

The Methodology of Jurists in Deriving Legal Rulings from the Sunnah of Approval Sunnah Taqreeriyah

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Abstract

The methodology of jurists in deriving rulings from the Sunnah of Approval Sunnah Taqreeriyah is an important topic that discusses how Islamic jurists deduce legal rulings based on actions and statements presented in the presence of the Prophet Muhammad ﷺ without his objection. Sunnah Taqreeriyah refers to those narrations in which an action or statement was brought before the Prophet ﷺ and he did not object, which is taken as his tacit approval. Jurists first examine whether the action or statement presented before the Prophet ﷺ aligns with Islamic principles. If he remained silent, they consider it an endorsement of the act as valid. When deriving rulings from Sunnah Taqreeriyah, jurists also take into account the context of the statement or action to ensure accurate application. They consider whether the ruling implied by the Sunnah Taqreeriyah is general or specific. If it is for a specific circumstance, they apply it with caution to avoid generalization. Jurists also compare Sunnah Taqreeriyah with other Hadiths and legal rulings to resolve any potential contradictions or differences. If direct rulings cannot be drawn from Sunnah Taqreeriyah, they use consensus (ijma) and analogy (qiyas) to derive rulings. This approach highlights the scholarly depth and mastery of Islamic principles by jurists, allowing them to deduce legal issues with precision and careful consideration.

A student can receive knowledge and wisdom from their teacher or mentor in three ways. First, by listening to their teacher's words and acting on them; second, by observing their actions closely and following their example; and third, by staying in the teacher's presence, performing various actions in their view, where the teacher may correct or endorse them, sometimes verbally and sometimes simply by remaining silent. This third method is termed as "approval." The Prophet Muhammad ﷺ also used these three methods for the training and refinement of his companions, leaving an exemplary model unmatched in history. The following section aims to discuss the third aspect of Sunnah saying, action, and approval and

to examine the views and methodologies of jurists on this matter. For Sunnah Taqreeriyah, the terms “prophetic approvals” or “acknowledgments of the Prophet” are generally used.

The Literal Meaning of "Taqreer"

The word taqreer is a verbal noun from the doubled form (bab taf'eel), while the word *iqrar* is a verbal noun from the causative form (bab if'aal). The literal meanings of *taqreer* include acknowledgment, establishing, maintaining, affirming, and preserving. The author of *Lisan al-Arab*, while explaining the literal meaning of *taqreer*, states:

"القرء بالضم القرار في المكان وقرره و اقره في مكان فاستقر"¹

The meaning of establishing and maintaining is implied in this verse.

و لَكُمْ فِي الْأَرْضِ مُسْتَقَرٌّ²

While explaining the meaning of "iqrar", the author of "Lisan al-Arab" writes:

"والاقرار: الاذعان للحق والاعتراف به اقر بالحق أي اعترف به، وقد قرره عليه"³

In Al-Qamus Al-Muhit, the linguistic analysis of the word "taqreer" is conducted using these words.

"ويقر بالكسر والفتح، قراراً قروراً وقراً وتقرة : ثبت وسكن، كاستقر وتقار، واقره فيه وعليه وقرره"⁴

The author of Mukhtar writes:

واقر بالحق اعترف به قرره غيره بالحق حتى اقر به، واقره في مكانه فاستقر⁵.

From the above statements, it becomes clear that the root letters "q-r-r" signify meanings related to stability, fixation, and calmness. This meaning closely aligns with the technical sense of the term. It implies that an action performed by an individual is affirmed and established in its rightful place by the silence and endorsement of the teacher or mentor. Since "iqrar" also means acknowledgment, one possible reason for naming this "Sunnah Taqreeriyah" is that, in this form of Sunnah, the Prophet ﷺ acknowledges the validity of an action, thus indicating its correctness.

The Technical Definition of "Taqreer" is:

The scholars of Usul (principles of Islamic jurisprudence) have defined "taqreer" using various terms, some of which are brief, while others are lengthy and not free from objections. A few of these definitions will be mentioned, and the reason for preferring the most accurate definition will be explained.

¹ "Ibn Manzur, Muhammad bin Mukarram (1421 AH), *Lisan al-Arab*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 5, p. 357."

² Surah Al-A'raf, 7:24

³ "Ibn Manzur, Muhammad bin Mukarram (1421 AH), *Lisan al-Arab*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 5, p. 359

⁴ "Abi Tahir Muhammad bin Yaqub (1399 AH), *Al-Qamus Al-Muhit*, Dar Al-Fikr Al-Turath, p. 461."

⁵ "Razi, Muhammad bin Abi Bakr (1441 AH), *Mukhtar Al-Sihah*, Dar Al-Fikr Al-Turath, p. 418."

Allama Asnawi has given an extremely concise definition of "taqreer."

"الكف عن الإنكار"⁶

This definition is incomplete because it does not include the scenario of "taqreer" where an action was not directly presented in front of you, but you became aware of it, and you remained silent about it. Furthermore, this definition does not mention the removal of obstacles (muwani') to "taqreer".

The Hanafi scholar Abdul Ali Ansari has defined "taqreer" with the following words.

"السكوت عند رؤية فاعل يفعل الفعل مع قدرة على المنع".⁷

Although this definition is detailed, it suggests that "taqreer" only refers to silence regarding actions that took place in front of you, while the definition of "taqreer" should also include silence regarding actions that were not directly presented to you but were brought to your knowledge. Moreover, this definition is also devoid of "taqreer" concerning statements.

Allama Zarkashi has provided a more detailed definition of "taqreer"

ان يسكت النبي صلى الله عليه وسلم عن انكار قول قبل او فعل فعل بين يديه او في عصره و علم به"⁸

Although this definition is quite comprehensive, it does not mention the selection of occasions, and it does not exclude silence regarding the actions of a disbeliever from the definition.

The Shia scholar Muhammad Raza al-Muzaffar writes in his definition of "taqreer" of the infallible:

المقصود من تقرير المعصوم: ان يفعل شخص بمشهد المعصوم وحضوره فعلاً فيسكت المعصوم عنه مع توجهه اليه و علمه بفعله، وكان المعصوم بحالة يسعه تنبيه الفاعل لو كان مخطئاً والسعة تكون من جهة عدم ضيق الوقت عن البيان ومن جهة عدم المانع منه كالخوف والتقية واليأس من تأثير الارشاد والتنبيه ونحو ذلك"⁹

For the Shia Imamiyyah, since the concept of Sunnah is broad and includes not only the sayings and actions of the Prophet ﷺ but also those of the Twelve Imams, the term "ma'soom" (infallible) is used instead of "Nabi" (Prophet) in the definition of "taqreer." Therefore, the definition provided by Allama Raza al-Muzaffar is also not comprehensive, as it does not include "taqreer" concerning statements.

Abu Shama has defined "taqreer" with the following words:

⁶ "Al-Marghinani, Burhan al-Din (2012), *Nihayat al-Sul*, Dar al-Lisan al-Arab, p. 53."

⁷ "Ibid., p. 54."

⁸ "Sihalvi, Muhammad bin Nizam al-Din (2006), *Fawa'ih al-Rahmut*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 1, p. 317."

⁹ "Al-Muzaffar, Muhammad Rida (2018), *Usul al-Fiqh al-Muzaffar*, Dar al-Fikr al-Turath, p. 390."

ان يرى النبي صلى الله عليه وسلم فعلاً صادراً من مسلم مكلف، أو يسمع منه قولاً أو يبلغه ذلك، ولم ينكره عليه مع فهمه له".¹⁰

The definition provided by Abu Shama is comprehensive and free from all the objections that apply to the previously mentioned definitions. The summary of Abu Shama's definition and the earlier definitions can be presented in the following points:

1. If an action or statement is made in your presence and you remain silent, both these situations are included in "taqreer"
2. If an action or statement did not occur in your presence but you learned about it later and remained silent about it, this situation is also considered "taqreer." Therefore, any action that occurred during your time but you were unaware of it does not fall under the definition of "taqreer."
3. One condition for "taqreer" is that the person whose action or statement you remain silent about must be a Muslim, as silence regarding the actions or statements of a disbeliever does not indicate endorsement.
4. Another condition for "taqreer" is that the person whose actions or words you remain silent about must be legally responsible ("mukallaf"), meaning silence about the actions or statements of a madman, child, or someone asleep does not count as "taqreer."
5. A further condition for the validity of "taqreer" is that there should be no hindrance or obstacle to rejection, such as a lack of time, hopelessness of accepting advice, etc.
6. Allama Asnawi used the term "kafm an inkar" (refraining from rejection) in his definition of "taqreer", which indicates that "taqreer" is not merely silence, but also requires that no form of rejection is present whether verbal, physical, or through gestures or signs.

The Authority of the Prophetic Approvals.

The jurists, hadith scholars, and the majority of the scholars of principles agree that the Prophetic approvals (taqreer) are authoritative and are a part of the Sunnah of the Prophet ﷺ. However, a small group is attributed to rejecting the authority of "taqreer." Imam al-Haramayn al-Juwayni writes about the authority of "taqreer:"

فالذي ذهب اليه جماهير الأصوليين ان رسول الله صلى الله عليه وسلم اذا رأى مكلفاً يفعل فعلاً أو يقول قولاً، فقرر عليه، ولم ينكر عليه، كان ذلك شرعاً منه في رفع الحرج فيما رآه¹¹

The Hanafi scholar al-Jassas writes:

¹⁰ "Abu Shama al-Maqdisi (1432 AH), *Al-Muhaqqiq min 'Ilm al-Usul*, Dar al-Hadith, Egypt, p. 171."

¹¹ "Al-Juwayni, Abd al-Malik bin Abdullah (2013), *Al-Burhan fi Usul al-Fiqh*, Dar Ibn Sader, Vol. 1, p. 198."

تركه النكير على فاعل يراه يفعل فعلا على وجهه، فيكون تركه التكير عليه بمنزلة القول منه، في تجويز فعله على ذلك الوجه.¹²

The Hanbali judge Abu Ya'la mentions the authority of the Prophetic approvals with the following words:

قد يقع من النبي صلى الله عليه وسلم بيان الحكم بالاقرار على فعل شاهده من فاعل يفعله على وجه من الوجوه، فترك النكير عليه، فيكون ذلك بيانا في جواز فعل ذلك الشيء على الوجه الذي اقره عليه

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The Maliki scholar Tilmisani clearly acknowledges the authority of "taqreer:"

"ومن شرط التقرير الذي هو حجة"¹⁴

The Shia scholar Abdul Badi al-Fadhli writes:

يجمع المسلمون كافة على ان السنة الصادرة عن النبي صلى الله عليه وسلم، قولاً و فعلاً و تقريراً حجة على كل مسلم ومسلمة¹⁵

The arguments for the authority of the Prophetic approvals (taqreer) are as follows:

• الَّذِينَ يَتَّبِعُونَ الرَّسُولَ النَّبِيَّ الْأُمِّيَّ الَّذِي يَجِدُونَهُ مَكْتُوبًا عِنْدَهُمْ فِي التَّوْرَةِ وَالْإِنْجِيلِ يَأْمُرُهُمْ بِالْمَعْرُوفِ وَيَنْهَاهُمْ عَنِ الْمُنْكَرِ.¹⁶

In this verse, the command of "amr bil ma'ruf" (enjoining good) and "nahy an al-munkar" (forbidding evil) has been established as your duty and action. Therefore, if an unlawful act takes place in your presence and you remain silent about it, you would not be fulfilling the duty of "nahy an al-munkar," even though the Quran clearly states that you are to forbid evil .

- Hence, these premises prove that whatever action you remain silent about is valid and permissible.
- Your infallibility necessitates that the Prophetic approval (taqreer) is authoritative because remaining silent in the face of an unlawful action and not rejecting it would mean neglecting the duty of "nahy an al-munkar," and neglecting this duty is a sin. Since the Prophets are protected from sin due to their infallibility, they cannot neglect their duties .

Allama Zarkashi writes:

ماخذ كون الاقرار حجة، هو العصمة من التقرير على باطل¹⁷.

Allama Tilmisani, a Maliki scholar, presents the arguments for the authority of "taqreer" (Prophetic approval) as follows:

¹² "Al-Jassas, Ahmad bin Ali (1421 AH), *Usul al-Jassas*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 3, p. 143."
¹³ "Abu Ya'la, Muhammad bin al-Husayn (1388 AH), *Al-Iddah fi Usul al-Fiqh*, Dar al-Lisan al-Arab, p. 168."
¹⁴ "Al-Tilimsani, Muhammad bin Ahmad (1388 AH), *Miftah al-Wusul*, Dar Ibn Sader, p. 94."
¹⁵ "Saeed Ahmad Panipuri (2012), *Mabadi Usul al-Fiqh*, Dar al-Lisan al-Arab, p. 23."
¹⁶ Surah Al-A'raf, 7:108
¹⁷ "Andalusi, Muhammad bin Yusuf (1444 AH), *Al-Bahr al-Muhit*, Dar al-Kutub al-Ilmiyyah, Beirut, p. 206."

اعلم ان النبي صلى الله عليه وسلم لا يقر على الخطأ ولا على معصية؛ لأن التقرير على المعصية معصية، فالعاصم له من فعل المعصية، عاصم له من التقرير عليها.¹⁸

- It is agreed upon by the scholars of "Usul" (principles of jurisprudence) that delaying a statement when needed is not permissible. If someone is performing an unlawful act in your presence, it may be because they are unaware that the act is against Shariah. In such a case, it is necessary to inform them that the action is unlawful so they may correct themselves. Alternatively, if the act is being done intentionally, it is still essential to object, so that the person does not mistakenly believe that the prohibition of the act has been annulled. If you remain silent, the person may assume that the act is acceptable and that its previous prohibition has been lifted¹⁹.

- There are numerous incidents involving the Companions that show they considered the Prophet's approval (taqreer) as authoritative and understood his silence as a valid justification. A few examples are mentioned here:

Hazrat Ibn Abbas (RA) narrates that one day he rode a donkey and was approaching the age of maturity. The Prophet ﷺ was leading prayers in Mina, and there was no wall in front of him (as a barrier). Ibn Abbas passed in front of the rows and got off his donkey, leaving it to graze. The donkey then entered the rows, but no one objected to this action²⁰.

This narration clearly shows that Hazrat Ibn Abbas (RA) understood the lack of objection as a form of approval, and from this, he inferred that walking in front of a person praying does not invalidate the prayer. Hafiz Ibn Hajar comments on this narration, writing:

"يستفاد منه ان ترك الانكار حجة على الجواز بشرطه."²¹

- Muhammad ibn Munkadir narrates that he saw Hazrat Jabir ibn Abdullah (RA) swearing by Allah and saying that Ibn al-Sayyad is the Dajjal. I asked him why he was swearing by Allah, and he replied, "I heard Hazrat Umar (RA) swear by this in front of the Prophet ﷺ, and the Prophet ﷺ did not object to it²²".
- While heading towards the Plain of Arafat, a person asked Hazrat Anas ibn Malik (RA), "What did you do with the Prophet ﷺ on this day?" Hazrat Anas (RA) replied :Some of

¹⁸ "Al-Tilimsani, Muhammad bin Ahmad (1388 AH), *Miftah al-Wusul*, Dar Ibn Sader, p. 94."

¹⁹ "Al-Shuqr, Muhammad Suleiman (2018), *Al-Fa'al al-Rasul*, Dar al-Fikr al-Turath, p. 98."

²⁰ "Al-Bukhari, Muhammad bin Ismail (2020), *Al-Jami' al-Sahih al-Bukhari*, Dar al-Ishaat, Karachi, Hadith No. 493."

²¹ "Al-Asqalani, Muhammad bin Hajar (1438 AH), *Fath al-Bari*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 1, p. 496."

²² "Al-Bukhari, Muhammad bin Ismail (2020), *Al-Jami' al-Sahih al-Bukhari*, Dar al-Ishaat, Karachi, Hadith No. 7355."

us recited 'La ilaha illallah' (there is no god but Allah), and others said the Takbir (Allahu Akbar), but the Prophet ﷺ did not object to anyone's actions²³.

Hafiz Ibn Hajar comments on this hadith as follows:

الحديث يدل على التخيير بين التكبير والتلبية من تقريره لهم على ذلك.²⁴

Hazrat Uqbah ibn Amir Juhani presented the argument for the permissibility of offering two rak'ahs before Maghrib by stating that they used to do this during the time of the Prophet ﷺ, and no objection was raised against it²⁵.

- Hazrat Ubayy ibn Ka'b (RA) stated that praying in a single garment is also a Sunnah because we used to do this during the time of the Prophet ﷺ, and this action was not considered improper or objectionable.

From the above incidents, it is clearly established that the Companions of the Prophet ﷺ regarded his "taqreer" (approval) as authoritative. Anything that the Prophet ﷺ did not object to, the Companions considered permissible and lawful. There is no narration in which a Companion is found rejecting the Prophet's approval or silence as an authoritative ruling. Therefore, this suggests that there was consensus (Ijma') among the Companions on the authority of the Prophetic taqreer.

Standards for Acceptance and Rejection of Sunna Taqririyyah

The prophetic approval taqreer Nabawi is not an absolute proof but is conditional upon certain criteria. The following passage will mention the conditions necessary for the authority of "taqreer."

First Condition:

The first condition for the authority of prophetic approval (taqreer) is that the action under approval (the action which is being acknowledged) must have been personally observed by the Prophet, or the statement under approval must have been personally heard by him, or he must have been informed about that statement or action. Due to this condition, two types of actions fall outside the definition of prophetic approval if they occurred during his time but without reaching his knowledge. Nearly all scholars of principles (usooliyyin) have mentioned this condition²⁶.

If there is doubt about whether the Prophet was aware or unaware of the action or statement in question, it should be assumed he was unaware, as the original state is lack of knowledge. However, if an action was widely practiced among the Companions and it would

²³ "Al-Bukhari, Muhammad bin Ismail (2020), *Al-Jami' al-Sahih al-Bukhari*, Dar al-Ishaat, Karachi, Hadith No. 1659."

²⁴ "Fath al-Bari, Vol. 1, p. 936."

²⁵ "Al-Bukhari, Muhammad bin Ismail (2020), *Al-Jami' al-Sahih al-Bukhari*, Dar al-Ishaat, Karachi, Hadith No. 1184."

²⁶ "Al-Juwayni, Abd al-Malik bin Abdullah (2013), *Al-Burhan fi Usul al-Fiqh*, Dar Ibn Sader, Vol. 1, p. 98."

be unlikely that the Prophet was unaware of it, or if strong indications suggest he knew of it, then this action would be considered permissible, with its permissibility established through "taqreer."

The clear reason for the necessity of this first condition is that if a particular action or statement did not come to the Prophet's knowledge, it would be baseless to claim he approved or disapproved of it. Therefore, this is a fundamental condition, agreed upon by all scholars of "usool" (principles of jurisprudence).

Second Condition:

"Some usuliyyun (jurisprudents) have mentioned the condition that the Prophet (PBUH) should be capable of denial. Alama Tilmisani writes:"

Some scholars of principles (usooliyyin) have mentioned the condition that the Prophet must be capable of objecting. Allama Tilmisani writes:

"ومن شرط التقرير الذي هو حجة ان يعلم النبي صلى الله عليه وسلم ويكون قادرا على الانكار"²⁷

In support of this condition, this hadith is presented.

من رأى منكم منكرا فليغيره بيده، فان لم يستطع فبلسانه، فان لم يستطع فبقلبه²⁸

Allama Zarkashi has rejected this condition, arguing that the obligation to object would not be waived due to fear in the Prophet's case, as Allah has guaranteed His help and success for him and has promised protection against his enemies, as stated:

انا كفيناك المستهزئين²⁹."

The second reason is that if the Prophet does not object to an impermissible act, it could create the misconception that the act is permissible and that the prohibition has been abrogated. Therefore, the ability to object is not a condition, and the Prophet is obliged to object to any impermissible act in all circumstances.

Maulana Nizamuddin Ansari has provided another explanation for this condition, stating that the ability to object means that the Prophet should not be engaged in another important task, etc .

Maulana Nizamuddin's explanation is very appropriate, and based on this explanation, there is no need to reject the condition of the ability to object.

Third Condition:

The third condition for the authority of prophetic approval ("taqreer") is that there should be no prior objection from the Prophet to the action under consideration. Therefore, if the Prophet previously objected to an action, and then the same action was performed in his presence and he remained silent, his silence would not be considered approval, and the action would not be deemed permissible. Two considerations must be kept in mind here: first, the

²⁷ "Al-Tilimsani, Muhammad bin Ahmad (1388 AH), *Miftah al-Wusul*, Dar Ibn Sader, p. 93."

²⁸ Al-Tirmidhi, Muhammad bin Isa (2020), *Sunan al-Tirmidhi*, Maktabah Rahmaniyyah, Lahore, Hadith No. 2172.

²⁹ Surah Al-Hijr, 15:95

action must be one whose prohibition has been established, and second, it must be known that advising the person performing the action would have no effect, such as the case of the People of the Covenant entering their places of worship³⁰. The Maliki scholar Tilmassani writes:

من شرط التقرير أن لا يكون قد بين حكمه قبل ذلك بيانا يسقط عنه وجوب الإنكار -³¹

Fourth Condition:

The prophetic approval will be valid only if there is no obstacle to objecting. A few situations are mentioned:

- The objection might have been omitted due to some benefit. For example, it is narrated from Aisha (RA) that the Prophet said: "O Aisha, don't you see that when your people rebuilt the Kaaba, they did not build it upon the foundations of Ibrahim (and removed the Hatim from the Kaaba)?" Aisha (RA) replied: "O Messenger of Allah, why don't you rebuild the Kaaba upon the foundations of Ibrahim?" He said, "If your people had not recently emerged from disbelief (if they had not just embraced Islam), I would have done it".

This hadith shows that the Prophet refrained from objecting for a wise reason: the people of Quraysh had only recently accepted Islam, and if the Kaaba had been torn down and rebuilt on its original foundations, there was a strong likelihood of creating division and fitnah among them³².

- The objection might have been omitted due to being preoccupied with something else.

Allama Zarkashi, quoting Qushayri, writes:

فلو كان مشغلا ببيان حكم مستغرقا فيه فرأى انسان على امر و لم يتعرض له، فلا يكون تركه ذلك تقريراً

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Dr. Suleiman Ashqar did not accept the excuse of being preoccupied, because after the preoccupation ends, it would still be possible to object. In fact, even if the preoccupation is temporarily set aside, an objection can be made, as demonstrated when, during the Friday sermon, the Prophet paused the sermon and ordered a man to sit down who was standing and disturbing the gathering. If the objection was omitted due to forgetfulness or oversight, Imam Ghazali, pointing to such instances, writes³⁴:

تقرير رسول الله صلى الله عليه وسلم مسلماً على فعل، وتركه التكبير عليه مع فهمه الواقعة، وعدم ذهوله عنه يتمسك به في جواز التقرير³⁵

Fifth Condition:

³⁰ "Ibn Hazm, Ali bin Ahmad (1388 AH), *Al-Ahkam fi Usul al-Ahkam*, Dar Ibn Sader, Vol. 1, p. 251."

³¹ "Al-Tilimsani, Muhammad bin Ahmad (1388 AH), *Miftah al-Wusul*, Dar Ibn Sader, p. 94.

³² **Sahih al-Bukhari, Hadith No. 1583**

³³ "*Al-Bahr al-Muhit*, Vol. 4, p. 204."

³⁴ "*Al-Fa'al al-Rasul* by Al-Ashqar, Vol. 2, p. 116."

³⁵ Al-Ghazali, Muhammad bin Muhammad (2016), *Al-Manhul*, Dar al-Lisan al-Arab, p. 229.

The person whose action is being approved (muqarr) must be a Muslim and a follower of the Sharia. Therefore, if the muqarr is a disbeliever, his action cannot be considered as proof of permissibility. During his time, the Prophet did not destroy the places of worship of the dhimmis (non-Muslim citizens) nor did he prevent them from worshiping according to their religion, even though they committed acts of polytheism and disbelief in their places of worship. However, there is a difference of opinion among scholars regarding the approval of the actions of a hypocrite (munafiq). Some scholars accept it as valid evidence because a hypocrite outwardly appears to be a Muslim, while others do not accept it because a hypocrite is inwardly a disbeliever³⁶.

The researcher Suleiman Ashqar resolved this difference by stating that if the hypocrisy of the individual is concealed and most of the Companions are unaware of his hypocrisy, then the approval of such a hypocrite's action would be considered valid. However, if the hypocrisy and rebellion of the hypocrite are clear, then there is no doubt about the invalidity of approving such an action³⁷.

Sixth Condition:

There is a difference of opinion among the scholars of "usool" regarding whether the "muqarr (the person whose action is being approved) must be accountable ("mukalla") or not. Imam al-Haramayn al-Juwayni set the condition that the "muqarr" must be accountable, as the action of a non-accountable person is not considered valid proof. Approval ("taqrir") is given for an action that is legally binding, and since a child or an insane person is not accountable, their actions cannot be considered as binding in terms of legal rulings³⁸.

According to Allama Banani, the condition of the "muqarr" being accountable is not required, as the Prophet never remained silent regarding an unlawful or invalid action, whether the person was a child or an adult, sane or insane, because an unlawful action is considered reprehensible by the Sharia. Moreover, if silence is maintained regarding the unlawful action of a non-accountable person, those who are unaware of the ruling might consider it permissible³⁹.

Based on reasoning, Allama Banani's view seems more correct, and this view is supported by a hadith in which once, when Hasan (who was a child) put a date from charity into his mouth, the Prophet took it out of his mouth and said, "We do not eat from charity"⁴⁰.

Seventh Condition:

The person whose action is being approved ("muqarr") should not be someone who, if an objection is raised against their unlawful action, would take offense and become angered,

³⁶ Al-Bahr al-Muhit, Vol. 4, p. 203."

³⁷ "Af'al al-Rasul by Al-Ashqar, Vol. 2, p. 108."

³⁸ "Al-Burhan fi Usul al-Fiqh, Vol. 1, p. 496."

³⁹ Subki, Taj al-Din Abdul Wahhab (2019), *Hashiyat al-Banani 'ala Sharh al-Mahalli 'ala Jam' al-Jawami'*, Dar al-Lisan al-Arab, Vol. 2, p. 95.

⁴⁰ Sahih al-Bukhari, Hadith No. 1491

leading them to commit more sins. There are four levels of sin in terms of the effectiveness or ineffectiveness of an objection:

1. The objection causes the person to abandon the sin and choose obedience.
2. The objection causes a reduction in the sin, even if they do not completely abandon it.
3. The objection has no effect, and the person continues in their sin as they did before.
4. The objection causes the person to become more rebellious and engage in even more sin.

In the first two cases, objecting is recommended and beneficial. In the third case, one should exercise judgment and, if deemed appropriate, object; otherwise, remain silent. In the fourth case, objecting is forbidden, such as when a disobedient person is stopped from drinking alcohol or gambling and responds by seeking to kill⁴¹.

This detailed reasoning applies to members of the community. However, there is a difference of opinion among scholars regarding the Prophet. One view is that objection is not obligatory in his case. This is the view of the Mu'tazilah. Another view is that it is obligatory to object in his case so that the permissibility of the act is removed. Allama Zarkashi prefers the second view, writing:

وإذا علم من حال مرتكب المنكر ان الانكار عليه يزيده اغراء على مثله، فان علم به غير الرسول لم يجب عليه الانكار، لئلا يزداد من المنكر باغراء، وان علم به الرسول فقي انكاره و جهان احدهما لا يجب لما ذكر، وهو قول المعتزلة، والثاني: يجب انكاره ليزول بالانكار توهم الاباحة قال: وهذا الوجه الظاهر، وهو قول الاشعرية وعليه يكون الرسول مخالفا لغيره، لان الاباحة والحظر شرع مختص بالرسول دون غيره⁴².

Types of Prophetic Approval (Taqreer Nabawi):

The prophetic approval (Taqreer Nabawi) is divided into two types based on its nature.

Approval of a Statement (Taqrir 'ala al-Qawl):

If someone speaks about a legal ruling in your presence and you do not object but remain silent, it is considered an indication that the speaker's statement holds the status of a legal ruling on the issue at hand .

For example, it is narrated that once, Hazrat Zaid and his son Usama were lying with a blanket, and their feet were not covered. Mughirah al-Madluji, who was an expert in physiognomy, looked at their feet and said that they resembled each other. What he meant was that Hazrat Usama was the son of Hazrat Zaid. Upon hearing this, the Prophet was pleased and confirmed his statement⁴³.

Approval of an Action (Taqreer 'ala al-Fa'l):

There are three types of approval of an action ("Taqreer 'ala al-Fa'l"):

⁴¹ "Af'al al-Rasul by Al-Ashqar, Vol. 2, p. 110."

⁴² Al-Bahr al-Muhit, Vol. 4, p. 204.

⁴³ Sahih al-Bukhari, Hadith No. 3555

If an action is performed in front of you and you approve of it, this is known as "Taqrer 'ala al-Fa'l." Hazrat Qais bin Amr narrates that once, after performing the Fajr prayer, he was praying two rak'ahs when the Prophet saw him and asked, "O Qais, why are you praying these two rak'ahs?" Qais replied, "O Messenger of Allah, I missed the Sunnah of Fajr, and now I am praying them." The Prophet remained silent and did not object. Based on this hadith, Imam Shafi'i and Imam Malik agree that if the Sunnah of Fajr is missed, it can be made up after the obligatory prayer. Imam Shafi'i also allows performing other voluntary prayers, such as Tahiyat al-Masjid, after Fajr if they are missed for any reason⁴⁴.

If an action is performed during your time and the nature of the action is such that it would not have been hidden from you due to its widespread nature, and it is evident from circumstances that you were aware of it, your approval can be inferred. For example, Hazrat Mu'adh bin Jabal used to lead his people in prayer after praying Isha with the Prophet. One time, he began reciting Surah Al-Baqarah in his prayer, and one person, finding it too long, broke off and prayed separately. When this reached the Prophet, he advised Hazrat Mu'adh not to prolong the recitation, but did not rebuke him for praying a voluntary prayer because Mu'adh was performing his personal prayer after repeating the Isha prayer. Imam Shafi'i argues that followers may join the imam in a voluntary prayer if their own prayer is obligatory, based on this incident⁴⁵.

However, if an action is performed during your time and it is unclear whether you were aware of it, your approval of that action cannot be assumed. Some companions, such as Hazrat Abu Ayub and Hazrat Rifa'ah bin Rafi', believed that a ritual bath (ghusl) was not obligatory after sexual discharge, based on their practices during the Prophet's time. When Hazrat Umar learned of this, he asked them, "Did you ask the Messenger of Allah about this and did he approve of it?" This shows that Hazrat Umar's view was that if an action occurred during the Prophet's time and he was unaware of it, it cannot be considered valid.⁴⁶ However, if the Prophet knew of the action and did not object, then it would be considered valid approval⁴⁷.

In summary, if an action took place during the Prophet's time and you were aware of it but remained silent, it would count as approval. If you were unaware of it, your silence cannot be taken as approval⁴⁸.

Dalaalat al-Taqrir

The approval of the Prophet (PBUH) is considered a valid proof and a source of evidence in Islamic jurisprudence. The question arises as to what kind of ruling the Prophet's approval (taqrer) indicates: does it make the action permissible, obligatory, recommended, or forbidden? This will be discussed in the following points.

⁴⁴ "Abu Dawood, Sulayman bin Ash'ath (2020), *Sunan Abu Dawood*, Maktabah Rahmaniyyah, Lahore, Hadith No. 1627."

⁴⁵ "Ibn Rushd, Ahmad bin Ahmad (2016), *Bidayat al-Mujtahid*, Maktabah Islamiyyah, Lahore, Vol. 1, p. 103."

⁴⁶ **Sunan Abu Dawood, Hadith No. 690**

⁴⁷ Marghinani, Burhan al-Din (2012), *Al-Hidayah*, Maktabah Rahmaniyyah, Lahore, Vol. 1, p. 246.

⁴⁸ Tahawi, Abu Ja'far (2022), *Sharh Ma'ani al-Athar*, Dar al-Ishaat, Karachi, Vol. 1, p. 59.

- If the prohibition of the action (maqrooh) is established and the person performing it (the one being approved) is known to be unresponsive to advice or rebuke, such as being a disbeliever, then the consensus among scholars is that the Prophet's approval will not indicate permissibility. Instead, the prohibition remains in effect, and the action is not considered abrogated.
- If the prohibition and disapproval of the action (maqrooh) have been established by the Prophet (PBUH), and the person performing it is someone upon whom advice could have an effect, meaning he is not firmly persistent in his action, then the Prophet's approval will shift the ruling of the action from being forbidden to permissible. If the previous prohibition was general, then, according to the Hanafī school, the Prophet's silence and approval will be considered as abrogation of the ruling, while Imam Shafi'i's view is that it will be considered as a specification, as there is a difference in terminology between the two groups.

The reasoning behind the permissibility of the action is that if the action was not permissible, there would have been no room for the Prophet's silence, as it would be understood that by remaining silent, he would have abrogated the prohibition, and there would be a risk of falling into sin. Additionally, in this case, delaying clarification in times of need would be unacceptable, which is unanimously agreed upon.

If the prohibition and disapproval of the action have not been established by the Prophet (PBUH) before, and the person performing the action is a Muslim, then there is a difference of opinion among scholars as to what ruling will be inferred from the Prophet's approval.

The First Opinion:

Your silence indicates permissibility, and the action (in question) will be considered permissible. This opinion is held by the majority of scholars of principles, including Ibn Hazm, Abu Nasr al-Qushayri, Ghazali, Ibn Hajjib, and al-Zarkashi, among others .

Imam Ibn Hazm writes:

اما اقراره على ما علم، وترك الكاره اياه، فانما هو مبيح للذلك الشيء فقط، وغير موجب له، ولا نادب اليه لأن الله افترض عليه التبليغ، وأخبر سبحانه أن يعصمه من الناس وأوجب عليه أن يبين للناس ما نزل اليهم".⁴⁹

The proponents of permissibility argue that the original status of things is permissibility (i.e., everything is permissible unless proven otherwise), and it is clearer and better to maintain this original status. Moreover, in the matter of permissibility, it is certain, since permissibility (ibaha) is less restrictive than obligation (wujub) and prohibition (haram), and the lesser restriction is the more certain. Therefore, permissibility should be preferred.

The objection to the mentioned argument is that, based on this reasoning, it could be concluded that all actions upon which the Prophet's approval (taqrir) is established are considered permissible (mubah). However, events from the lives of the Sahabah suggest that

⁴⁹ Sharh Ma'ani al-Athar, Vol. 1, p. 59.
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they regarded many actions as obligatory (wajib) or recommended (mustahabb) based on the Prophet's approval, even though these actions were not explicitly commanded by him .

For example, as narrated by Hazrat Ibn Umar, once they were praying with the Prophet, and one person recited the following supplication: "Allahu Akbar Kabir, wa alhamdulillah kathira, wa subhanallahi bukratan wa asila." The Prophet asked, "Who said these words?" When someone replied, "O Messenger of Allah, I said them," he responded, "I like these words, and the gates of the heavens have been opened for them." Hazrat Ibn Umar said, "Since I heard this from the Messenger of Allah, I have never neglected these words".

This narration clearly indicates that reciting these words is recommended (mustahabb), because if it were not, Hazrat Ibn Umar would not have emphasized their recitation as he did. Therefore, not all actions that the Prophet approved of can be automatically classified as mubah (permissible); some may carry a recommended status (mustahabb).

Second Opinion:

The statement "Your approval of an action indicates that there is no harm in performing it and that it is permitted," suggests that under this rule, three categories of actions "obligatory (wājib)", "recommended (mustahabb)", and "permissible (mubāḥ)" are all included. This opinion is held by a group of scholars, including Hanafi scholars like Al-Jassas, Al-Baqalani, Abu Yala al-Hanbali, and Al-Shatibi.

Al-Shatibi writes:

اما الاقرار فمحملة على انه لا حرج في الفعل الذي رآه فاقره أو سمع به فاقره، وهذا المعنى مبسوط في الأصول ولكن الذي يخص الموضع هنا ان مالا حرج فيه جنس الانواع الواجب، والمندوب، والمباح بمعنى الماذون فيه وبمعنى ان لا حرج فيه .⁵⁰

From Al-Shatibi's statement, it is clear that the reasoning of the proponents of the second opinion is that your silence regarding an action indicates that there is no harm in performing it, and the absence of harm applies to obligatory (wājib), recommended (mustahabb), and permissible (mubāḥ) actions. Therefore, when you remain silent about an action, it does not necessarily mean that the action is always permissible, but it could be obligatory or recommended as well.

Upon examining the actions of the companions, it is also evident that they did not always regard an action (muqarrabah) as merely permissible, but sometimes considered it obligatory, sometimes recommended, and sometimes permissible, as we have seen earlier in the case of Ibn Umar, who used to read the words that the Prophet (peace be upon him) liked with great care, which is evidence of its being recommended.

Considering the strength of the evidence and the need for caution in the face of contradictions, the second opinion seems to be the prevailing one.

"The Generality of Tacit Approval."

⁵⁰ Al-Shatibi, Musa bin Muhammad (2022), *Al-Muwafaqat*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 4, p. 430.
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In the discussion of tacit approval, it has been established that your tacit approval of an action indicates that there is no harm in performing that action for the individual in question. This is agreed upon by the scholars of Usul. However, whether this ruling will extend to others apart from the doer is a point of difference among the scholars of Usul.

Qazi Abu Bakr al-Baqilani's view is that tacit approval does not involve any specific wording, and thus it does not have a general scope that would extend the ruling to others. Since tacit approval is not tied to a specific phrasing, it will remain limited to the individual for whom it was expressed. Imam al-Zarkashi, while presenting Qazi's viewpoint, writes:

إذا دل التقرير على انتقاء الحرج ، فهل يختص بمن قرر أو يعم سائر المكلفين؟ فذهب القاضي إلى الأول؛ لأن التقرير ليس له صيغة نعم ، ولا يتعدى إلى غيره⁵¹.

In response to this argument, Imam al-Binai writes that tacit approval, like direct speech, can also carry a general implication. Therefore, just as speech can have a general scope, so too can tacit approval.

The majority of scholars of Usul hold the view that the ruling of tacit approval applies to all Muslims, not just to the individual (the doer) involved. This view has been preferred by scholars such as Imam al-Haramayn al-Juwaini, al-Shawkani, Abu Shama, and others.

The argument of the majority is that when a prohibition is lifted for one person, it is lifted for everyone. Imam al-Shawkani has reported this view from multiple sources.

يعم للاجماع على ان التحريم اذا ارتفع في حق واحد ارتفع في حق الكل⁵².

The majority's argument is supported by the statement of Sa'd ibn Abi Waqqas, who said that the Prophet ﷺ disapproved of the action of not allowing the marriage of Uthman ibn Ma'loon and rejected it. He further stated, "Had the Prophet ﷺ permitted it, we would all have become eunuchs".

This statement of Sa'd clearly indicates that if the Prophet ﷺ had given permission to Uthman, whether through words, actions, or tacit approval, this permission would have been valid for everyone and would apply to all those who are accountable. Thus, the Prophet's tacit approval of an action applies to everyone. Supporting the majority's view, Imam Ghazali writes:

لو كان من خاصيته ، لوجب على النبي عليه السلام ان يبين اختصاصه بعد ان عرف امته أن حكمه في الواحد كحكمه في الجماعة⁵³

The Specification of a General Ruling Through Tacit Approval:

When a person performs an action in your presence that contradicts a general ruling, and you remain silent upon witnessing this action, will your silence and tacit approval cause a specification to the general ruling, or not?

⁵¹ *Al-Bahr al-Muhit*, Vol. 4, p. 201.

⁵² Shawkani, Ahmad bin Ali (1419 AH), *Irshad al-Fuhul*, Dar al-Kutub al-Ilmiyyah, Beirut, Vol. 1, p. 222.

⁵³ Al-Ghazali, Muhammad bin Muhammad (2012), *Al-Mustasfa*, Dar al-Hadith, Vol. 3, p. 228.

There are three views on this matter among scholars.

It is permissible to specify a general ruling through tacit approval, whether the approval is connected to the ruling or not. Most scholars of principles have adopted this view, such as Qadi Abu Ya'la al-Hanbali, al-Baji al-Maliki, Imam Ghazali, al-Razi, and Allama Saif al-Din Amidi.

Allama Amidi writes:

تقريره لما يفعله الواحد من امته بين يديه مخالفا للعموم ، وعدم انكاره عليه ، مع علمه به وعدم الغفلة والذهول عنه مخصص لذلك العام عند الاكثرين خلافا لطائفة شاذة⁵⁴

The argument of the majority is that your silence upon witnessing an action that contradicts a general ruling is an indication of specification, because if there had been no specification in the general ruling, you would have surely objected, and your silence would not have been appropriate.

It is not permissible to specify a general ruling through tacit approval, whether the approval is connected to the ruling or not. This view is attributed to a minority group. Their argument is that since tacit approval does not involve a specific formulation and a general ruling typically involves a specific formulation, tacit approval cannot be used to counteract a general ruling or cause specification in it. Allama Amidi responds to this argument by stating: قلنا: وان كان التقرير لا صيغة له، غير انه حجة قاطعة في جواز الفعل نفيا للخطا عن النبي بخلاف العام فانه ظني محتمل للتخصيص فكان موجبا لتخصيصه⁵⁵

It is permissible to specify a general ruling through tacit approval, provided that the approval is connected and associated with the general ruling. If the tacit approval is not connected to the general ruling, in that case, the ruling will be abrogated, not specified. This is the view of the Hanafi school of thought.

The author of "Muslim al-Thubut" writes:

التقرير مخصص عند الشافعية مطلقاً ، وعند الحنفية ان كان العلم في مجلس ذكر العام والا فسخ⁵⁶

The difference between the Hanafis and the majority of the scholars of Usul lies in the use of the term "specification" (taqsis). According to the Hanafis, it is a condition that the evidence for specification must be connected to the general ruling. However, for the majority, the evidence for specification does not have to be connected to the general ruling. Therefore, the Hanafis are of the opinion that if the tacit approval is connected to the general ruling, it will specify it, otherwise, it will result in abrogation (naskh).

Example:

⁵⁴ Al-Ahkam fi Usul al-Ahkam, Vol. 2, p. 404.

⁵⁵ Al-Ahkam fi Usul al-Ahkam, Vol. 2, p. 405.

⁵⁶ Bahari, Muhibullah (1390 AH), *Al-Muslim al-Thabut* with its commentary *Fawatih al-Rahmut*, Maktabah Rahmaniyyah, Lahore, Vol. 1, p. 381.

The command of Allah is:

وما كان لنبي أن يغفل ومن يغفل يات بما غل يوم القيامة⁵⁷.

This verse is general and prohibits all forms of treachery regarding war booty. However, the following hadith, through the Prophet's tacit approval, provides an exception to this verse.

Narrated by Abdullah ibn Maghfal (RA), he said, "On the day of the Battle of Khaybar, I found a pouch of fat, and I took it, saying that I would not give anyone anything from it today." He further stated, "When I turned around, I saw that the Prophet (PBUH) was distributing it".

Scholars have agreed that based on this hadith, the prohibition of treachery regarding war booty is limited. Therefore, Muslims, while in the land of war, may use food and drink as needed, even without the permission of the Imam. Imam Nawawi, the commentator on Sahih Muslim, explains this hadith:

اجمع العلماء على جواز اكل طعام الحربيين مادام المسلمون في دار الحرب فيأكلون منه قدر حاجتهم،
ويجوز باذن الإمام وبغير اذنه⁵⁸

The Contradiction Between Tacit Approval (Taqreer) and the Statement (Qawl):

The scholars of Usul (Islamic jurisprudence) have not discussed the contradiction between tacit approval (taqreer) and verbal statement (qawl) as extensively as they have discussed the contradiction between action and statement. The reasons for this could be as follows:

1. A group of Usul scholars universally prioritizes the statement (qawl) over tacit approval (taqreer) because the statement is a clear utterance, whereas tacit approval does not involve an explicit phrase.
2. Some scholars of Usul consider the contradiction between tacit approval and statement to be part of the contradiction between action and statement. Therefore, they did not feel the need to address it separately.
3. There are fewer examples of the contradiction between statement and tacit approval compared to the contradiction between statement and action.

If there is a contradiction between statement and tacit approval, there are two opinions among the scholars of Usul. One view is that the statement (qawl) will always take precedence over tacit approval (taqreer). In this case, there is no need to reconcile the two, nor is it necessary to prioritize one over the other. This opinion is held by scholars such as Imam Subki, Imam Amedi, Imam Ghazali, and Imam Razi. The second view is the opinion of the majority of scholars, who consider tacit approval to be equal to the statement and first attempt to reconcile and align the two. If reconciliation is not possible, then they declare the earlier statement as abrogated and the later one as final. If it is not clear which one is abrogated, they use reasons of preference to determine which one takes precedence.

⁵⁷ Surah Aal-e-Imran, 3:161:

⁵⁸ An-Nawawi, Yahya bin Sharaf (1431 AH), *Al-Minhaj fi Sharh Sahih Muslim bin al-Hajjaj*, Dar al-Hadith, p. 1140.

Example of Reconciliation (Jam‘):

"In a hadith, you prohibited cheating in war booty, and you said:"

الغزوا ولا تغلوا ولا تغدروا ولا تمثلوا ولا تقتلوا وليدا⁵⁹

The mentioned hadith is a verbal one. In contrast to this hadith, Abdullah bin Mughal says that on the day of the Battle of Khaybar, I found a bag of fat, so I took it and said, 'Today, I will not give anything from this bag to anyone.' He further says that when I turned around, I saw that the Prophet (peace be upon him) was smiling at me.

Here, there is a contradiction between the Prophet's verbal command and his tacit approval. To resolve this contradiction, the jurists and hadith scholars adopted the method of reconciliation, using the hadith of tacit approval (taqreer) to specify the verbal hadith. Through this, they concluded that Muslims, while in the land of war (Dar al-Harb), may use food and drink without the Imam's permission, as long as it is for necessity. Their action will not be considered treason, but using any other items without permission is prohibited." Imam Nawawi, the commentator of Sahih Muslim, writes:

اجمع العلماء على جواز اكل طعام الحربيين مادام المسلمون في دار الحرب فيأكلون منه قد راجت لهم،
ويجوز باذن الامام وبغير الله⁶⁰

Example of Abrogation:

A narration from Hazrat Aisha (RA) states that the Prophet (PBUH) said, 'If the imam prays sitting, then you all should also pray sitting.'

This is a verbal (qawli) hadith. In contrast, it is established that during his illness, the Prophet (PBUH) led the prayer while sitting, and the companions prayed behind him while standing.

Here, there is a conflict between your statement and action, and to resolve this conflict, the Hanafi and Shafi'i scholars have used the concept of abrogation (naskh). Since the hadith of his action (taqreeri) is later, it is considered to abrogate the verbal hadith, and it is concluded that if the imam is praying while sitting due to a valid excuse, the followers (mukhtadi) should, in any case, complete their prayer while standing."

Example of Preference (Tarjeeh):

It is narrated in Sunan Abu Dawood from Abdul Rahman bin Qabil that the Messenger of Allah (peace be upon him) prohibited the eating of the meat of a monitor lizard (goah).

This is a verbal (qawli) hadith. In contrast, in Sunan Abu Dawood, it is narrated from Khalid bin Walid (may Allah be pleased with him) that he ate the meat of a monitor lizard in front of the Messenger of Allah (peace be upon him), and he saw it but did not prohibit it.

This is a tacit (fi'li) hadith. According to the Hanafi school, eating the meat of a monitor lizard is disliked (makruh), because in this contradiction, the Hanafi scholars give preference

⁵⁹ Muslim, Muslim bin al-Hajjaj al-Qushayri (2022), *Sahih Muslim*, Dar al-Ishaat, Karachi, Hadith No. 1731.

⁶⁰ Al-Minhaj fi Sharh Sahih Muslim bin al-Hajjaj, p. 113.

to the verbal hadith over the tacit hadith. This is due to the principle that when there is a contradiction between permissibility and prohibition, the prohibition is given priority.

Contradiction between Tacit Approval (Taqrir) and Action

If there is harmony between your action and tacit approval, it will strengthen the implication of the action, as the possibility of the action being specific to you will be eliminated. However, if there is a contradiction between your action and tacit approval, it will weaken the implication of the action. Imam Shatibi writes regarding the contradiction between tacit approval and action :

Here, I would need to continue the quote or add the specific content from Imam Shatibi, depending on the context you're referring to, if available(

"الاقرار منه عليه الصلوة والسلام اذا وافق الفعل فهو صحيح في التأسي لاشوب فيه ولا انحطاط عن أعلى مراتب التأسي بخلاف ما اذا لم يوافق، فان الاقرار وان اقتضى الصحة فالترك كالمعارض، وان لم تتحقق فيه المعارضة، فقد رمى فيه شوب التوقف لتوقفه عليه الصلوة والسلام عن الفعل"⁶¹

There are two possible scenarios for the contradiction between action and tacit approval:

- You perform an action, and someone in front of you refrains from that action, while you remain silent about it.
- You refrain from an action, and someone in front of you performs that action, while you remain silent about it.

If your actions are from the time of ignorance or other acts that do not indicate a legal ruling, and they contradict tacit approval, then this contradiction holds no significance because, in this case, both the action and the tacit approval will be considered permissible, and there is no contradiction between two permissible acts. Similarly, actions that merely indicate permissibility cannot contradict tacit approval.

If the action is specific to you and you give tacit approval to someone doing the opposite, this cannot be considered a contradiction, as the tacit approval is an initial ruling. However, if your action is related to an explicit command or is based on a principle that indicates an obligatory nature, and you give tacit approval to someone doing the opposite, then there will indeed be a contradiction between the action and tacit approval .

To resolve this contradiction, first, an attempt will be made to reconcile the two as much as possible. If reconciliation is not possible, and the action is subsequent, the action will be considered valid, and the tacit approval will not be followed. If the action is earlier, the action will be deemed abrogated by the tacit approval. If it is impossible to determine whether the action is earlier or later, the action will be preferred over the tacit approval because the tacit approval contains more possible interpretations, which is not the case with the action.

Imam Subki writes: (Here, I would need to include Imam Subki's specific quote if it is available for further translation).

⁶¹ An-Nawawi, Yahya bin Sharaf, Al-Minhaj fi Sharh Sahih Muslim bin al-Hajjaj, p. 113
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فيقدم خبر الناقل لقول النبي صلى الله عليه وسلم على الناقل لفعله والناقل لفعله على الناقل التقريره لان القول القوى في الدلالة على التشريع من الفعل وهو اقوى من التقرير) أي لاحتمال الفعل اختصاصه به والفعل اقوى من التقرير لان التقرير يطرقه من الاحتمال ما لا يطرق الفعل⁶²

The Example Is :

Ibn Umar (RA) narrated that he used to say the Takbeer with these words:

لبيك اللهم لبيك لبيك لا شريك لك لبيك ان الحمد والنعمة لك والملك لا شريك له⁶³

This is an action hadith, and in contrast to it, there is the narration of Hazrat Jaber bin Abdullah (RA), in which he mentioned the words of the Talbiyah and said that people added words like "Dh al-Ma'arij" and others, and you were listening, but you did not say anything to them. This is a declarative hadith, indicating that there is no harm in adding extra words to the Talbiyah.

Here, there is a conflict between the action and the declaration. A group of scholars, including Imam Abu Hanifa, Imam Ahmad, and Imam Shafi'i, resolved this conflict by reconciling both and stated that reciting the words mentioned by Hazrat Abdullah bin Umar (RA) is a Sunnah, and adding words to it is permissible. Imam Malik and some other scholars, however, gave preference to his action and considered adding extra words to the Talbiyah as disliked (makruh).

The Conflict Between one Statement of Declaration (Taqreer) and Another Statement of Declaration (Taqreer).

If two declarative statements (taqrir) conflict with each other, the method used by scholars to resolve this conflict is the same as that for resolving the conflict between a statement and an action. First, an attempt will be made to reconcile the two conflicting declarative statements. If reconciliation is not possible and the order of precedence is known, then the earlier statement will be considered abrogated, and the later one will be followed. If the order of precedence is unknown, then the method of giving preference will be adopted. Therefore, if one of the conflicting declarations pertains to something that you personally saw or heard, and the other pertains to an action that occurred during your time but you came to know of it through some means, the earlier declarative statement will be given preference, because it more clearly indicates your approval. Imam Muhibullah al-Bahari writes:

وما جرى بحضرته فسكت يترجح على ما بلغه فسكت لان الأول اشد دلالة على الرضا من الثاني⁶⁴

Example:

⁶² Al-Bukhari, Muhammad bin Ismail, *Al-Jami' al-Sahih* (The Sahih Bukhari), *Kitab al-Hajj* (The Book of Hajj), *Bab at-Talbiya* (The Chapter on the Talbiya), Hadith No. 1549.

⁶³ Abu Dawood, Sulayman bin Ash'ath, *Sunan Abu Dawood*, *Kitab al-Manasik* (The Book of Rituals), *Bab Kayf at-Talbiya* (The Chapter on How to Perform the Talbiya), Hadith No. 1813

⁶⁴ Fawatih al-Rahmut, Vol. 2, p. 252.

Hazrat Aisha (RA) narrates that she used to wash the semen stains from the clothes of the Prophet (PBUH), and when he (PBUH) would go for prayer, water stains would be visible on the clothes .

In contrast, another narration from Hazrat Aisha (RA) states that she would scrape the semen off the clothes of the Prophet (PBUH), and he (PBUH) would perform prayer in those same clothes .

Both of these narrations are declarative (taqreer) and contradict each other. The first narration suggests that washing the clothes to remove semen is necessary, while the second narration implies that it is not necessary to wash, and scraping is sufficient.

Scholars have reconciled these two narrations as follows: According to Imam Shafi'i and Imam Ahmad ibn Hanbal, semen is considered pure, and washing is not necessary. The narration about washing is understood as a recommendation (istihbab). According to Imam Abu Hanifa and Imam Malik, semen is impure, and Imam Abu Hanifa reconciled these narrations by stating that if the semen is wet, it must be washed, but if the semen is dry and can be scraped off, then scraping alone will purify the clothes.

Conclusion:

The methodology of deriving legal rulings from Sunnah (reports of the Prophet's actions and statements) based on his silence and approval Sunan Taqreeriya is a significant topic in Islamic jurisprudence. Scholars have used the Prophet's silence and tacit approval as sources to derive legal rulings. Several fundamental principles are followed in this methodology: In the process of deriving rulings from Sunan Taqreeriya, scholars assess whether the Prophet Muhammad (peace be upon him) remained silent or explicitly approved of a particular action. This silence or approval is interpreted as tacit support for the specific ruling. If there is a conflict between an action and a statement of the Prophet (peace be upon him), scholars first attempt to reconcile the two. If reconciliation is not possible, then the later ruling (hadith) is given precedence. If the sequence of events is unclear, scholars resort to prioritizing one over the other. According to scholars, the Prophet's approval or silence regarding a particular action is seen as tacit endorsement of that action, thereby incorporating it into Islamic law. This can be seen in various legal matters, such as the actions performed during wartime where the Prophet's silence indicated tacit approval. When deriving legal rulings from Sunan Taqreeriya, scholars also examine the purpose behind the Prophet's silence or approval. As long as the purpose is not clearly defined, this silence is not considered mere inaction but is interpreted as an endorsement of a specific ruling. In this methodology, the primary basis for deriving rulings is whether the Prophet (peace be upon him) remained silent or approved of a particular action. If silence is observed, it is understood under a specific legal framework. The methodology of deriving legal rulings from Sunan Taqreeriya is a crucial approach that helps clarify Islamic law based on the Prophet's silence or approval. It sheds light on the Islamic rulings by recognizing actions that were left unaddressed or implicitly approved by the Prophet Muhammad (peace be upon him).

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