, in the of the area then it is necessary to mention the name of currency in the legal documentation. Else, such business deal will be annulled.

5. Moreover, it is also understood that if a man buys a house, all the items of that house goes under the custody of the new buyer, although they were not written in the contract like upper story, taps, kitchen, lawn and baths etc. Refer to this issue, if we consult to the Islamic law experts, then they will give you a detailed list of laws in this concern on the bases of usage of a society. The Islamic law provide us a list of laws like in that purchase drinking water and other utilities like electricity will not be free. In such case Allāma Ibn Abidīn give the different point of views. In his lawful finding, he hassled such matters specially all the above-mentioned things should be prone to the prevailing custom and usage of the society.
6. In the monetary matter of wages of work and payment of a rent was not settled down before then it has to resolve according to the norms and value of the area.
7. In case of dowry on the marriage was given by a father of a daughter. And due to some reason father said that this is not the gift daughter and she has to give it back to him as it is rented one, while the daughter claimed to have it. Then, this social matter will be resolved again in accordance of the prevailing norms and usage.
8. In the monetary matters all categories of transactional documents, receipts and cheques will be pact with the accordance of the local legal usage of social system. With verbal agreement, a written agreement with signature is necessary now a days. Any other type of document like writing on bones, on skin are not to be reliable as it was the primitive societies.

Actual 'urf comprises of usually repeated actions which are putative by the masses in certain society. The bay' al-ta'ati could be used as an illustration of actual 'urf is, in which one has to deal in business.

1.3.3 A General 'Urf

These are the 'urfs which are predominant far and wide and masses are come to an agreement on them irrespective of the passage of time. According to Mustafa al-Zarqa Ibn this is the type of the 'urf which is accepted by the great masses of the people unanimously worldwide. Abidīn articulates that any type of tradition which is practices by the

people of all the countries of the world regales to the time time period, means that these people can be from past and present, is called a general 'urf.

Therefore, it is concluded from the above mention definitions that the general 'urf are the 'urfs which are practices by all the people of the societies of the world and they are confined to observe them unanimously.

Some outstanding illustrations consist of like taking a bath in a public bathroom is not restricted to consume the quantity of water. To settle down its limit will be considered anomalous with regard to water. In the point of view of juristic expert Ibn Abidin, general 'urf, which are related to the time of holy prophet are of great importance in the formulation of the fiqh. Many rules and regulation of the fiqh are derived through those general 'urfs. They are used for direction and guidance in the matters of daily life. It means that general 'urfs are the forceful tool for ijma' (consensus) in Islam. "

Moreover, Hanafi jurists are authenticated the general 'urfs for the formulation of istihsan, favor them as a guiding rule for qiyas²⁸ (Zahrah, 2003).

1.3.4 "Special 'Urf"

These are the 'urfs which are predominant in a specific vicinity, occupation or activity. It is not necessary obligation for them to be acknowledged by all the masses of the society far and wide. These 'urfs are famous in particular group of people in certain time period or can be for all the time period. It is not to be necessary for all the people to accept them. Such 'urfs are not common among masses. They are popular in any are of the world and accepted by any group of society. There is no legal obligation on people to accepting them. "The ruling of special 'Urfs is recognized by the people among whom it is famous. Ahmad Fahmi observations: "Specific 'urfs are not perceived by all the subjects of a land-dwelling. "

It could be said that, special 'urf or custom have assortment in a social system. There are variety of in the types of special 'urf and show a lot of collection of usages. There is continuous change of interests seen with the passage of time. The people modify them in the interest of their

²⁸ -Abu Zahra, *'Usul al-Fiqh*

welfare in different developmental stages of societies. According, the Hanafi followers, if special 'urfs generally do not meet requirements to satisfied the teaching of Quran and Sunnah. This type of 'Urf cannot be accepted in jurisprudence. In simple words, if the 'urf anticipate the requirements of the ahkam of Shari'ah, then can be accepted. A great number of well-known Ulema, have rose with the fatwa for the acceptance of special 'urf with reference to general 'urf in this reverence. It means general 'urf will be more considered in qiyas with respect to the special 'urf. The motive behind this was that general 'urf are symptomatic for the need of people through ages, therefore, priority is given them over special 'urf. To nullifying the general 'urf could put the people into hardship and uncomfortable situation. Ibn al-Humam belongs to Hanafi school of thought and says about 'urf in both cases to that the instructions will be accepted by the consultant of ijma'. Moreover, ijama should have urgency over qiyas. Al-Shaybani, was the student of the Abu Hanifah, who legalized the sale and purchase of honeybees and silkworms. If we see the matter in analogical order his master was again this. Additionally, the experts Shari'ah have chronicled the interpretation that subsequently 'urfs are specified urgency concluded on qiyas but it has to be bases on Quran or Sunnah and do not countenance any kind of contradiction. If they are not originated from nusus, then 'maslahah' or public interest will be given importance over it. Discussion on this matter also show that contradiction between general 'urf and maslahah are sporadic although. If any accepted 'urf is valid by all its defined definitions and by all the times then it is seemed that it will have rare difference with maslahah. There is no doubt, in accepting the fact that both of them are observed by the people to give easiness in the daily chores and errands of life altogether²⁹

There is again two more types of customs or 'urf if one has considered the point of view of orthodox that are 'al-'urf al-sahih' or permitted convention and 'al'urf al-fasid' or condemned convention.

Al-'urf al-sahih or Approved or Valid Custom: "These are the 'urfs, which are pragmatic by the people at a wide extend and are not suggested by the *Shari'ah* because they might be breached any of its ideologies."

²⁹ - Mohammad Hashim Kamali

Al-'urf al-fasid or Disapproved Custom: Some practices commonly observed by the people in the societies that are objectionable in the rules of *Shari'ah* are called disapproved customs.

1.3.5 Al-'urf al-sahih or Approved or Valid Custom

These are the 'urfs, which are pragmatic by the people at a wide extend and are not suggested by the *Shari'ah* because they might be breached any of its ideologies. These are the practices which are acceptable even all the religious books of the world and do not go against the basic teaching of religion. They do not even castoff any teaching of Islamic jurisprudence. On the other hands they smoothen the path of practicing *Shari'ah*.

Zaydān, who is jurisprudence *expert* transcribes about approved custom that: "Such 'urfs are the customs which are not against the Islamic teachings and do not come in the way to observe them. Moreover, they are commonly accepted by people and they like them. "

All the experts of jurists recompence regard to these 'urf in society. There are always available definitive verses in divine inscription and in teaching sunnah, in support of them. To support this 'urf, there is always some definitive implication of the holy text. For example, the transcript maintenance is the mandatory responsibility to pay for the child's father for child's mother and that should be in accordance with the financial and social tradition of prevailing society. It is a good example of approved and 'ma'rūf practice in Islam³⁰ Although Quran guided the people in this regard but she has to accept it whatever his husband could bear easily. At another place the holy transcript instructs us on this issue of paying for this social obligation. That one can spend whatever Allah has given him by measured or in plenty or less. Shaykh Ibn al-'Arabī says about it that: "There no fix amount of payment is given in Islamic law of this obligatory allowance. It must be depended about on local tradition by keeping in mind of father income and social status. " Ibn al-'Arabī have faith in the Islamic law about this matter which guided us to articulate the rules for such kind of responsibility by keeping in mind the local tradition, norms and values of the masses.³¹

³⁰ - Abdul Kareem Zaydan; Hassan, Ahmad, Jame ul Usool translation of Al Wajeez

³¹ - Dhilon, irfan khalid, ilm e usul e fiqh aik taaruf urdu, shahriah academy iiu

1.3.6 Invalid custom or disapproved urf.

There are many practices and custom are commonly observed by the people in the societies that are objectionable in the rules of *Shari'ah* are called disapproved customs. They nullify the religious teaching. They convert the forbidden things into norms and prove to be destruct for the long run results.

They are invalids from the point of view of SHARI'AH. Abd al-Karīm Zaydān describes about invalid 'urf is that: "It is an exercise or commonly observing activity among masses which are against the holy law. They convert unlawful into lawful or some time mix them. They also discard a mandatory duty completely and damage the structure of society. "

There are some of the quotable examples of invalid custom from the society³² (Zaydan & Hassan, 2014):

1. The transactional matters which encompass usury in many cases directly or indirectly.
2. Illegitimate traditions which observed by people after the child's birth or after the death of a person.
3. The gifted money to the girl on marriage by the guest is taken by the in laws forcefully
4. Coeducation system in Islamic societies and mixing of man and women on other social gathering.

There is long list of the such disapproved custom or invalid urfs, which are common in our society. There is indication to show that such customs are completely unacceptable to the philosophies of Sharah. In banking system, the practices of riba and disowning the female from her father's property are the pure violation of the Shari'ah.³³

1.4 Conditions of valid 'urf

Mohammad Hashim Kamali enlists four necessities derivatives from the Islamic point of view for the acceptance of the 'Urf :

³² - Abdul Kareem Zaydan; Hassan, Ahmad, Jame ul Usool translation of Al Wajeez.

³³ - Badran Abu al-'Aynayn, Usul al-fiqh, 1969

1. Custom must be observed by great masses of the society, if a custom is practiced by a small number of people in a society then it be unacceptable. They are dominantly observed by great masses. Moreover, commonality and regularity are another principle for the acceptance.
2. Any custom should not violate the requirement of contract. Contractual rules must have the supremacy over customs of the society. Any custom can be in position of restoring only in the absence of the agreement.
3. That specific custom must be exit at the time of its conclusion in the agreement and in business monitorial matter.
4. It must not go against the laws of the *naas* of jurisprudence. If it shows a little disagreement with the principles of law then it would be allowed to do with limitations. Custom will be in the position of consideration only in the case of illogicality from the laws of *naas*.

For the authorization of the 'urf in the society, it must have to be observed by the responsible and sane people of the society. Moreover, they must accomplish the following conditions³⁴

- 1) Observance 'urf must be on the bases of commonality and regularity. Commonality and regularity are the basic principles for the acceptance. Custom must be observed by great masses of the society, if a custom is practiced by a small number of people in a society then it be unacceptable. They are dominantly observed by great masses. To get the support of court of Shari'ah, these are requirements in judicial decision. In Majallah al-Ahkam al-'Adliyyah such requirements are merged specially in the case where there is regularity of customs is provided with repetition' (Art. 14). For instance, if an individual will observe the rules of custom or goes with an agreement in the absence of custom in the purchasing of a car or a property. In more suitable situation he must have to follow the common practice of masses like for purchasing car he goes to the car dealer and for property he goes to the property dealer.

³⁴ _ Mohammad Hashim Kamali

Custom, in order to be supported, has to dominance in the society. If only bunch of people are observing the custom then it will be not authoritative in the eyes of law experts. Its requirement of dominance will be applicable on the two practices of custom in the same situation. In such situation dominant custom will be consider supremacy. For example, if a commercial dealing is occur in the country where there more than one currency is in use then the financial matters will be resolve in the currency, which is more dominantly use in the country.³⁵

- 2) In monetarily matters custom should be in practice. It is decided jurisdiction rules that those custom would be preferred in the matters of agreements of business and economic dealings, which were in practices by the community of that contractual partners. This condition is applied in the clarification of legal agreement. In this particular situation the custom will be consider supremacy, if custom was observed in the time when the agreement between the two parties were written. Now it is clear that the custom only has supremacy, if it was being in practice at that time and documentation of agreement should be self-manifest of observing that custom. It means it was common too at that particular time.³⁶
- 3) Custom must not break the vibrant requirement of an agreement. Since, in any situation legalized document has sturdier than the prevailing custom in the social system. Custom will be taken as an alternative in the nonappearance of a contract. In the said case only, the custom will be considered valid. For instance, if the custom of giving mahr or dower to the bride in marriage from the bride is written the agreement or nikh paper also. The existing custom is to do payment of half amount in one time at least at spot of the function marriage then it has to observe. But it is necessary to pay the remaining amount latter and concluded in the contract paper of marriage and it should be written clearly specifies the speedy payment of remaining amount of dower. This requirement, is not although the rule of custom.

³⁵ - Mohammad Hashim Kamali, Principles of Islamic Jurisprudence.

³⁶ - Hussain Hamid Hassan, An introduction to Study of Islamic Law, Islamabad, Shariah Academy IIU, 2010.

If there is occurring a special disagreement in legal documentation and there is not found any strong written evident in there then custom will be summoned to use. in another example one can understand this situation like in any sale and purchase of an item the seller has to pay the prior registration fee back to the buyer. If will be observed in the case only if it was written in the contract and was in practice and seller also agree to pay. And in the absence of any documentation the custom will be follow by both the parties.³⁷

- 4) Lastly, custom must not go against the laws of the naas of jurisprudence. It must not go against the laws of the naas of jurisprudence. If it shows a little disagreement with the principles of law then it would be allowed to do with limitations. Custom will be in the position of consideration only in the case of illogicality from the laws of naas. Custom for nass is could accepted whole or partially. In the presence of naas the custom will not take into account. There are number of examples for such condition that are come across in the bedouin tradition of dispossessing the women beneficiaries, lilac drinking, the riba in transections in Islamic social set up. The element of its commonality will not consider for its continuity and acceptance in Islamic social system. Even if these practices are on widely accepted, they have prohibitory nass. Here commands of teaching of Islam will be got forth most importance. There should be no concession could be given on bases of values of people. There other situation could be appeared when there is no confrontation between the divine law or command and the usage, then in absence of no clash, they could be accepted in favor of naas. The example of the agreement of istisna', that is, the agreement of settle price at certain instruction for the production of goods. For example, holy Prophet (PBUH) forbidden the sale of commodities, before its manufacturing while he allows the advance sale of such items when even delivery will be latterly'.³⁸

This hadith is considered over-all apply to all verity of sale and purchase of goods even for those items which were not present at time

³⁷ - Mohammad Hashim Kamali, Principles of Islamic Jurisprudence, Islamic Texts Society, Cambridge 1989.

³⁸ - Badran Abu al-'Aynayn, Usul al-fiqh, Dar al-Ma'arif, 1969.

of agreements. Salam is the term use for this rule of business in Islam. It is applied for the benefit of the common people and estimated to accept by all the people of the society. The principle of salam is also apply to istisna' as in generally and for the items which were not present at the time agreement. But, as there was the mutual mode of action of the people of all ages and times, therefore, fuqaha has no any kind of objection in this regard and accepted it as traditional usage. Hadith has openly legalized salam, therefore, any kind of skirmish between istisna' and salam can be existed. Being Muslim one has to gives respect to salam as to isisna. Salam is the order of holy prophet and in the welfare of the masses. Subsequently, the convention vis-à-vis istisna` is permissible to activate. But, keeping in view of lemmatization of ruling text of hadith because hadith will be more competent regarding the practice of istisna'. (Kamali, 1989) Here, the example of rule appointment of wakil or agent for marriage or business dealing can be taken into account, for this text has to be competent by custom. Here the duty of wakil is to accomplish the agreement. In the financial matter the dealing will on prevalently market price should have to be supported. The tradition money of the area will putative only in business deal.

As it is proven by the number of hadiths for example, the conditional sale has been prohibited in Islam. For instance, one wants to buy one's house worth of one core in exchange of his car worth of rupees forty lac. Such kind of dual condition is insane and forbade by holy Prophet (PBUH). Though, the majority of scholars of Maliki and Hanafi law experts have legalized this condition if it is the practice of the people at large scale. But, here again the over-all ban is reserved against special acceptance of `urf is supported by.³⁹

'Urf and ijma' have many similarities and the said rule is used to differentiate between 'urf and ijma' very well, otherwise, one might be confused. The considerable differences between them may be summarized in these points:

- 1) `Urf will be turned up in the contract only if it is dominantly in use by large number of masses and the discrepancy of a few entity's, if exist will not be pretentious. To turned up such 'urf, ijma` will be

³⁹ - Muhammad bin Ali, Shawkani, Irshad al-Fuhul, Dar al-Kitabal-Arabi, Dar al-Kitabal-Arabi, Beirut, 2003.

the major condition which has to be attained by all of the mujtahidun of all the of the time period and generation after generation. Any kind of difference and opposition has not been accepted in this regard in ijma.

- 2) On the other hand, custom does not hinge on the harmonious decision of the mujtahidun. It is dependent only on the vast acknowledgement of the great masses as well as the mujtahidun. The common people have no interest in the decision of ijma and have nothing to do with the formulation of the law. They only do and wanted to do what they have learned by the procedure of the socialization by live in a social system.
- 3) It must be kept in view that the decision of ijma cannot be changed. Once an ijma' is decided, the additional ijihad will be excluded, on the same matter. It cannot be annulled or alterations. While, on the other hand, the guidelines of 'urf are prone to change. It is observed that traditional customs might be changed with passage to time and situations. Sometimes, they become obsolete. It means that 'urf is prone to open for fresh ijihad. Ijihad will be ruled if the founded 'urf has been changed.
- 4) Finally, for the materialization of 'urf the condition of continuity over the ages is the main requirement. But for ijma` continuity is not the basic requirement. It comes into being each and every time when the mujtahidun grasp an agreed. Unanimous agreement of them is the basic requirement.⁴⁰

1.5 Urf and Its Application In Our Society

The Quran and sunnah are the main foundation of Islamic jurisdiction, which is based on the complete agreement of the experts Shari'ah. Nevertheless, the difference of opinion might be perceived among them, in approaching the issues. They do not disagree on the issues which are openly given in Quran and Sunnah but if there is no hint from the Qur'an and Sunnah, then their approach to view and reach on conclusion might be different. For resolving such matters *ijtihaad* can be used as resolving tool. In which, extremely competent group of scholars are consult with each other and formulated the rules in the light of Quran and sunnah. These are two primary sources, which are employed to derive secondary sources of Islamic act. Specialist of such subordinate

⁴⁰ - Badran Abu al-'Aynayn , Usul al-fiqh,

foundations in originating jurisdiction might be rose with differences among themselves and may reject the certain secondary source for accepting other one. 'Urf is one of those disputed secondary sources.

The factor of dominancy and common acceptance in certain region is the requirement, in the implication of one 'urf as the part of law-making matter. If 'urf has been practicing by a limited locality cannot be considered. It has to be rejected if it has contraction with Islamic texts. However, 'urf is considered supreme over *qiyas*, in case of conflict between two. In this regard jurists also incline to give superiority to 'urf over the valued intellectuals' opinions.

Conclusion

1. Custom, or *Urf*, is a social and cultural reality that represents the long-standing traditions, norms, and values within any society. The need and importance of custom can be explained through the following points:
2. Custom promotes harmony and consensus among the members of society. Through shared traditions and norms, it brings people closer together and helps organize social life.
3. Custom is an integral part of a nation or society's culture and identity. It helps maintain the uniqueness of different social groups and preserves their traditional heritage.
4. Many legal systems use custom as a secondary source of law. If a specific issue is not clearly addressed in the law, a decision can be made based on custom.
5. Following customs creates stability and security in society, as people have a clear understanding of what to expect in various situations.
6. Customs make every day decision-making easier for people. For example, how to behave in a particular event or situation becomes simpler by following established customs.
7. Custom strengthens social and moral standards, teaching people the difference between right and wrong.

8. This need and importance of custom make it an essential and influential element in social life, helping to keep society organized and balanced.

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