

## Chapter Twelve

### Discussion on Qiyas

There are four sources and proofs of Shari'ah, i.e. Qur'aan, Hadith, Consensus of the Ummah (Ijma) and Deduction (Qiyaas). The Qur'aan and Hadith orders that we be with the general Muslim public, and the person who separates himself from this path is indeed an inmate of Hell fire.

Qiyaas literally means 'to measure', but according to the Shari'ah, it is defined as making the reason for an original, recorded rule apply to another Fiqhi rule, i.e. a case that has neither been proven nor found in the Qur'aan and Hadith similar to it is taken into account and, after determining the cause for this rule, is applied and said, "The command of the risen rule is so and so because the reason that applies to that recorded rule in the Qur'an and Hadith applies here as well." Two examples of this follow:

- 1) What is the command of performing anal sex with your wife? We answer that sexual intercourse with a woman in the state of menstruation is forbidden. The reason for this is filthiness. Anal sex with a woman also contains this vile, therefore, it is forbidden.
- 2) If a father makes Zina with a woman, will she now be lawful or not for his son? A woman with whom a father performs marriage with is forbidden for his son. The reason for this is intercourse or sexual association. Therefore, this woman with whom he has made Zinna becomes unlawful.

The above-mentioned rules are examples of juristic reasoning (Qiyaas). It is a condition of Qiyaas, however, that only a Mujtahid makes it. Qiyaas by any common person is not valid.

Qiyas has also been proven by the Qur'an, Hadith and the pious:

**“Therefore, take heed, O you with eyes.”<sup>1</sup>**

Meaning perform Qiyas by learning from the non-believers as if you do what they did, your condition will be the same as theirs.

The Qur'an has shown us Qiyas by the means of mentioning the rising on the Day of Resurrection by giving the example of going to sleep and waking up and by the means of when the green grass grows and dies then grows again etc. from beginning till end there are examples to the non-believers.

### **Debt**

In Bukhari it states to find out a rule, take from such a rule that Allah has mentioned so that others understand.

A lady once came to the Prophet (may Allah bless him and grant him peace), my mother made an intention (mannat) to perform Hajj, shall I perform Hajj on her behalf? The Prophet replied Yes, if your mother had a debt would you pay it, she replied Yes, then offer that debt which belongs to Allah.

When the Prophet (may Allah bless him and grant him peace), was appointing and sending Mu'adh bin Jabal to Yeman as a ruler (Qadhi) he asked: *“O Muadh! According to what you will decide?”*

Muadh submitted: *“According to the Book of Allah.”*

The Prophet (may Allah bless him and grant him peace) asked: *“If you do not find in it, then?”*

Muadh submitted: *“According to the Sunnah of the Messenger of Allah.”*

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<sup>1</sup> Surah Hashar. Surah No: 59. Verse: 2

The Prophet (may Allah bless him and grant him peace) asked: *“If you find no solution in it, then?”*

Muadh submitted: *“I will exercise my personal judgement to decide that case.”*

The Prophet (may Allah bless him and grant him peace) asked: *“Thanks be to Allah who granted such taufiq to the messenger of the Prophet of Allah whereby His Messenger is pleased.”*<sup>2</sup>

This is strong evidence of Qiyas, as there was no Ijma at the time of the Prophet as he was present, this is why Mu’adh did it. On many occasions the companions made decisions on the basis of Qiyas, Ibn Mas’ud (may Allah bless him and grant him peace) made the decision of giving a woman her Mehr (gift to wife on marriage) when her husband died by setting the amount given to women at that time.

### **Nisai**

In Nisai it states: After today if anyone makes a decision, make it from the Qur’an, if not then the Sunnah and if a decision is not found in both then make the decision that the pious people have made and if the decision cannot be made by the Qur’an, Hadith or the pious then perform Qiyas.

Imam Nisai at this point states that this Hadith is very good (strong) very good.

The Messenger of Allah (may Allah bless him and grant him peace) said, “Knowledge is composed of three parts, verses with clear meaning (ayat al-Muhkama), the Sunnah (Sunnah al-Qaima), and (al-Faridat al-Adila).<sup>3</sup>

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<sup>2</sup> Mishkat, Abu Dawud, Kitab al-Aqidah, Tirmidhi, Kitab Ahkam, Darimi, Musnad Ahmad bin Hambal etc.

<sup>3</sup> Abu Dawud and Ibn Majah.

The great scholar of hadith ‘Abd al-Haq Muhaddith Dehelwi, while explaining this hadith in *Ashiat al-Lama’at*, his Persian commentary on *Mishkat*, wrote: ‘Al-Faridat al-Adila is the knowledge conformable to the Book and the Sunnah. It refers to Ijma and Qiyas, for Ijma and Qiyas were counted as equivalent and similar to the Book and the Sunnah and were called al-Faridat al-Adila. Thus, it was ordered as a Wajib to do one’s deeds conformable to both of them. Consequently, the meaning of the hadith became that the sources of Islam were four, namely, the Book, the Sunnah, Ijma and Qiyas.’

Similarly, Allah (The Exalted) states, “To confer is an act from Shaytan.” So, is every confidential talk from Shaytan? No! Rather, any confidential meeting that plots against Islam and Muslims is an act from Shaytan. Only those deductions (Qiyaas) which are done against the command of Allah have been censored whenever they have been spoken against, e.g. when Shaytan received the order to prostrate, he used his reasoning (Qiyaas) to reject the Divine command. This is infidelity (Kufr).

Those who do not follow Qiyas when the answer cannot be found in the Qur’an and Hadith, what will you do? For instance, how is it to pray Salaah in a plane? Or does an injection break your fast? Or a congregation was taking place for the Jum’ah Salaah and in the second cycle the congregation ran away? What answer and what will you act upon?

A question was asked to Shaykh Imam Ahmad Raza Khan that “What is the ruling on one who speaks against Qiyaas of Imam Abu Hanifa and call it false?” He replied: “It states in *Fataw-e-Alamghiri* that a person who does not believe the Qiyaas of Imam Abu Hanifa as the truth is a Kaafir.”<sup>4</sup> Therefore, it is best for them to begin following an Imam and save your Imaan. May Allah give us the ability, Ameen!

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4 *Irfan-e-Shariat*, p. 82, Rule No: 23