

القياس (1)

Analogical Reasoning (Qiyas)

I. Definition تعريف القياس

Literal meaning:

- 1- Measurement i.e. measuring something with another e.g. measuring the cloth with cubic.
- 2- Comparison i.e. comparing something with another.
- 3- Equation

Technical meaning:

“Applying a case whose rule is not found by the text to a case whose rule is found in the text on account of equation of both cases in respect of effective cause of the rule.”
“Equating a case, whose rule is not mentioned explicitly in the text, with a case whose rule is mentioned, on the basis of the equality between effective causes found in the two cases.”

II. Essential elements of Qiyas أركان القياس

1. Original case (asl) الأصل
2. Legal ruling of original case (hukm al-asl) حكم الأصل
3. New or parallel case (far') الفرع
4. Effective cause ('illah) العلة

Examples of Qiyas

1- New Cases: (Toddy, Drug) toddy = عصارة النخيل
Effective Cause: (Intoxication)
Original Case: (Wine)
Legal Ruling of Original Case: (Prohibition) (al-Ma'idah:90).

2- Wife with postnatal blood دم النفاس (New Case)
Hurt/Causing harm (Effective cause)
Wife with menstruation (Original Case)
Prohibition of Approaching (Legal Ruling of Original Case) (al-Baqarah:222).

3- Killer of the testator الموصي (Parallel case)
Hastening تعجل a thing before its time (Effective cause)
Killer of the legator المورث (Original case)
Disentitlement الحرمان to inheritance (Legal Ruling) the Sunnah.

III. The Conditions of Qiyas شروط القياس

1- The condition of original case:

The original case is not a parallel case. This means that the new case shall not be the original case.

2- The conditions of legal ruling of original case:

- The legal ruling of original case is pertaining to conduct which is established by the Qur'an, Sunnah and Ijma'.
- The legal ruling should be one which is based on effective cause that can be rationally understood. In case if legal ruling based on effective cause that cannot be understood, qiyas is not allowed. Example: the ruling to circle Ka'bah seven times, number of rakaat in prayer etc.
- The legal ruling should be one which is based on effective cause that can be extended. If the legal ruling based on effective cause that cannot be extended, it cannot apply qiyas. Example: the legal ruling which allows the traveler to brake the fast during day time. This ruling is based on effective cause that cannot be extended i.e. traveling.
- The legal ruling should not be restricted to original case only. In case if the legal ruling is specific to the original case only, qiyas is not permitted. Example: the ruling regarding the permission for the Messenger of Allah (peace be upon him) of marrying more than four wives or the prohibition of marrying his wives after death cannot be extended through analogy, since these legal ruling were specific to him.

3- Conditions of parallel case:

- There is no explicit legal ruling mentioned by the text on parallel case. There shall be no qiyas in case where there is legal ruling mentioned by the text.
- The effective cause of the original case should be found in parallel case.

4- Conditions of effective cause

- Effective cause must be an apparent attribute وصف ظاهر. It can easily be perceived by sense.
- Effective cause should be a constant and stable attribute منضبط.
- Effective cause should be extendible غير متعدي and not confined to the original case غير مقصور على الأصل.
- Effective cause should be an attribute that is compatible with the purpose of the law متوافق مع المقاصد الشرعية.