223482 - Why don’t the rulings of Sharia change with the change of time?

the question

Why doesn’t Ialam keep up with developments and changes that are happening in our time, as we are still adhering to rulings that came about 1400 years ago, which make us feel isolated and alienated in this world order? The financial system in advanced countries is based on riba, and the economy of those countries has made them rich and successful, even though riba was prohibited in order to deal with a problem at that time, so it was appropriate to that time, and hijab was also enjoined to deal with an issue at that time, so it was appropriate to that time.

But these rulings are still as they were, fixed and not changed, noting that some rulings were changed in the past. For example:

Tarawih prayer was prescribed as 11 rak`ahs, then Abu Bakr (may Allah be pleased with him) made it 23 rak`ahs. There was one adhan for Jumu`ah prayer, then `Uthman ibn `Affan (may Allah be pleased with him) introduced a second adhan for this prayer. The Prophet (blessings and peace of Allah be upon him) permitted mut`ah (temporary marriage), then `Ali ibn Abi Talib (may Allah be pleased with him) prohibited it. The Sunnah was to offer the Eid prayer after the khutbah, then Marwan ibn `Abd al-Malik put the khutbah before the prayer.

The Messenger (blessings and peace of Allah be upon him) forbade building mosques over graves, then al-Walid ibn `Abd al-Malik did that.

Allah prohibited certain types of food, then the Prophet (blessing and peace of Allah be upon him) came and prohibited eating the flesh of donkeys, and so on.

Is considering the condition and circumstance of the Muslims and keeping up with changes in life when it comes to rulings contrary to the fundamentals of religion?

Detailed answer

Praise be to Allah.

In all systems of law, religions, and philosophical and intellectual schools of thoughts, there are two large sets of options for each intellectual, doctrinal or legislative school of thought, which is very clear to critics and researchers:

The first is a set of unchangeable fundamentals and principles; that is, a general philosophical framework and main guidelines that characterise this system of law and make it different from others. These do not alter or change.

The second is some detailed outlines that are based on the general principles, to deal with new developments and minor issues, and discuss procedural matters, in a way that serves the general principle and achieves it.

The right to individual ownership in capitalism, for example, is the basis and most important principle in this philosophical or economic system, and it can never be changed at all. If it does change, then we are no longer talking about capitalism; rather we will be talking about a new and completely different ideology. Anyone who demands that this system should abolish the right to individual ownership, or undermine it, is definitely seeking to change it into a different ideology, such as socialism or some other, hybrid system. However, if this system introduces some laws and regulations to deal with any negative consequences that result from placing too great an emphasis on the right to individual ownership, then no one can accuse those who introduce such laws of trying to completely change the system, but there could arise a discussion on how to interpret these new laws, and the extent to which they are in harmony with the general principles (of the right to individual ownership), or the extent to which they undermine it. And there is a clear difference between the two changes [that is, changing everything as opposed to introducing measures as needed to deal with negative consequences].

So Sharia or the Islamic system of law is not exempted from this argument or discussion. Hence no

rational thinker – whether Muslim or non-Muslim – could ever expect the Islamic system of law to change its identity and character which make it stand out from other, man-made systems of law, based on the claim that we are living in a different era and time, without paying attention to the difference between constants and variables, and they cannot demand that it should completely abandon the constants, because they know that no one has the power to alter it or change it at all.

These constants include beliefs, matters of Tawhid (affirming the oneness of Allah), the general objectives of Sharia, the general juristic guidelines, legislative values, matters of consensus which refer to what the ummah has agreed on throughout the ages, and some minor issues that the Lawgiver decreed should be obligatory or prohibited, because they are connected to that which is in people's best interests or are connected to evil respectively, and the connection is so strong that it cannot be undone in any time or place.

For example, hijab is obligatory for women, and this ruling is constant and cannot be changed, because it is connected to human nature and the inclination of each gender to the other. This is something constant that exists in all humans, and altering this ruling would be a slippery slope that would lead to promiscuity and moral chaos, which all countries in the world are suffering from, without exception.

So how can it be said after that, that this ruling should be abolished, as the world has seen the negative consequences that result from altering it? Rather the Muslims should adhere more strongly to this ruling and have stronger faith in the divine wisdom behind the rulings of Sharia.

As for what you mentioned of minor issues in your question, they are not among the constants or unchangeable rulings which are characteristic of Islam. Tarawih prayer is an act of worship that was originally a matter of choice, as the Messenger (blessings and peace of Allah be upon him) did not specify a particular number of rak`ahs that one should not go beyond.

The second adhan for Jumu`ah prayer that `Uthman (may Allah be pleased with him) added was aimed at emphasizing that the adhan itself is obligatory, without introducing any alterations or changes to it; rather the emphasis came in the form of repeating it.

As for what the Umayyads introduced of putting the khutbah before the Eid prayer, this was denounced by all scholars of the earlier and later generations, and they regarded it as toying with the religion and introducing something new into Islam for political purposes, not for any legitimate purpose. Hence the matter was restored to the correct way throughout the Muslim lands, and people continued to offer the Eid prayer before the khutbah.

As for the ruling on mut`ah (temporary marriage) and the prohibition on donkey meat, this was an abrogation given by the Lawgiver (the Prophet (blessings and peace of Allah be upon him)) himself, and was not introduced by people who to whom the commands of Islamic law are addressed. `Ali ibn Abi Taib did not forbid mut`ah marriage; rather it was the Prophet (blessings and peace of Allah be upon him) who forbade it.

Nevertheless, the scholars did not deny the possibility that some rulings could be changed, when the five things that Ibn Qayyim al-Jawziyyah (may Allah have mercy on him) mentioned change. They are: time, place, custom, circumstances and intentions.

But these changes are limited to the types of rulings that are variable by nature, not those that are regarded as constant by the Lawgiver.

These rulings that are variable in nature and changeable are the rulings that are based on custom, or what is in people's best interests, and they are not based on constant shar`i principles, as Imam al-Qarafi (may Allah have mercy on him) said: Any ruling that is based on a custom, if the custom changes, then the ruling changes. See: *Al-Furuq*, 4/103). So think about his words “that is based on custom,” and you will realise that change can only affect the rulings that are based on customs.

As for the rulings that are based on the general objectives of Sharia, or on principles that are common to humans in all times and all places – such as the prohibition on riba, for example – they cannot be changed. Thus the Islamic system of law is distinguished by having both flexibility in some types of rulings, and at the same time having rulings that are constant and cannot be changed regardless of time and place.

The greatest of the important objectives of Sharia include the accountable person’s complete

surrender to the Lord of the worlds and His laws, and the freeing of man from the control of his whims and desires. This is the basis of many rulings having to do with pure rituals and acts of worship. This type of rulings come under the category that cannot be changed under any circumstances, as is well known to anyone who has the slightest acquaintance with the Islamic system of law and its principles and wisdom.

Shaykh Mustafa az-Zarqa (may Allah have mercy on him) said:

It is well established to one who has deep insight into the Islamic system of law that when conditions and times change, that will have a great impact on many Islamic rulings that are based on ijtihad, for these rulings are a system ordained by the Lawgiver with the aim of establishing justice, serving people's best interests, and warding off harm from them. Thus these rulings are strongly connected to the circumstances and the means and measures of a particular time, and to the prevailing moral standards of that time. How many rulings that were worked out by jurists offered a successful remedy or solution that was appropriate to a particular environment at a particular time, but after one or two generations, they no longer served the purpose for which they were intended, or they began to give the opposite results, due to changes in circumstances, means and measures, and moral standards.

For that reason, many later jurists from various madhhabs issued fatwas regarding many issues that were the opposite of the fatwas issued by the scholars of their madhhab and the jurists of earlier generations. These later scholars stated clearly that the reason why their fatwas differed from those of the scholars who came before them was because they were issuing those fatwas for their own time, and moral standards had deteriorated. So in reality, they did not differ from the jurists of the past who belonged to the same madhhab; rather, if the earlier scholars had lived at the time of the later scholars, and seen how times changed and how moral standards declined, they would have altered their view to that of the later scholars.

Based on that, the juristic guideline was established which says: no objection should be made to changes in rulings with the change of time. The jurists of all madhhabs were agreed that the rulings that may change with the passage of time and changes in people's moral standards are the

rulings that are subject to ijtihad, which are based on analogy and what is in people's best interests – in other words, the rulings that are worked out through ijtihad on the basis of analogy or what serves people's best interests. These are the rulings that are referred to in the guideline mentioned above.

As for the basic rulings, regarding which the purpose of the Islamic system of law is to affirm them and instil them, as they are based on the original texts (Quran and Sunnah) which contain commands and provisions – such as the prohibition on things that are absolutely prohibited; the requirement of mutual consent in contracts; the ruling that a man is bound by his contract; liability for harm caused to others; the ruling that an individual's admission of his own guilt is valid, but his statement that someone else committed an offence is not valid without evidence; the obligation to prevent harm and suppress crime; the obligation to bar the means that lead to bad consequences; protection of rights that are acquired; the ruling that every accountable person is responsible for his own actions and shortcomings; the concept that no innocent person should be held accountable for the sin of another; and other established and unchangeable Islamic rulings and principles that Islam came to confirm and establish, and to resist anything that is contrary to that – these rulings do not change with changes of time. Rather they are fundamental principles that are promoted by the Islamic system of law in order to protect people's well-being through all times and generations, but the means of achieving them and the ways of applying them may differ from one era to another.

For example, regarding the means of protecting people's rights – which is the judicial system – the courts used to have one judge, and whatever verdict he passed was final (and was not subject to appeal or review). But that could be changed to a system in which there is more than one judge and there are different levels of courts, according to what serves the people's best interests at a particular time, if their circumstances dictate that there should be extra precautions because of widespread corruption.

In fact, regarding the Islamic rulings that may change with time, no matter how much they change with the passage of time, the shar`i principle concerning them remains the same, which is the

establishment of justice, achieving what is in people's best interests, and warding off harm and trouble.

The change in rulings is no more than a change in methods and measures that could lead to the purpose intended by the Islamic system of law. In most cases, those methods and measures are not defined by Islamic Sharia; rather they are left without restriction so that people can choose in every era what is most likely to give the best results and most successful solutions.

End quote from *Al-Madkhal al-Fiqhi al-`Amm*, 940-942.

Dr. `Abid as-Sufyani said:

The fact that circumstances and times change is something that is not overlooked by Sharia; rather Islam set out guidelines particular to that... So regarding the vicissitudes of time that the Muslims go through, alternating between times of strength and weakness, Allah has ordained for each time a ruling pertaining to it, such as times of strength, times of famine and need, and times of abundance ... the fact that Sharia pays attention to times, circumstances and resources does not mean that it has left the definition of purposes and interests to be served, and reaching a ruling that could achieve those purposes, to human rational thinking. Far from it; Islam did not leave that to man, whether with regard to acts of worship or interactions between people.

The fact that a fatwa concerning a particular action may change when the consequences of that issue change, so that each issue will be subject to the appropriate Islamic ruling, does not mean at all that Islamic rulings in general could be changed on the grounds that the interest to be served changes with the change of time. Therefore, Islamic jurisprudence is constantly renewed and does not remain static, as the jurist examines every issue according to its merits, and applies the appropriate Islamic ruling to it, which is to be based on the consequences of that issue. Then when the issue comes up again at some other time, in different circumstances, and the consequences of that issue have changed, then a new ruling should be worked out that pertains to this issue (in those specific circumstances and with those particular consequences), and so on ... therefore every issue has a ruling that is connected to its consequences, so as to achieve valid shar`i

interests at all times.

End quote from *Ath-Thabat wash-Shumul*, p. 540.

For more information, see the essay entitled *Muhawalat at-Tajdid fi Usul al-Fiqh*, by Hazza` al-Ghamidi (p. 823-828), where the author discusses this issue at length.

We have previously discussed this issue at length in the answer to question no. 39286.

It is important here to remind the questioner that the temporary success that western civilization has achieved is not due to the capitalist riba-based system. Socialism achieved great success during the era of the Soviet Union in building a strong state and economy, but the passage of time was sufficient to prove the complete failure of this man-made system and proved that its success was no more than a flash in the pan, as its reality was soon exposed.

Hence we read today that many senior analysts, thinkers and economists today expect that the global capitalist financial system will soon collapse, after the recent financial crisis, as the expectations of all these countries began to decline to the extent that they are unable to achieve the required rate of growth, and individual Europeans have begun to think of emigrating to places where they can find opportunities for work that will allow them to earn enough to live on, as many studies and documentaries published on the Internet have confirmed.

If the questioner calls to mind that the global capitalist financial system is little more than a hundred years old, he will realise that it is too early to conclude, on the basis of what has been achieved today, that the riba system is successful in achieving the expected growth rate. Even if we assume that it was successful, we cannot take it as a given that a system that is free of riba will never achieve greater prosperity or growth. Whoever disagrees with that has no basis or proof for his disagreement. The Ottoman and Islamic caliphates throughout history achieved unparalleled success in both worldly and religious terms, even though their economic systems were completely free of the idea of riba.

In fact, there is no evidence at all to suggest that the element of riba in the financial system is the

positive factor in its growth, when looking at the overall picture. In fact, whoever examines the true nature of capitalist societies, and what they suffer of the catastrophic impact of riba on those societies, will realise that. Otherwise, what benefit is there for people when wealth is concentrated in the hands of a few usurious individuals and capitalists, who plunder the resources of the land and exploit human labour to the maximum so that wealth will increase and multiply in the hands of a small percentage of the population, between 0.5% and 5%, whilst the vast majority are deprived of opportunities to live a prosperous and dignified life?

And Allah knows best.