Customs and Traditions:

Their Applications in the Branches of Islamic Law

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Abstract

Islam is a universal religion, the solution to the problems that will come up to the resurrection is in it. Islam is the religion of nature, in which human nature is fully respected and the requirements of humanity are fully respected. Islam has not completely freed or ignored customs and tradition(العرف والعادة). Rather, it has limited them and made it easier for people to take advantage of the conveniences and facilities by stating the rules and regulations. No, but it is used as an auxiliary argument. It gives shariah validity to customs and habits, provided that it does not conflict with any shari'a argument. It is the responsibility of the scholars of the Ummah at this time to differentiate between the bad and good customs and traditions of the society, taking into account the requirements of the present age, and to extract the jurisprudential details accordingly, so that the difference between right and wrong can be clear and people can be informed. Ease will also be found. In this research, Urf had been defined and its importance in Islam has been highlighted. Its validity in Islamic jurisprudence has been proved by Quran and Ahadith. Different examples have been given to support the research.

Key words: Urf, Customs, Islamic law, Applications

First Section: Definition of Custom (Adah) and Tradition (‘Urf) in Language

Part One: Definition of Custom (‘Adah) in Language

In language, 'Adah (custom) is what a person becomes accustomed to and familiar with. Its plural is 'Aad and ‘Aadaat. The latter is derived from the root "K-R-A" but is not linguistically strong. The term 'Aid (عيد) comes from the same root and refers to what returns due to longing, illness, and similar conditions, as will be mentioned.

The verb "‘Aada" is used, and its derivatives include ‘Aadaahu (he accustomed him), Mu‘aada (repetition), and ‘I‘aadah (habituation). When something becomes a habit, Ibn al-Arabi expressed it in poetry, saying:

‘That has always been the habit of God with me, And the young man becomes familiar with what he repeats.’

And another poet said:

"The righteous manners become accustomed;

I have seen people becoming familiar with what they recover".

Abu Kabir al-Huthali

Describing wolves, said":*Except for a pack like rebellious ones, repeating, At night, they return, having enjoyed a meal, Which means they have returned multiple times, and the recurrence of return cannot be denied".* (Ibn Manzur, 1414 AH/1993 CE, 317/3)

Second part: Definition of Tradition (‘Urf) in Language

In language, "‘Urf" (tradition) has two valid roots, one indicating the continuity of something connected to each other, and the other indicating stillness and tranquility.

The first root, "‘R-F," is exemplified in the term "‘Urf al-Faras" (the mane of the horse), named as such due to the continuous hair on it. It is said: "The train came '‘Urfan ‘Urfan,' meaning parts of it behind each other. Another example is "‘Araf" and its plural "‘Araaf," referring to an elevated, well-vegetated piece of land between two plains, resembling the mane of a horse.

The second root is "‘A-R-F," which relates to knowledge and recognition. It is said: "He recognized so-and-so with recognition and knowledge." This is a well-known matter and indicates the tranquility and knowledge associated with it. This signifies what we mentioned regarding its tranquility and recognition, as anyone who denies something becomes disturbed by it and informs about it.

Another derivative is "‘Arf," which means a pleasant fragrance. It is also related to measurement because the soul is attracted to it. It is said: "How pleasant is its '‘Arf' (fragrance)." Allah, may He be exalted, says: *" And He will admit them into Paradise they have been made familiar with it. "* (Quran: 47:6) meaning its pleasantness. And the verse continues:

‘*Except for one who [has] offered to the Most Merciful a ‘‘Arf’ (sacrifice). So he will have a near residence.’*

‘Arf’ can also refer to what is known and familiar. It is named as such because souls are drawn to it. As the poet Al-Nabigha said:

> *"Allah refuses anything but His justice and fidelity,*
>
> *Neither the unknown is known nor the familiar is lost".*

It is also said: "The soul is ‘‘Aroof’ (acquainted)," meaning when it is inclined toward a matter and acts accordingly. Another poet said:

> "*So I refused women who were adorned,*
>
> *Acquainted with customs after being virgins* (Al-Qazwini ,395 AH/1979 CE)(281/4)

Through the comparison of these definitions for both 'Adah and ‘Urf, it is evident that for something to become a custom (‘Adah), the element of repetition over time is necessary. On the other hand, ‘Urf requires continuity, tranquility, and stability.

Definition of Custom and Tradition Technically

When jurists address the definition of custom and tradition, we find that they did not distinguish between them technically as long as the basis of judgment on both is the same. The repetitive

factor that characterizes custom makes people accustomed and content with it, and their dealings become settled, turning it into a tradition and vice versa. This is why jurists express one in terms of the other and do not differentiate in their definitions with a significant distinction between them. Sometimes they describe custom as authoritative, and at other times, they describe what is known as a tradition, such as a condition being stipulated.

Ibn Abidin says: "Custom is derived from repetition, as it becomes known and stable in the minds and souls through its repetition and recurrence. It becomes an established reality in customary practice, accepted without condition or evidence until it becomes a recognized reality of tradition. Custom and tradition have the same meaning in terms of credibility, though they differ in meaning (Ibn Abidin, 1907, 114/2)

Thus, Al-Jurjani provided a subtle definition, saying: "Custom is what has settled in the minds with the testimony of reason, and nature has accepted it with approval. It is also an argument, but it quickly leads to understanding. Similarly, custom is what people have continued to follow based on the judgment of reason, returning to it again". (Jurjani 1983، p. 126)Al-Qarafi defined it by saying: "Custom is the prevalence of a meaning among people". (Al-Qarafi, 1973, 352) Ibn Amir Hajj defined it as: "It is a recurrent matter without a rational connection, and that is the intended meaning". (Ibn Amir Hajj, 1983, 340/1)Ibn Abidin further defines it, quoting Al-Hindi in his explanation of Al-Mughni: "It is the expression of what has settled in the minds regarding recurrent and reasonable matters among sound dispositions". (Ibn Abidin , 1907, (114/2)

In summary, custom and tradition refer to what becomes established in the minds of people through repetition and is accepted by their natural inclinations, ultimately becoming a recognized and accepted practice. The jurists use these terms interchangeably, emphasizing the repetitive and accepted nature of these practices in society.

Section two: The Validity of Custom and Tradition

Jurists unanimously agree on the validity of the correct custom or tradition, which is acceptable to them under the condition that it is valid, general, and does not contradict any legal text or general legal principle. It should be prevailing or predominant. (Ibn Abidin (2/115 and beyond), Suyuti (p. 127 and beyond) They supported its validity with evidence, including:

The Quranic verse*: "Take what is given freely, enjoin what is good, and turn away from the ignorant."* (Quran 7:199)

Another Quranic verse that emphasizes following the path of believers and avoiding deviation: *"And whoever opposes the Messenger after guidance has become clear to him and follows a path other than that of the believers, We will give him what he has taken and drive him into Hell, and what an evil destination."* (Quran 4:115)

The verse concerning oaths and their expiation: "Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths. (Ibn Taimia, 1995, 350-351/35) So its expiation is the feeding of ten needy people from the average of that which you feed your [own] families or clothing them or the freeing of a slave. But whoever cannot find [or afford it] – then a fast of three days [is required]. That is the expiation for oaths when you have sworn. And guard your oaths. Thus does Allah make clear to you His verses that you may be grateful." (Quran 5:89) These verses indicate that custom and tradition are considered valid as long as they do not contradict established Islamic principles.

Additionally, scholars have referenced the Prophet's sayings and actions, such as the hadith: *"Whatever the Muslims see as good is good in the sight of Allah (Al-Alai says : I did not find it raised in anything from the books of hadith originally, nor is it a weak chain after a long search and inquiry. Rather, it is from the statement of Abdullah bin Mas'ud, narrated by Ahmad in his Musnad.* See Al-Silsilah al-Da'ifah)

The hadith of Aisha, where a woman complained about her miserly husband, and the Prophet advised her to take what is sufficient for her and her children in a reasonable manner. (Al-Bukhari (5364) and Muslim(1714) The scholars, including Ibn Taymiyyah, emphasized the importance of custom in matters that are not explicitly regulated by Sharia, and they cited the Quranic verse: "from the middle [of what you feed your families]". Al-Salimi ‹660 AH/1991 CE, (61/1) Furthermore, the scholars mentioned the Prophet's approval of contracts like "silm" (peace treaty) and "istihsan" (customary approval) as evidence of the acceptance of customary practices. (Al-Bukhari(2240) In conclusion, jurists accept the validity of custom and tradition in Islamic jurisprudence, provided they do not conflict with established legal principles and are prevalent or dominant in society.

Section Three: The Specification of General Statements by Custom and Tradition

(Sharh al-Kawkab al-Muneer (3/387), Al-Mawsu'ah (1/123), Al-Taqrir wa al-Tahrir (1/340), Al-Mustasfa (3/329), Al-Mahsul (3/131), Al-Ihkam li al-Amidi (2/407), Sharh Tanqih al-Fusul (165), Al-Bahr al-Muhit (3/391), Ithaf al-Mahsul min Burhan al-Usul (331), Nihayat al-Sul (217), Qawati' al-Adillah (1/392), Al-Rudud wal-Nawakid (2/271 and beyond), Al-Ibhaaj Sharh al-Minhaj (2/181), Al-Uddah (2/593), Sharh al-Adad 'ala Mukhtasar al-Muntaha (3/75), Irshad al-Fahul) Legal scholars unanimously agree that the linguistic custom(Al-Taqrir wa al-Tahrir (1/340), Nihayat al-Sul(219) (linguistic usage) is dedicated to the expression of the general (generalized) term. However, regarding actual customary practices, there are two schools of thought:

The First School (Hanafis and the Majority of Maliki Scholars

They argue for the specification of the general by practical custom. They support this view with several reasons, including

1. They equate practical custom with linguistic custom, as distinguishing between them would be arbitrary without evidence. Anything contradicting practical custom also contradicts linguistic custom.
2. Practical custom has become an established linguistic reality, while

the practical aspect requires ongoing actions and repetitions. Therefore, linguistic custom prevails without the need for continuous actions or repetitions.

1. They argue that specification occurs as with the specification of an animal by custom or the currency by the prevalent custom.

The Second School (Shafi'is, Hanbalis, and Some Maliki Scholars

They argue for the application of generality to generality. They contend that general terms are applied according to the linguistic norms at the time of the Prophet (peace be upon him). However, they acknowledge that if there is a custom present in their time, recognized and accepted, it can be specified. The actual specification, however, requires clear evidence.

They support their position with the following points:

- They emphasize considering the general linguistic usage, not relying on specific customs that may vary.(Al-Zarkashi, B. ,794 AH/1994 CE, 3/393 and beyond)
- They argue that the linguistic evidence prevails, and the general linguistic expression is applicable unless there is clear evidence to specify it.
- They contend that relying on custom is problematic, as people's actions are not conclusive evidence in Islamic law. If there is unanimous agreement to specify based on another evidence, then it is accepted.(Al-Amidi, 1402AH (2/407 and beyond)

In summary, the second school holds that linguistic custom takes precedence unless there is clear evidence to specify it. The first school argues for the specificity of linguistic custom by practical custom. The debate involves the interplay between linguistic norms, practical customs, and the need for clear evidence in specifying general terms.

The Fourth Section: Applications of Custom and Tradition in Jurisprudential Branches

Undoubtedly, the closest thing to understanding the abstract matter is to provide examples to facilitate comprehension and habitual application. Therefore, it is necessary to present examples that illustrate the derivation of jurisprudential branches from the principle of custom and tradition. The following are practical examples:

Example One: Is the Oath Based on Custom, Intention, or the Wording?

The Hanafis say: The oath is based on custom and tradition, not on purposes and intentions because the purpose of the one swearing is the conventionally recognized commitment, so one adheres to his purpose. This is the prevalent view among them, and they have adopted oaths based on words rather than purposes.

The Shafi'is say: Oaths are based on linguistic truth, حقيقت meaning according to the wording because truth is more deserving of intention and purpose. However, if someone intends something and acts according to his intention, for example, if a person swears not to eat heads, then eats whale heads, those who consider custom say he is not breaking his oath, while those who consider the linguistic indication say his oath is broken. Similarly, someone who swears not to eat meat but eats fat, some consider this adherence to the linguistic indication, and others say oath will considered broken.

In conclusion, al-Shafi'i follows the language when it appears and is comprehensive, and this is the general principle. Sometimes, he follows custom when it is well-established and predominant.

Malik, in the popular opinion of his school, considers the decisive factor in oaths that are not settled by them as intention (i.e., the swearer's intention in non-litigious matters, and in these cases, the swearer's intention is considered as mentioned earlier). If intention is lacking, then consideration is given to either custom, linguistic indication, or simply the linguistic form. Some say only intention is considered, others say only the apparent linguistic form is

considered, and some say both intention and the plain meaning of the linguistic form are considered.

As for oaths that are settled by the swearer, in the field of legal consultation, these criteria are considered in the following order. If it is something that can be settled by it, only the linguistic form is considered unless supported by the swearer's intention, the circumstances, or custom.

Al-Shatibi said: According to the Maliki school, evidence is left to custom, as oaths are returned to custom, even though the language in its wording implies something other than what custom implies, such as someone who swears not to enter a house, and he does not consider entering a mosque a breach because it is not called a house in custom.

The Hanbalis say: Oaths are traced back to the intention, the intention of the one swearing. If he intends by his right hand something that the wording can bear, his right hand is committed to it, whether what he intended agrees with the apparent wording or not. If he did not intend anything, it goes back to the reason for the oath and what provoked or stirred it, indicating his intention. If he swore not to shelter with his wife in this house and the reason for his oath was anger from the house due to harm inflicted on him by it or a favor bestowed upon him in it, then his right hand is limited to it. If the reason for his oath was anger at his wife, leading to her abandonment, and there is no impact on the house, that is related to his sheltering with her in any house.(Al-Zuhaili, (398/3)

Example Two: What is the Criterion for Non-customary use that Causes Harm to Others?

If a person uses their right in a manner not customary in the people's tradition, and it results in harm to others, it is considered arbitrary. For instance, raising the volume of a disruptive radio affecting the neighbors and causing discomfort, renting a house and leaving water in its walls for an extended period, renting a vehicle and overloading it beyond its

capacity, or mistreating an animal by hitting it severely or burdening it with more than it can bear.

In all of these cases, it is considered arbitrary, and one is prohibited from such arbitrary actions, and the affected party is entitled to compensation for the harm suffered.

Similarly, one is prohibited from using their right if they use it in a non-customary manner, even if apparent harm does not result. This is because usage in this way is not free from harm, and the absence of visible harm does not prevent its actual existence. While the lack of apparent harm may prevent a clear judgment for compensation, if the usage is customary and familiar, and harm occurs, it is not considered arbitrary. In such cases, there is no guarantee, as exemplified by a surgeon performing a routine operation where the patient dies – there is no pledge ضمان. Similarly, someone who lights an oven causing smoke that disturbs neighbors or operates a machine causing noise that affects neighbors in a customary manner does not provide a pledge ضمان, as all these actions are customary and familiar.

Based on this: If someone lights a fire on their land, and sparks fly from it, burning something belonging to their neighbor, if this happens under normal circumstances, there is no guarantee on them. However, if this occurs during windy weather and the wind is strong, then they are liable for compensation.

Similarly, in the case of irrigating the land, if it is regular irrigation and water seeps into the neighbor's land, the person is not liable for compensation.. But if it is irregular irrigation with water that the land cannot normally withstand, then they are responsible for the resulting harm to others.

The criterion in such cases is the customary practice that determines whether the behavior is customary or non-customary. According to this, the rules of dealing with a baker or a potter apply if they act unusually, such as increasing the fuel of the fire or the intensity of

electricity beyond what is customary, and they would be liable in such cases. (The previous reference (36/4)

Example three: custom is the standard in rejuvenating abandoned property (إحياء الموات) according to the shafi'i school.

The rejuvenation, in which one gains ownership, varies depending on the intended purpose of the land and is subject to customary practices. Custom represents the common interest because the Sharia did not specify it and has no limit in language. Therefore, it refers to custom, such as taking possession in sales and gifts, and seizing in theft, where each case is judged according to its customary practices. The criterion is the arrangement that facilitates the intended purpose.

If one intends to rejuvenate abandoned property for residence, it is a condition to enclose the area with bricks, mud, or reeds according to the customary practices of that place. The established view is that enclosing without construction is not sufficient; building is necessary. A roof is required for some land to make it suitable for habitation, and the installation of a door is also required because it is customary for houses to have doors. The land is not suitable for habitation without building, a roof, and the installation of a door.

If one intends to reclaim abandoned land for animal pens or similar purposes, such as a barn for storing fruits and crops, it suffices to enclose the area with construction according to custom, and a roof is not required because it is not customary. However, the installation of a door is likely necessary, either along with the construction or as part of the enclosure through construction.If the intention is to reclaim the land for a farm, the request includes gathering soil around it, leveling the ground, arranging water for it through the construction of an irrigation channel from a river or digging a well, or similar means if the usual rainfall is insufficient. Actual cultivation is not generally a requirement in this case, as it involves the fulfillment of the land's benefit, which is beyond the scope of reclamation, just as inhabiting a house is not

considered part of reclamation.In summary, reclamation involves enclosure, leveling the ground, and providing water.

If one intends to reclaim the land for an orchard, the conditions include gathering soil around the land as in a farm, enclosure according to the customary practices, and arranging water as determined for a farm. Additionally, on this doctrine, planting some crops is required for an orchard. This type of reclamation involves enclosure, leveling the ground, providing water, and planting. (the previous reference (556/5)

Example Four: Referring to Custom in Sharecropping in the Absence of Explicit Agreement

For instance, your sharecropping on this palm tree for a third or a quarter of its fruits, or handing it over to you for your care, or working in my palm grove, or taking charge of my palm trees for a certain portion of the produce. If someone undertakes sharecropping according to the Shafi'i school using the wording of "Ijara" (lease), it is not valid in the soundest opinion because the term "Ijara" explicitly pertains to another type of contract. In contrast, according to the Hanbali school, it is valid using terms like "Musāqāt" (sharecropping), "Mu'āmala" (transaction), "Mufālaḥa" (cultivation), and even "Ijara." Similarly, crop cultivation is valid with the term "Ijara," indicating leasing land for a known common part of the produce. The intention is meaningful, so if it is conveyed in any form, such as through a sale, the contract is valid. It is also valid through mutual consent.

According to the Shafi'i school, acceptance must be expressed verbally by the speaker, as in the case of leasing and others. However, according to the Hanbali school, acceptance can be inferred through understandable gestures, like writing, without specifying the tasks involved. The general rule in each aspect leans towards prevailing custom in that particular business, as custom serves as a reference in such cases.

The Hanbalis assert that sharecropping (and the same applies to cultivation) does not necessarily require verbal acceptance; initiating the work is sufficient as acceptance, similar to agency agreements.(Al-Zuhaili, 638/6)

Example Five: Reference for Dispute over the Immediate Payment of the Dowry (Mahr).

If the husband and wife differ regarding the immediate payment of the dowry, with the husband claiming to have fulfilled the entire immediate payment المعجل) [Al-Mu'ajjal] (and the wife saying she hasn't received anything or has received only part of it, the Hanafi school offers different rulings.

If the dispute arises before consummation,(زفاف) the ruling favors the wife, and the husband must prove his claim with clear evidence. If the dispute arises after consummation and there is no established custom of giving part of the dowry before marriage, the ruling still favors the wife. However, if there is a customary practice of advancing a portion of the dowry, then the custom governs the dispute over the original payment. If the wife claims not to have received anything, and the custom is to advance half or two-thirds, the judgment follows the custom, and she is ruled against, contradicting her claim of not receiving any part of the immediate payment. Some later Hanafi jurists issued fatwas not accepting the woman's denial of receiving the stipulated immediate payment after consummation, even if she denies it while the customary practice indicates otherwise.

In cases where the dispute is about receiving only part of the immediate payment, with the wife claiming to have received part and the husband asserting he has delivered the full amount, the ruling favors the wife, as people often tolerate the demand for the entire dowry after receiving part of it, and the marriage is typically consummated before the full payment is made.

And the Maliki (المالكية) and Hanafi (الحنفية) agree in case of dispute over the immediate payment of the dowry المعجل) [Al-Mu'ajjal] (before consummation, meaning that the ruling is

in favor of her, but after consummation, the ruling is in favor of his claim by his oath ,(بيمينه) except if there is a customary practice, in which case it is referred to.

The Shafi'i (الشافعية) and Hanbali (الحنابلة) schools agree with the Hanafi without differentiation between what is before and after consummation. They state: If the spouses differ on receiving the dowry, and the husband claims while the wife denies, the ruling is in favor of her, as the default is the non-receipt and the dowry remains.

If the dowry involves teaching a specific chapter of the Quran, and the husband claims and the wife denies, if she does not memorize the chapter, the ruling is in favor of her, as the default is not teaching. However, if she memorizes it, there are two opinions:

.1The first: The ruling is in favor of her because the default is that he did not teach her.

.2The second: The ruling is in favor of him because it appears that no one else taught her.

Summary

If the spouses differ on the receipt of the dowry, and the wife says she did not receive it while the husband claims she did, the majority opinion (Shafi'i, Ahmad, Thawri, Abu Thawr) is in favor of the wife's statement. Malik's view is that her statement holds before consummation, but after consummation, the husband's claim is accepted. Some of Malik's followers suggested that his opinion was influenced by the custom in his city, where the husband would not enter until he paid the dowry. If there is no such custom in another place, the ruling would be in favor of the wife's statement. Overall, stating that her statement is always accepted is preferable because she is the one being claimed against. However, Malik considered the strength of the doubt that arises when the husband enters with this claim.

If the spouses differ on what a man sends to his wife, with him claiming it is the dowry and her claiming it is a gift, the ruling is in favor of his claim by his oath, and the burden of proof is on her according to the Hanafi and Shafi'i schools.(The previous reference (307/7)

Example Six: Does an Absolute Sale Contract Occur Immediately or Deferred?

An absolute sale contract occurs immediately unless there is a customary practice stating otherwise. If there is a prevailing custom in a specific location that the absolute sale should be deferred or installment payments with a specified term, then the absolute sale follows that term. For instance, if a person buys something from the market without specifying whether the price is due immediately or deferred, he is obliged to pay the price immediately. However, if there is a customary practice in that place of paying the entire price or a specific portion of it after a week or a month, then adhering to the customary practice becomes mandatory.(Article 251 of the Ottoman Judicial Code, a committee composed of several scholars and jurists during the Ottoman Caliphate, Publisher: Noor Muhammad, Karachi)

If the buyer finds dirt in the wheat, barley, or similar grains that were purchased, and if this dirt is considered minor according to common practice, the sale is valid. However, if the amount of dirt is substantial to the extent that it is considered a defect by people, the buyer has the option to either accept or reject the purchase.

As for eggs, nuts, and similar items, if some of them are found to be spoiled, typically, there is a tolerance level in common practice, such as two or three percent, beyond which the buyer has the right to reject the purchase. If the spoiled items exceed a significant percentage, like ten percent, the buyer can return the entire purchase to the seller and receive a full refund.(Articles 353 and 354 of the previous code.)

Renting a house or a shop without specifying its purpose is valid. The usage details are determined based on custom and common practice.(Article 527 of the previous code)

If a beast of burden is hired without specifying the load or assigning it, the customary and conventional practice determines the amount it can carry when indicated by a gesture.(Article 555 of the previous reference) If the loaned item is bare of precious things, like jewelry, it must be handed over directly to the lender. For other items, delivering them to the location

specified in common practice is considered a proper return. Similarly, giving them to the servant of the lender is also considered a valid return. For example, returning a borrowed animal involves delivering it to the lender's stable or handing it over to the caretaker according to customary practices.(Article 829 of the previous reference)

Example Seven: Contemporary Intellectual Property Rights Financially Recognized According to Contemporary Custom

In the Journal of the Islamic Jurisprudence Council (Issue 5, Volume 3, page 2267), it was stated:

The Council of the Islamic Jurisprudence Council, convened during its fifth session in Kuwait from 1-6 Jumada al-Awwal 1409 AH, corresponding to 10-15 December 1988 AD, after reviewing the research presented by the members and experts on the subject of intellectual rights and listening to the discussions that took place around it,

decided the following:

First: The trade name, commercial address, trademark, and copyright or invention are private rights for their owners. In contemporary custom, these rights have gained significant financial value to fund their holders. These rights are recognized and protected by Islamic law, and it is not permissible to infringe upon them.

Second: It is permissible to deal with the trade name, commercial address, or trademark and transfer any of them for financial compensation if deception, fraud, or cheating is avoided, as this has become a recognized financial right.

Third: The rights of authorship, invention, or innovation are preserved by Islamic law, and their owners have the right to manage them. It is not permissible to infringe upon them.

Conclusion and Recommendations

1. To sum up, there are four sections in this article. The first one discusses the definition of Custom (Adah) and Tradition (‘Urf) has been discussed in detail.

2. The second section argues about the Validity of Custom and Tradition in Islam.
3. The third section explains the Specification of General Statements by Custom and Tradition
4. The fourth section tells about applications of custom and tradition in Islamic law. It gives different examples how Islam has given custom and tradition a proper status.

References

Ibn Manzur, J. al-D. (1993). *Lisan al-Arab* (Vol. 15). Qum, Iran: Adab al-Hawzah.

Al-Qazwini, A. (1979). *Mu'jam Maqayis al-Lughah* (A. S. M. Haroun, Ed., Vol. 6). Dar al-Fikr.

Al-Jurjani, A. (1983). *Kitab al-Ta'rifat* (Jama'ah min al-Ulama, Ed., 1st ed.). Beirut: Dar al-Kutub al-Ilmiyya.

Al-Qarafi, A. (1973). *Sharah Tanqih al-Fusul* (T. A. R. Saad, Ed., 1st ed.). Sharikat al-Tiba'ah al-Fununiyah al-Muttahidah.

Ibn Amir Hajj. (1984). *Shams al-Din M. Al-Taqrir wa al-Tahrir* (2nd ed.). Beirut: Dar al-Kutub al-Ilmiyya.

Al-Bukhari, M. (1422 AH). *Al-Jami' al-Musnad al-Sahih al-Mukhtasar min Umur Rasul Allah (saws) wa Sunanihi wa Ayyamih - Sahih al-Bukhari* (M. Z. b. N. Al-Naser, Ed., 1st ed., 9 Vols.). Dar Tawq al-Najah.

Muslim al-Qushayri, A. H. (261 AH). *Al-Musnad al-Sahih al-Mukhtasar bin Qalil Al-Adl 'an Al-Adl 'Ila Rasul Allah (SAW)* (M. F. Abdulbaqi, Ed., 5 Vols.). Dar Ihya' al-Turath al-Arabi.

Al-Zarkashi, B. (1994). *Al-Bahr al-Muhit fi Usul al-Fiqh* (1st ed., 8 Vols.). Dar al-Kutubi.

Al-Shawkani, M. (1999). *Irshad al-Fuhul ila Tahqiq al-Haqq min Ilm al-Usul* (A. A. Anaya, Ed., 1st ed., 2 Vols.). Dar al-Kitab al-Arabi.

Al-Zuhayli, W. b. M. *Al-Fiqh al-Islami wa Adillatuhu: Al-Shamil lil-Adillah al-Shar'iyyah wal-Arā' al-Madhhabiyyah wal-Aẖamm al-Naẕariyyāt al-Fiqhiyyah wal-Taẖqīq al-Aẖādīth al-Nabawiyyah wal-Takhrījihā* (Rev. ed., 10 Vols.). Dar al-Fikr.

Al-Salimi, A. (1999). *Qawaid al-Ahkam fi Masalih al-Anam* (T. A. R. Saad, Ed., New Revised Edition, 2 Vols.). Maktabat al-Kulliyat al-Azhr.

Ibn Taymiyyah. (1995). *Majmu' al-Fatawa* (A. R. b. M. b. Qasim, Ed.).Medinah: King Fahd Complex for the Printing of the Holy Quan.

Ibn Nujeim al-Misri. (1999). Z. *Al-Ashbah wa al-Nazair 'ala Madhhabi Abi Hanifa al-Nu'man* (Z. Amarat, Ed., 1st ed.). Dar al-Kutub al-Ilmiyy.