

Shia Jurisprudence and the Dynamics of Context: A Study in Legal Flexibility

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Abstract

One of the distinguishing characteristics of Shia jurisprudence is its capacity to respond effectively to the demands and particularities of time and place. This flexibility grants it both resilience and vitality, allowing it to remain relevant across changing contexts. Such adaptability ensures that jurists can navigate complex situations without abandoning foundational principles. The present study seeks to explore the influence of temporal and spatial factors on the evolution and dynamism of Shia legal thought. Drawing upon textual and library-based sources, the paper first examines the imperative of adapting jurisprudence to contextual shifts. It then analyzes the conceptual framework and practical implications of time and place within the jurisprudential process. Key themes include the dynamic nature of *ijtihad*, the integration of secondary rulings with primary ones, distinctions between obligatory and non-obligatory rulings, state (governmental) decrees, the significance of customary norms (*'urf*), and the role of conflict as a driver of legal evolution.

Keywords: contextual needs, evolving jurisprudence, *ijtihad*, customary norms (*'urf*), Shia legal theory, jurisprudential conflict

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1. Introduction

Human existence unfolds within the inescapable framework of time and space, characterized by constant evolution and transformation. Life, in its dynamic nature, neither remains static nor adheres to uniform conditions. Consequently, any religion that claims eternal validity must demonstrate the capacity to address the diverse and changing needs of humanity across various historical periods and geographic locations. This inherent tension poses a profound question for the field of jurisprudence and religious legal thought: how can immutable legal principles adequately respond to the continuously shifting circumstances and multifaceted needs of human societies?

As human communities progress from primitive social structures to complex urban conglomerates, and from tribal associations to organized nation-states, novel legal challenges and requirements inevitably arise. These changes underscore the necessity of critically examining the roles that temporal and spatial considerations play in legal reasoning. Such an examination is crucial to ensure that Islamic rulings remain relevant, applicable, and capable of guiding contemporary believers through evolving social realities.

It is mention-worthy that despite historical episodes of stagnation, Sunni jurisprudence also retains strong internal mechanisms for renewal. Through procedures such as *ijtihād*, *maṣlaḥa mursala* (unrestricted public interest), *urf* (custom), *maqāṣid al-Shari'a* (higher objectives of Islamic law), *sadd al-dharā'i'* (blocking harmful means) and *fath al-dharā'i'* (facilitating beneficial means), and the role of modern fatwa councils such as the International Islamic Fiqh Academy and national bodies like Egypt's Dar al-Ifta, Sunni *fiqh* remains capable of addressing the complex and evolving realities of the modern world.

In the classical Sunni sources that form the foundational discussion for these issues several major works stand out. *Al-Muwāfaqāt fī Uṣūl al-Sharī'a* by al-Shāṭibī (d. 790 AH) is one of the most important classical texts linking *maṣlaḥa* to *maqāṣid al-sharī'a*; establishes a theoretical framework for using *maṣlaḥa mursala* in legislation. This book also includes principles on preventing harm and facilitating good (*Sadd al-Dharā'i'* and *Fath al-Dharā'i'*). Al-Shāṭibī articulated what can be seen as the culmination of the interpretation of *maṣlaḥa* in the pre-modern period (Opwis 2010, 247).

The growing emphasis on *maqāṣid al-sharī'a* such as the preservation of life, intellect, wealth, religion, and human dignity, has become a major framework for legal innovation in the thought of contemporary scholars like Rashid al-Ghannoushi and

Ahmad al-Raysuni. Rashid al-Ghannoushi discusses *maqāṣid al-Sharīʿa* most extensively in his book *Al-Ḥurriyyāt al-ʿĀmma fī al-Dawla al-Islāmiyya* (Public Liberties in the Islamic State). In this work, he integrates *maqāṣid al-Sharīʿa* into a broader theory of Islamic governance, emphasizing values such as freedom, justice, and human dignity as core objectives of the Shariʿa. He also references *maqāṣid* in other writings and speeches, but this particular book is considered his most systematic treatment of the topic. Al-Raysuni has written extensively on *maqāṣid al-sharīʿa*, and his most well-known and influential work on the subject is *Naẓariyyat al-Maqāṣid ʿinda al-Imam al-Shāṭibī* (The Theory of Maqāṣid according to al-Imam al-Shatibi). This book, originally his doctoral dissertation, analyzes the development of the *maqāṣid* theory through the works of al-Shāṭibī and explores how these objectives can be applied to contemporary Islamic thought and law. It is considered one of the key modern references in *maqāṣid* studies.

In any case, this article seeks to present innovative and effective approaches for enhancing the dynamism of Shia jurisprudence, rather than comparing the approaches of different Islamic schools in this regard. Accordingly, the discussion will be limited to examining this issue from the perspective of Shia *fiqh* alone.

This article aims to explore the interplay between the dimensions of time and place and their influence on Islamic legal theory (*uṣūl al-fiqh*). It investigates the mechanisms within Islamic jurisprudence that allow for adaptability and contextual responsiveness, thereby maintaining the religion's practical and spiritual authority in a modern setting. In the ongoing intellectual efforts to invigorate Islamic jurisprudence, Shiʿi scholars have played a prominent role by proposing relevant and forward-thinking interpretations of its foundational concepts and frameworks. Though at times the progression of this scholarly movement was slow, its development was eventually marked by key milestones brought about by reformist jurists. These transformative efforts injected renewed energy into the field and contributed to its evolution. Notable among these pioneering figures are Shaykh Tusi, Ibn Idris Hilli, Muhammad Hasan al-Najafi, Mortaḍa Ansari, Muhammad Baqir al-Ṣadr, and Ruhollah Khomeini, each of whom contributed significantly to reinvigorating jurisprudential thought.

1.1. Methodology

The research adopts a qualitative and analytical approach rooted in classical and contemporary Islamic legal sources. Primary sources including the Qurʾān and Sunnah are examined alongside authoritative works of *ʿUṣūl al-Fiqh* to elucidate foundational

principles regarding the incorporation of time and place into legal rulings. The study further engages with the writings of prominent jurists and legal theorists from different historical periods, such as Shaykh al-Tusi, al-‘Allāma al-Hilli, and al-Shahid al-Thani, to trace the evolution of jurisprudential thought on this subject. Comparative analysis is employed to highlight the methods by which jurists have addressed contextual variability while upholding the immutable aspects of Shari‘a.

Additionally, the research includes a critical review of modern scholarly interpretations and applications of these principles, particularly in addressing contemporary legal and ethical issues. By synthesizing classical doctrine with modern legal challenges, this study endeavors to contribute to a deeper understanding of how Islamic law remains a dynamic, living tradition capable of guiding human conduct across diverse temporal and spatial contexts.

2. The Essential Role of Jurisprudential Flexibility in Addressing Temporal and Spatial Contexts

Islamic tradition includes several hadiths emphasizing the enduring nature of religious law. One such narration from Imam Ja‘far al-Sadiq affirms: “The lawful and unlawful declared by Muhammad shall remain in effect until the Day of Resurrection” (Majlisi 1983, 47: 35). Similarly, Imam ‘Ali ibn Musa al-Rida stated: “Our responsibility is to provide the general principles; it is yours to extract the specific rulings” (Ibn Idris al-Hilli 2007, 3: 575). To uphold this continuity, Islamic legal rulings must accommodate the evolving needs and circumstances of different eras and societies. This capacity for relevance across time ensures their durability.

Shi‘a jurisprudence, in particular, is characterized by its inherent adaptability. While maintaining consistency in foundational principles, many of its rulings possess a dynamic quality that enables alignment with the changing demands of time and place. This adaptability is considered one of its defining strengths.

Within Shi‘a thought, there is a nuanced recognition of how changing conditions influence religious law. Morteza Motahhari eloquently expressed that Islam’s legal system is designed with the sophistication to both adapt to societal changes and guide them. He emphasized that, since the divine legislator is also the creator of the universe, the laws of religion are formulated in harmony with the natural and evolving order of the world. Therefore, the Shari‘a includes mechanisms for transformation and growth, paralleling the continuous evolution of creation (Motahhari 1990, 100).

Nevertheless, not all social or cultural shifts are embraced. Shi‘a Islam distinguishes between progressive changes that contribute to human advancement and those that

stem from injustice, ignorance, or exploitation. The former are integrated into legal reasoning, allowing the issuance of contextually appropriate rulings. The latter, however, are actively resisted.

Importantly, the belief in the permanence of religious law does not imply that all detailed rulings have been preordained. Instead, it means that divine law encompasses the capacity to address human needs across all eras. Thus, changes in rulings—whether broad or specific—are not considered abrogation. Rather, they are legitimate developments that occur within a framework of continuity, based on established conditions and principles.

3. Encouraging a Jurisprudence-Driven Way of Life

Understanding the dynamic nature of Islamic jurisprudence requires a deep exploration of its objectives and underlying framework. A central question arises: Should the role of jurisprudence be limited to regulating individual and societal conduct and issuing legal opinions, while overlooking its influence on people's material lives?

At the heart of Shi'i jurisprudence lies the belief that true human flourishing is its ultimate aim. This includes not only spiritual success in the hereafter but also well-being in the present world. This perspective allows for a meaningful connection between *ijtihad* and the evolving circumstances of time and place.

Consequently, issuing legal rulings without considering their worldly consequences is not acceptable. If, as Ruhollah Khomeini suggested, jurisprudence is intended to guide every aspect of human existence—from birth to death—then promoting social justice emerges as one of its most vital responsibilities. In this view, a jurist must critically assess the societal impact of *fatwās* and ensure they contribute to the advancement of justice in both personal and collective spheres.

4. The Influence of Temporal and Spatial Contexts on Islamic Jurisprudence

Morteza Motahhari emphasizes that when discussing the influence of time and place on *ijtihad*, the primary reference is to the actual needs and circumstances that emerge with the passage of time and the transformation of societies. This perspective does not suggest that every cultural trend or situational novelty must be accepted or conformed to, nor does it imply that the fluctuating desires of communities should dictate religious rulings. Rather, it acknowledges that genuine human needs evolve

and that these needs come with their own set of necessities. As tools, technologies, and social systems progress, religious law must consider these advancements. Islam, as Motahhari asserts, supports the fulfillment of authentic human needs but stands against indulgence in base or immoral inclinations (Motahhari 1991, 2: 184, 193–194).

Ja‘far Subhani, a prominent jurist in the Shi‘i tradition, interprets “time and place” metaphorically—as symbols of the transformations in human life, communication, and social structures brought about by historical progression.

Thus, the concept of temporal and spatial demands refers to conditions that develop over time and within specific contexts. The adaptability of Islamic jurisprudence ensures that new challenges encountered by individuals and communities are met with appropriate legal responses. Shi‘i legal theory teaches that both beneficial and harmful aspects of emerging circumstances can be accurately identified, and rulings are formulated accordingly, based on *maṣlaḥa* (expediency) and *mafsada* (harm). Consequently, developments in science, culture, economics, politics, and societal interactions influence the process of deducing religious rulings (Feyz 2003, 50). A jurist who is conscious of these transformations must respond effectively to the resulting queries and challenges, thereby preserving the relevance and vitality of jurisprudence in both personal and societal domains.

However, not all legal rulings are subject to change. Fundamental principles governing the relationship between human beings and God, nature, and fellow humans—such as acts of worship, family obligations, and moral duties—remain constant. Although external forms of practice might adapt to new conditions, the core obligations, like honoring one's parents or performing prayers, do not change over time.

The domain in which time and place play a significant role includes areas such as culture, politics, economics, and medicine—spheres entrusted to human reasoning and judgment. This is the realm identified by Muhammad Baqir al-Sadr as the “region of legislative latitude” (*Miṭṭaqa al-Farāgh*) (Sadr 1997, 725).

5. Key Elements and Features of Evolving Jurisprudence

5.1. The Principle of Dynamic *Ijtihād*

Ijtihād is defined literally as “striving exerting” and, in the Sunni jurisprudential sense, “the capacity for making deductions in matters of law in cases to which no express

text or rule already determined by *ijmāʿ* (consensuses) is applicable.” (Ali-Karamali and Dunne 1994, 238)

Within Shiʿa legal theory, *ijtihād* is defined as the process through which a qualified jurist derives legal rulings by drawing upon core sources: the Qurʿan, Hadith (prophet and Imams’ traditions), rationality, consensus (*ijmāʿ*), and foundational Shariʿa and rational maxims. The jurist does not apply personal preferences but instead systematically analyzes these authoritative resources to uncover divine rulings. To embark on *ijtihād*, one must fulfill its established prerequisites, which include not only scholarly mastery but also a deep understanding of the socio-historical context in which the Qurʿanic verses were revealed and hadiths were narrated. Moreover, it is essential to distinguish between eternal, immutable rulings and those that were contingent on the socio-political realities of the Prophet’s era or the time of the Imams.

In deriving legal judgments, the jurist faces two main categories of issues: those addressed directly by the Prophet and Imams in early Islam, and new issues that have emerged over time due to evolving circumstances and societal developments. Through the proper use of Qurʿan, Hadith, reason, and consensus—along with interpretive frameworks inherited from the Imams—a jurist seeks to determine divine intent. As Imam Jaʿfar al-Sadiq affirms, “There is no disputed matter without a foundation in the Book of God, though it may not immediately be evident to the human intellect” (al-Kulayni 1987, 1: 59). All legal derivations must remain aligned with the guidelines provided by the Qurʿan and the Imams, ensuring that the essence of divine law is preserved—no forbidden act should be legalized, and no lawful act prohibited without proper justification.

This does not imply that divine laws are fixed in all details. In fact, the potential for adaptation within divine rulings is itself a principle acknowledged in scriptural and rational sources. That is, laws are grounded in objective interests (*maṣāliḥ*) and harms (*mafāsīd*), which the jurist must strive to understand and apply accordingly.

In opposition to Ashʿarite thought, Shiʿa scholars argue that divine legislation is rooted in intrinsic benefits and detriments. Thus, when Islam commands or forbids an act, it is because of an inherent utility or harm. Where explicit rulings are absent from the Qurʿan and Hadith, rational inquiry may discern these factors and guide legal conclusions. Imam ʿAli al-Rida refutes the idea that religious obligations exist solely for testing obedience. He emphasizes that if commands lacked any real moral basis, then even instructions to abandon virtues or embrace vices could be considered valid,

so long as they demanded obedience. Such a view, he asserts, is deeply misguided (Ibn Babawayh 1966, 2: 592).

In clarifying the notion of evolving *ijtihād*, Imam Khomeini contends that mere scholarly expertise in traditional jurisprudence is inadequate for addressing modern societal needs. He insists that a jurist must also grasp the broader context of political and social dynamics. Without insight into public welfare and the strategic capacity to make informed decisions, a jurist cannot effectively lead a religious community (Khomeini 1999, 21: 47).

5.2. Foundational and Contingent Rulings

The presence of contingent (or exceptional) rulings alongside foundational (or primary) rulings highlights the adaptability of Islamic jurisprudence in responding to varying circumstances of the legally responsible individual (*mukallaf*). Foundational rulings pertain to standard and typical situations—for example, the obligation to fast during *Ramaḍān* or the prohibition of consuming alcohol. In contrast, contingent rulings apply in situations of necessity, compulsion, or similar extraordinary conditions—such as when fasting in *Ramaḍān* would endanger a person’s health or delay recovery from an illness.

These rulings are termed “contingent” because they are subordinate to the foundational ones; they come into effect only when implementing the foundational rulings is not feasible (Meshkini Ardabili 1995, 121). Foundational rulings are issued regardless of conditions such as fear, harm, incapacity, or exceptional hardship, while contingent rulings are introduced precisely due to these circumstances (see Kalantari 1999; Sadr 1989). In essence, foundational rulings are derived from the intrinsic nature of the act itself—for instance, the permissibility of eating dates or the prohibition of wine—whereas contingent rulings stem from external factors, such as conditions of hardship, vows, or acts of usurpation (Hakim 1987, 1: 507).

Accordingly, one of the key mechanisms for aligning Islamic law with the realities of time and context is the system of contingent rulings operating in tandem with foundational ones. For example, while the authority to initiate divorce is primarily granted to the husband, under certain oppressive or harmful conditions, a religious judge may grant the divorce without the husband’s approval. Another illustration: consumption of carrion (the flesh of an animal not slaughtered according to Shari‘a) is ordinarily prohibited, but if no lawful food is available and survival depends on it, not only is it allowed—it becomes obligatory.

It is important to stress that contingent rulings are not equivalent or alternative to foundational ones; they only apply when the foundational rulings cannot be implemented. Furthermore, foundational rulings are stable and enduring, whereas contingent rulings are temporary and lifted once the exceptional condition no longer exists. The following section introduces two significant examples of contingent rulings.

5.2.1. Principle of No Harm (*Lā Ḍarar*)

This principle dictates that any Islamic ruling that results in harm to an individual or group loses its legal validity. In essence, religious obligations are only binding when they do not lead to significant harm. For instance, the prayer (*Ṣalāt*) ordinarily requires ablution (*Wuḍūʿ*), but if using water would harm a person—due to illness or another condition—then *Wuḍūʿ* is substituted with Tayammum (dry ablution). Similarly, while it is generally impermissible for a non-Maḥram man to physically contact or view the body of a woman, this prohibition is lifted if her treatment depends on the intervention of a male doctor. This principle is derived from a well-known narration involving Samura ibn Jundub, whose misuse of a legal right caused harm to a neighbor. The Prophet declared: “There is to be neither harm nor reciprocating harm in Islam” (al-Kulayni 1987, 5: 294).

5.2.2. Principle of Removing Undue Hardship (*ʿUsr wa Ḥaraj*)

This rule holds that any religious obligation that becomes excessively difficult or burdensome ceases to be obligatory. In addition to rational understanding and scholarly consensus, this rule is grounded in various scriptural sources, such as the Qurʾanic verse: “He has not placed upon you in religion any difficulty” (Qurʾan 22:78). Returning to the example above, even if using water is not harmful, but obtaining it imposes considerable hardship, then *Wuḍūʿ* is not required, and Tayammum becomes the valid alternative.

5.3. Mandatory and Non-Mandatory Legal Rulings

Legal rulings are divided into two main categories: mandatory rulings, which include obligations (*Wājib*) and prohibitions (*Ḥarām*), and non-mandatory rulings, which encompass recommendations (*Mustaḥabb*), discouragements (*Makrūh*), and permissibility (*Mubāḥ*). This classification plays a crucial role in shaping a flexible and responsive jurisprudence. Jurists have the authority to issue mandatory rulings even within the domain of non-mandatory rulings, based on recognized public interests or necessities. For instance, although an insurance contract is not inherently obligatory

under the law, a jurist may impose a mandatory ruling requiring car insurance to protect societal welfare. Similarly, regarding a woman's blood money (*Diyah*), considering the modern reality that women often financially support their families, jurists may apply principles of equality between men and women in contracts between insurers and the insured.

Additionally, a jurist may temporarily prohibit an act that is originally recommended, discouraged, or permissible if prevailing circumstances pose harm. This flexibility empowers the legislator to enable jurists to issue binding rulings within non-binding categories, thus allowing Shi'a Islam to address new social needs and adapt to different times and contexts.

In Shi'a jurisprudence, any ruling outside of obligation (*Wājib*), prohibition (*Ḥarām*), recommendation (*Mustahabb*), or discouragement (*Makrūh*) is generally regarded as permissible (*Mubāḥ*). Given that recommendations and discouragements are not binding, they are broadly considered permissible choices, leaving individuals free to perform or abstain from them.

Since religious rulings are documented in legal texts, when a new issue arises and jurists cannot find clear evidence to deem it obligatory or prohibited, the principle of exemption from burden (known as *Barā'a* in Arabic) is applied. This principle assumes permissibility for new discoveries or inventions until proven otherwise. This is supported by the Qur'anic verse:

And do not say about what your tongues assert of untruth, 'This is lawful and this is unlawful,' to invent a lie against Allah. Indeed, those who invent lies against Allah will not succeed. (Qur'an 16:116)

Likewise, the Prophet Muhammad is reported to have said:

Whoever forbids what Allah has permitted is like one who permits what Allah has forbidden. (Ibn al-Qaysarani 2003, 11)

Therefore, since no one has the authority to allow what Allah has prohibited, no one may forbid what He has permitted. Consequently, Shi'a jurisprudence generally regards modern advancements, such as cloning or artificial insemination, as initially permissible unless definitive proof declares them otherwise.

5.4 Governmental Rulings

Governmental rulings refer to specific regulations set by an Islamic authority to implement either primary or secondary Islamic laws. Examples of such regulations include those governing passports and driving licenses. These rulings are typically

issued by a jurist who holds an official or supervisory role in managing the Islamic state. As noted earlier, these rulings may pertain to the practical application of primary laws, such as determining how Muslims within a country should perform the Hajj pilgrimage or establishing the official start and end dates of Ramadan for fasting. They can also address secondary laws; for instance, due to the significant harm identified by medical experts regarding narcotics and their adverse social, cultural, and economic effects, a jurist may prohibit the use of narcotics through a secondary ruling, declaring it religiously forbidden (*ḥarām*). Governmental rulings in such contexts include penalties and fines for the production, sale, or consumption of narcotics.

Through these rulings, a jurist is empowered to enact laws based on public welfare, ensuring the overall good of society, organizing its affairs, and regulating interactions between various institutions and individuals across cultural, educational, economic, military, political, and other domains (Gorji 1990, 2: 287).

5.5 Worship and Non-Worship Rulings

Religious laws can be divided into two main categories: worship-related (devotional acts) and non-worship-related (such as commercial transactions and political matters). Regarding worship, all schools of Islamic jurisprudence agree that the underlying reasons or wisdom behind these rulings are beyond human comprehension. Consequently, no one can fully grasp the criteria behind these acts. While religious texts sometimes hint at the wisdom behind certain acts of worship, these explanations represent only part of the reason, not the entire justification. Therefore, one cannot abandon or alter acts of worship simply because the apparent wisdom is unclear. For example, even if it is suggested that prayer (*Ṣalāt*) brings peace to the soul, a person cannot refuse to pray because they do not feel that peace. This is because the true reason for the obligation of prayer remains unknown, and worship cannot be dismissed due to a lack of apparent cause. This principle regarding worship rulings is universally accepted and firmly upheld.

In contrast, there is considerable variation when it comes to rulings related to transactions and politics. Discovering the criteria behind these rulings enhances the flexibility and adaptability of traditional Islamic jurisprudence. It is often stated that religion calls for submission, but this submission applies to acts of worship, not necessarily to social or transactional matters. For transactions, the criteria are more evident, and the early jurists' method was to actively seek out these criteria, adapting and refining rulings to suit the conditions of their time and place without rigidly

adhering to textual declarations alone. Consequently, jurists today can also identify the underlying principles of rulings and issue *fatwās* accordingly, which ensures the continuous relevance and dynamism of Islamic jurisprudence.

5.6. Customary Norms (*‘Urf*) as a Fundamental Element in Dynamic Jurisprudence

One of the essential factors in dynamic Islamic jurisprudence is the role of customary norms or the common usage of terms. Simply put, religious rulings are applied to real-life cases through the lens of customary understanding (al-Mufid 1992, 794; al-Hilli 1988, 3: 712). *‘Urf* represents unwritten custom as opposed to established law, *shar‘* (Levy n.d). Examination of Qur’anic verses, Hadith, and rulings—particularly those related to transactions—reveals that the divine legislator has acknowledged and incorporated customary norms when assigning legal judgments (al-Mughniya 1982, 169). Since customs vary across different contexts, this leads to variation in rulings accordingly.

For instance, the definition of “poor” depends heavily on the societal standard of living, which changes across eras and regions. Thus, someone considered poor in one community might not be categorized the same way in another. This customary perception directly influences obligations such as zakat payment to the needy (Sadr 1997, 714). Another example is the Prophet Muhammad’s specification of nine categories for zakat; these reflected the most common goods of that time, but the scope of zakat subjects can be broader in different periods and places based on prevailing customs (al-Ha’iri 2003, 5: 21).

Similarly, in the Prophet’s era and thereafter, the fundamental needs were limited to six essential items—wheat, barley, dates, raisins, olive oil, and oil—which were also the categories subject to the prohibition of hoarding. Today, due to changing economic and social conditions, hoarding restrictions logically extend beyond these original six items.

Religious rulings also adapt when the understanding of benefit changes. For example, selling blood was forbidden historically because it was deemed useless; nowadays, given its vital medical applications, selling blood under controlled conditions is permissible. This shift does not alter the core principle forbidding the sale of worthless items but rather reflects the changed status of blood as something beneficial. Similarly, the sale of human organs under lawful conditions is recognized today, based on changing circumstances.

Custom, therefore, is crucial for tailoring jurisprudential rulings to fit the realities of time and place. These adaptations primarily occur in rulings based on *ijtihād* in non-ritual matters, while acts of worship remain constant and unaltered.

Some fixed rulings have subjects that are defined by customary perception. Hence, changes in custom lead to changes in the scope of these rulings. Take gambling, for example: its prohibition is absolute, but what counts as gambling depends on custom. Whether games like chess or cards are considered gambling varies by society and period. If it was understood as gambling in the time of the infallible Imams, but now perceived as a strategic game, then its ruling would correspondingly shift.

This demonstrates how religious rulings can be both immutable in principle (e.g., gambling is prohibited) and flexible in application based on customary norms. Another example is the Islamic emphasis on honoring guests, where the specific acts constituting respect are determined by cultural customs. This principle applies broadly to rulings where subjects are defined by custom, except in cases explicitly forbidden by clear textual evidence (e.g., serving alcohol to guests).

Imam Khomeini frequently highlighted the importance of custom in jurisprudence, especially concerning transactions. In his work *al-Bayʿ* (Selling), he endorses custom as the proper method for defining subjects of rulings (Khomeini n.d., 1: 381). He criticizes scholars who question the role of customary norms in interpreting religious texts, asserting that since divine law addresses people in their everyday language, relying on common conventions is necessary for identifying the meaning of legal subjects (Khomeini 2000, 1: 258). He thus underscores custom as the exclusive source for defining concepts and instances within religious rulings.

Shia jurisprudential literature is replete with references to custom in clarifying concepts, instances, and even rulings themselves. This highlights the decisive function of custom in legal reasoning, making it vital for jurists to understand popular usage in society. Moreover, as customs evolve, the subjects of rulings—and by extension, the rulings themselves—may change. Nevertheless, such changes do not affect immutable religious laws.

5.7. Conflict or Clash of Proofs (*Tazāḥum*)

The presence of conflicting rulings is a significant factor contributing to the development of dynamic jurisprudence. In practical life, fixed jurisprudential rulings often contradict each other. For instance, the fixed ruling prescribing stoning (*rajm*) for a married adulterer (*muḥṣan*) who fulfills all the conditions is a well-established Islamic legal ruling. At the same time, maintaining the dignity of Islam and

safeguarding the Islamic state is equally essential. Therefore, when a jurist (*mujtahid*), based on their jurisprudential principles and taking into account the objectives (*maqāṣid*) and benefits (*maṣāliḥ*) that Allah Almighty has considered in applying Shari‘a, finds that enforcing stoning conflicts with the greater interests (*maṣlaḥa*) of Islam and the Islamic state, they may issue a temporary ruling suspending stoning.

When it comes to distinguishing between important and more important rulings without social consequences, this task is left to the individual’s discretion, since differing personal judgments do not lead to disorder. However, when recognizing the priority among conflicting rulings has social ramifications that could cause chaos if left to public opinion, Islam entrusts this responsibility to the guardian jurist (*al-walī al-faqīh*). This jurist has the authority to identify the more significant ruling and manage society accordingly.

6. Conclusion

The factors of time and place are crucial in fostering both the adaptability and longevity of jurisprudence. Ignoring these elements leads to the stagnation of jurisprudence and the resurgence of rigid, literalist interpretations like those of the Khawārij and Akhbārīs, which would cause significant harm to Islamic law and the Muslim community. Shi‘a jurisprudence, in particular, possesses key features that sustain its flexibility. Since rulings depend on their subjects and these subjects change according to prevailing customs and societal understanding, rulings must adapt accordingly. Hence, time and place influence jurisprudence indirectly by altering the subjects that rulings are based upon. Customs and common practices help redefine the understanding of these subjects over time.

Secondary rulings allow for the issuance of new, temporary judgments that respond to changing conditions and demands related to time and place. Moreover, governmental rulings (*al-aḥkām al-sultāniyya*) help implement primary and secondary rulings in ways that suit contemporary circumstances. The area of non-obligatory rulings (*al-aḥkām al-waḍ‘iyya*) also remains open for new necessary binding decisions to address evolving needs. Most calls for changes in religious rulings arise from the realm of non-worship matters (*mu‘āmalāt*), where a jurist (*faqīh*) can adapt rulings in line with current requirements. Since social life involves competing interests, a jurist can prioritize the ruling that serves the greater public benefit (*maṣlaḥa*) and temporarily set aside another. All these aspects together support a jurisprudence that is both dynamic—able to meet the needs of different times and places—and consistent, preserving its essential principles.

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