

Jurisprudential Diversity: Exploring the Causes of Companions' Legal Differences and their Relevance in Contemporary Times

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Abstract:

Differences in opinion are a natural matter due to the differences in human intellectual capacity and power, and it is natural for there to be differences in cases and issues. Differences are the beauty of life and the secret of progress. Differences are the foundation of striving and the basic unit in mutual consultation. Where there is a difference of opinion on scientific and legal matters it is not only praiseworthy but also holds the status of the first stone for the mastery of the universe and the peak of human excellence. The Companions of the Holy Prophet Peace be upon Him are the best class of this Ummah. They were honored with long companionship and guidance of Holy Prophet Peace be upon Him. They observed directly the descent of Revelation. But with all due respect, Companions of the Holy Prophet Peace be upon Him had not same knowledge and wisdom. There was a Scientific and jurisprudential difference in their opinions. In the life of Holy Prophet Peace be upon Him, they referred their differing matters to the Holy Prophet Peace be upon Him. But later, they resolved issues either through collective consultation or through personal struggle. They considered this difference source of mercy. The jurisprudential difference of Companions was due to the knowledge and lack of knowledge of the text, the understanding and interpretation of the text and the dispute in the authenticity of Hadith etc. The jurisprudential difference between the Companions has many qualities and specialties. It affected the Islamic law and Muslim scholars positively. Because of this one, Muslim scholars presented solution of the problems of every era. In the modern age, every day comes with new issue. But Islamic Jurisprudence is able to give the solution of every issue due to the guidance of the Companions.

Keywords: *Jurisprudential Diversity; Companions' Legal Differences; Islamic Jurisprudence; Legal Pluralism; Contemporary Islamic Thought; Interpreting Shariah*

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Introduction:

The universe, with its various signs and colors, is a proof against stagnation and for the stability of change and transformation. Difference of opinion is a normal thing in human life. If it is based on envy and arrogance; it is a stain on the pedestal of human greatness. However, if it is above personal interest and selfish desires, it is not only praiseworthy but also holds the status of the first stone for the mastery of the universe and the peak of human excellence. If the commands of Islamic Sharia are seen from a distant perspective, some matters are unchangeable and remain constant, such as the way of Islamic worship, the number of obligations, the shares of inheritance, the fundamental rules of marital life, mutual respect, and the protection of life and property. But there are some matters that are desired to change with the passage of time. If no change occurs in them, it is not only difficult to act upon but sometimes even impossible. Regarding such commands, there is a fundamental guidance in Islam, but the details are determined based on the circumstances of each time and the interests of humanity. In the later matters, the difference of opinion was not only among the Islamic scholars but also among the noble companions of the Holy Prophet Peace be upon Him. The companions are pure group of this nation. They were dignified by their high ethics and character, piety and purity, knowledge and wisdom, mutual respect and love and the service and propagation of the religion and through whom the complete treasure of Islam reached the community.

The Companions of the Holy Prophet Peace be upon Him had not same knowledge and wisdom. Only some had authenticity and specialization in Islamic Jurisprudence and there was a Scientific and jurisprudential difference in their opinions. In the life of Holy Prophet Peace be upon Him, they referred their differing matters to the Holy Prophet Peace be upon Him. But later, they resolved issues either through collective consultation or through personal struggle. In such a situation, sometimes the opinion of one companion would differ from another. Instead of arguing, they understood it as a source of mercy and ease for the community.

Causes of Jurisprudential Differences:

Causes of jurisprudential differences among the noble Companions may Allah be pleased with them all, are as follows:

Difference due to knowledge of the text and lack of knowledge:

All Companions had the companionship of the Holy Prophet Peace be upon Him but each companion was not always present with him. The first

khalifa, Hazrat Abu Bakr al-Siddiq, may Allah be pleased with him, such a companion who had superiority in the community, was not present at every occasion. The basic reason for this was the daily affairs, business, family and household engagements of each companion. Therefore, not every Hadith was known to every companion. As a result, difference also occurred due to the knowledge of the text and lack of knowledge. Such as during the Caliphate of Hazrat Abu Bakr al-Siddiq, may Allah be pleased with him, when a woman came to claim her share of inheritance, Hazrat Abu Bakr said: "I do not know about your share from the Quran and Sunnah". Another Companion Hazrat Mugheera bin Shubah said: Holy Prophet Peace be upon Him gave him a sixth share. Hazrat Abu Bakr said: "Is there anyone with you who can witness this?" Hazrat Muhammad bin Abi Salmah Ansaari stood up and witnessed that he was telling the truth. Therefore, Hazrat Abu Bakr al-Siddiq determined a sixth share for that woman.¹

Dispute in the authenticity of Hadith:

Some companions would not act on a Hadith if it reached them because they did not trust the narrator's credibility. A person came to Hazrat Omar (may Allah be pleased with him) and said that he had become defiled and had no water. Hazrat Omar said: "Don't perform the prayer". Hazrat Ammar bin Yasir was sitting there. He said, "O Amir al-Mu'meneen! Do you not remember when we were on a military campaign and I became defiled, you did not perform the prayer while I was crawling on the ground to perform the prayer." When it was told to the Prophet Muhammad (peace be upon him), He said, "This is enough for you to put both your hands on the ground and strike them and then bring them back to your mouth and hands." Omar (may Allah be pleased with him) said: "O Ammar! Fear to Allah." Ammar said: "if you wanted I would not mention it. So this text shows that a Hadith that was proven and actionable according to Ammar bin Yasar, was not proven near Omar."²

Not knowing the knowledge of abrogating and abrogated:

It is an important part of Islamic Sharia to know the knowledge of abrogating and abrogated. The literal meaning of "naskh" is to change, while in terminology, it refers to the termination of a previous Shariah

¹ Al Qazvini, Muhammad bin Yazid, 1996, Sunan ibne Maja, Hadees No:2724, Maktaba Al Muarif, Al Riyaz

² Al Qushiri, Muslim Bin Hajjaj, 1998 Sahih Muslim, Hadees No:368, Bait A Afkar Al Daulia, Al Riyaz

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command by a later one. Almighty Allah says: (We do not abrogate any verse or cause it to be forgotten except that We bring a better one or similar to it).³ So, Almighty Allah initially makes something lawful, then after a period, He abrogates that command under some justification and gives a better command. In a Hadith, Holy Prophet (peace be upon him) said: (Indeed, I forbade you to eat the meat of sacrifices for more than three days, so now eat it and store it as long as it seems appropriate to you. And I forbade you to use pots for making intoxicants, so now use whatever pots you want and avoid all intoxicants. And I forbade you from visiting the graves, so if you wish to visit, and do not say false words).⁴ In this Hadith, permission has been given for the use of sacrificial meat for more than three days, the use of some pots, and visiting the graves, whereas these things were previously prohibited under some command.

The reason for the jurisprudential differences among the companions of the Prophet, may Allah be pleased with them, was also that sometimes a Hadith would abrogate another Hadith, but the knowledge of this was not known to the other companion, and he would act upon his first position.

Difference in the Understanding of the text and its interpretation:

At times, when the Prophet, May Allah send peace upon him, issued a ruling, there was a purpose behind it or the reason for the ruling, and the difference in understanding this purpose or reason led to differences in issues and cases. Some companions considered the purpose or reason and some did not, which was the reason for the mutual differences. As the Prophet, may Allah send peace upon him, commanded the companions to go to the Banu Quraiza and perform the prayer upon reaching there. The command was: "No one should perform the Asr prayer except in the presence of the Banu Quraiza." Due to a lack of time, some companions performed the prayer on the way, but some did not and performed it upon reaching there. Those who performed the prayer understood the purpose of the command to complete the journey as quickly as possible, not to miss the prayer. Those who did not perform the prayer acted upon the apparent meaning of the Hadith instead of understanding the purpose. When the

³ Al Quran, 106/2

⁴ Al Nisai, Ahmad bin Shoaib, Sunan Al Nisai, 1999, Hadees No: 2033, Bait A Afkar Al Daulia, Al Riyaz

Prophet, may Allah send peace upon him, came to know about this difference, he did not declare anyone wrong.⁵

Specialties and Characteristics:

Here are some specialties and characteristics of Companion's jurisprudential differences.

There was a difference in branches rather than in the fundamentals of faith:

In this context, the first thing to note is that the Companions had differences in matters of jurisprudence where the text was not clear or known, but there were no difference in the fundamentals of faith. Therefore, the parts of the Shari'ah's laws those were definite and agreed upon, whether they related to beliefs or worship, there was no difference in them. Such as the honesty of the Quran, the authenticity of Hadith, the finality of the Prophethood, the obligation of worship, etc., there was no difference in any form. Rather, if anyone had a difference, they all had refuted the opposing party with their full agreement and unity and did not allow any false word to come to the sanctity of Islam. During the time of the Companions, whether it was the issue of those who denied the finality of the Prophethood and zakat or apostates from Islam, all Companions were like one in form and spirit against them. The era of Hazrat Abu Bakr al-Siddiq, may Allah be pleased with him, is the best example of this. In his leadership, whether there was a jihad against apostates and those who denied zakat or against those who claimed false prophethood, all Companions expressed their full strength of faith and were not reluctant to offer their lives for the protection of the foundations of Islam. As for differences, they were solely and solely in branches so that it would be easy for the Muslim Ummah to act on issues and cases, and for Islam to meet the demands of every era according to its natural beauty.

Due to the mutual agreement of the Companions of Holy Prophet, may Allah be pleased with them, Ummah are united and agreed in the fundamentals of faith until today. Whenever anyone has challenged the integrity of the Quran or the authenticity of the Hadith, claimed to be a false prophet, Muslim Ummah has stood firmly against him with full force. The refusal of the creation of Holy Quran by Imam Ahmad bin Hanbal and

⁵ Al bukhari, Muhammad bin Ismail,1998, Sahih Al Bukhari, Hadees No: 946, Bait A Afkar Al Daulia, Al Riyaz

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the jihad against the religion of king Akber by Hazrat Mujaddid Alif Sani are shining examples in this regard. However, due to their own legal insight and capabilities they differed in the branches and made efforts to provide ease and convenience for their followers.

Giving priority to Quran and Hadith:

Allah Almighty said about the Companions: "Hold firmly to the rope of Allah all together and do not be divided and remember the favor of Allah upon you when you were enemies and He brought about affection between your hearts, so you became brothers through His favor".⁶ Therefore, their differences were protected from any personal, tribal, or regional prejudices. These differences were only of a scholarly nature, so if a better opinion was found, they did not feel any shame in returning to it. Especially when a Hadith was known, they would immediately abandon their own opinions.

Due to this style and approach of the noble companions, there was a very positive effect on the later scholars and jurists. Imam Abu Hanifa said: "The correct hadith is my religion".⁷ Imam Malik the author the first book on Hadith said: "Every word can be accepted or rejected except for the word of the Prophet Muhammad peace be upon Him".⁸ Imam Shafi said: "If a correct Hadith is found, then my religion should be thrown against the wall."⁹ Such was Imam Ahmad bin Hanbal, who was very strict in the matter of Hadith and preferred Hadith at personal opinion. He said: "Follow Quran and Sunnah and don't follow me or others".¹⁰

Mutual respect:

Despite scientific and legal differences, the Companions of the Prophet, May Allah be pleased with them, maintained the mutual respect. Despite many differences between Hazrat Abu Bakr Siddiq and Hazrat Umar Farooq, mutual respect reached the peak of perfection. At the time of Holy Prophet's death, Hazrat Umar denied Prophet's death and declared that if anyone spoke of death, he would cut off his neck. On this occasion, Hazrat Abu Bakr recited the verse (Indeed, you will die and they will die).¹¹ Upon

⁶ Al Quran, 103/3

⁷ Al Shahood, Ai bin Naif, 2008, Al Khulasa Fi Asbab e Ikhtelaf e Fuqaha, P.54, Dar al Marifa, Beirut

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Al Quran, 30/39

hearing this, Hazrat Umar not only remained silent but also his sword fell from his hand. Then, at the occasion of nominee of the Prophet's Calipha, he first of all declared Hazrat Abu Bakr Calipha and took an oath on his hand.

The mutual love and respect of the Companions also had a positive effect on the future jurists. This is why they praised each other with good qualities and mentioned each other with respect and honor. Imam Malik bin Anas said about Imam Abu Hanifa: "I have seen a person who would turn the sand into gold if he wanted to".¹² Similarly, Imam Abu Hanifa said about Imam Malik: "I have not seen anyone more eloquent in giving a correct answer than him".¹³ Imam Shafi has a famous saying about Imam Abu Hanifa: "The people are families to Abu Hanifa in fiqh".¹⁴ When Imam Shafi visited to the grave of Imam Abu Hanifa, he left his own school of thought about prayer in the respect of Imam Hanifa. When asked by Imam Ahmad bin Hanbal if he would pray behind an Imam who did not perform ablution after bleeding? He replied that he could not deny the prayer behind Hazrat Said bin al-Musayab and Imam Malik.¹⁵

Scientific and Intellectual Development:

If differences of opinion include criticism for the sake of improvement instead of criticism for the sake of criticism, then it becomes a cause of scientific and intellectual development. This brings many aspects of a problem to light, making it easier to act. Differences of opinion are the basis of striving and the negation of rigid imitation. The Quranic principle "And consult them in the matter"¹⁶ emphasizing the importance of consultation in this context.

The companions of the Prophet, May Allah be pleased with them, also contributed to the scope of scientific and intellectual development and to the vast repository of Islamic jurisprudence. Some of the companions acted upon explicit texts, while others, in addition to seeing the explicitness of a ruling, also pondered over its cause and purpose. This intellectual

¹² Al Tamimi, Taqi ud Din bin Abdul Qadir, 1983, Al Tabaqat Al Saniya fi Trajum Al Hanafia, 92/1, Dar Al Rifai, Al Riyaz

¹³ Ayaz bin Musa, Qazi, 1998, Tarteeb ul Mudarak wa Taqreeb ul Masaik, 63/1, Dar ul Kutab Al Ilmiya, Berut

¹⁴ Al Tamimi, Al Tabaqat Al Saniya fi Trajum Al Hanafia, 92/1

¹⁵ Habib ur Rahman, Hafiz, 2009, Jurisprudential Difference: Reality, Causes and principles, 68, Sharia Acadmi, IIU Islam Abad

¹⁶ Al Quran, 159/3

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difference among the companions added a new chapter to the science of jurisprudence, known as the objectives of the Sharia. Later, the Imams of jurisprudence worked well on this subject and established it as a systematic art, on which countless books were written. Imam Shatibi wrote "Muwafaqat fi 'Uloom al-Shari'ah," Imam Tahir bin 'Ashoor wrote "Maqasid al-Shari'ah," and Imam 'Izz al-Din 'Abd al-Salam wrote "Qawa'id al-Ahkam fi Masaalih al-Anaam." The noble scholars have clarified that the laws of the Sharia are not merely for testing the boundaries but are filled with great wisdom and benefits for people. Therefore, every act that is based on injustice or goes against the collective interest of people is not part of the Sharia, as the Sharia is nothing but Allah's mercy and compassion upon His creation. Imam Ibn Qayyim said that the foundation of the Sharia is wisdom and the interests of people in this world and the hereafter, which is all justice and mercy. When a ruling goes against justice and becomes injustice, or replaces mercy with hardship, it is not part of the Sharia.¹⁷ This is why many scholars have explained the secrets and symbols present in the laws of the Sharia. For example Imam Muhammad al-Ghazali explained the wisdom and secrets of Islamic worship such as prayer, fasting, pilgrimage, and zakat in his book "Ihya Ulum al-Din." Therefore, due to the scholarly and legal differences of the Companions, the important terms came into existence, which the Muslim jurists counted as sources and references of Islamic law, and through them, such principles were established that could provide solutions to the problems of every era.

Advantages in the Modern Age:

The era of today brings new issues every day and if the solution is possible, it is largely due to the way of thinking and action of the noble Companions. If all Companions had chosen only one path and acted solely on the outward scriptures, perhaps the problems of today's era would not have been solvable in the light of Islamic teachings. In this way, the difference among the noble Companions provided a scholarly and intellectual breadth that allowed for the solution of problems in every era.

Due to the jurisprudential differences among the noble Companions, various aspects of a problem come to light. When they offered solutions to a problem, while keeping legal demands in mind, their natural inclinations

¹⁷ Al Jozi, Muhammad bin Abu Bakar, Ibne Qayyam, 2003, Elaam ul Muqeen en Rabil Alameen, 337/4, Dar ul Jauzi, Al Riyaz

also influenced the problem. Some Companions were so strict in obedience that they did not pay attention to the cause and thus their statements on the issues also seemed strict, such as Abdullah bin Omar. However, some Companions gave importance to the cause, and thus in their statements on issues, there was also an element of gentleness, such as Abdullah bin Abbas. This is why the rigor of Abdullah bin Omar, the leniency of Abdullah bin Abbas, and the lack of personal opinion of Abdullah bin Masood are famous in this Ummah.

If a contrary view is seen, then these three companions have a greater and deeper impact on the prevalent jurisprudence in this Ummah. For example, the jurisprudence of Imam Azam Abu Hanifa, Numan bin Thabit is based on the opinions and narrations of Hadrat Abdullah bin Masud. Similarly, the jurisprudence of Imam Malik bin Anas is a reflection of the jurisprudential insight of Hadrat Abdullah bin Umar, and the jurisprudence of Muhammad bin Idris al-Shafi is largely benefited from the narrations and fatwas of Hadrat Abdullah bin Abbas. Due to this difference, different opinions emerged, which were the correct interpretations of the Quran and Sunnah, which people adopted according to their origins and nature. In this way, ease and breadth were created in practice, and this became a mercy for the community. In this regard, there are a few examples as follows.

1. Sea Hunting (Marine Hunting):

Allah Almighty commanded: “It is made lawful for you to hunt in the sea and eat its food”.¹⁸ Considering this divine command, marine hunting is lawful, but there are thousands of animals in the sea, among which some are lawful and some are forbidden, which is not clear in this verse. There are four opinions reported from Islamic scholars regarding this. According to Maliki jurisprudence, all marine animals are lawful and can be eaten. According to Hanbali jurisprudence, all marine animals except the mandrake, crocodile, and snake are lawful. According to Hanafi jurisprudence, only marine fish is lawful, while other animals are not lawful, but if marine fish die and start floating, it is not lawful. According to Shafi jurisprudence, any marine animal that is similar to a land animal that is lawful, such as a goat, cow, etc., is lawful, and if it is similar to a

¹⁸ Al Quran, 96/5

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land animal that is forbidden, such as a pig or a dog, it will also be forbidden.¹⁹

The reason for this difference among the jurists is the Hadiths that are narrated from different Companions of the Prophet, may Allah be pleased with them, such as the Hadith narrated from Jabir bin Abdullah that the Prophet, Peace be upon Him said: “Eat what you find from the sea and do not eat what is dead and floating”. While the saying of Abdullah bin Abbas is: “A swimming fish is permissible for anyone who wants to eat it”. And the saying of Omar Farooq is: “The whale and the shrimp are both pure”.²⁰

This difference is a source of mercy for the Ummah in such a way that the majority of followers of Imam Abu Hanifa (for whom only marine fish are permissible) live in areas of the mainland (Pakistan and India). Their reliance is more on terrestrial animals rather than marine animals, while the majority of followers of Imam Malik, Shafi and Ahmad bin Hanbal who live in areas where there is more reliance on hunting marine animals such as Africa, Sudan, Kuwait, Bahrain, and the United Arab Emirates, etc., rely more on hunting marine animals. Therefore, Imam Malik's stance is a mercy for them to be able to hunt all kinds of marine animals to sustain their livelihood and strengthen their economy. If they were to be brought under the stance of Imam Abu Hanifa, it would be a burden for them.

2. Living in non Islamic countries:

According to Imam Shafi, the commandments of the Shari'ah do not change with the difference between Dar al-Salam and Dar al-Kuffar. In his view, whether it is Dar ul-Islam or Dar al-Kuffar, the commandments of the Shari'ah are of the same nature. However, according to Imam Abu Hanifa, the commandments of the Shari'ah change with the difference between Dar ul-Islam and Dar al-Kuffar.²¹ Considering the principles of difference, if the issues of the present age are examined, it is quite easy for Muslims living in Western countries to adopt the Hanafi stance, as interest is absolutely forbidden and Allah has given many instructions on this matter, such as: (O you who believe! Do not consume interest, which is

¹⁹ Salih bin Fauzan, 1983, Al Ateema wa Akhkam ul Saed, 93. Maktaba Al Muarif, Al Riyaz

²⁰ Al Qurtabi, Al Jame le Akhkam i Al Quran, 319/6, Dar ul Kutab, Al Qahira.

²¹ Al Tarki, Abdullah bin Abdul Muhsin, 1997, Asbab e Ikhtelaf e Fuqaha, 106, Nomani kutab Khana, Lahore

added to interest, and fear Allah that you may succeed).²² There is another commandment: (And Allah has allowed trade and forbidden interest).²³

However, as far as the West is concerned, whether it is business or a house, education or health, it is not possible to avoid interest in any case. Everything is possible with the intervention and guarantee of the bank. Especially in the case of housing, which is a basic need, it is not possible to get it without a bank guarantee and the bank does not give its transactions without interest. Now, acting on the stance of the Hanfi, it is easy to take a house on interest in Western countries.

Based on this Hanafi principle, some scholars of the present age have made some rules. Dr. Muhammad Tahir al-Qadri has written about living in Western countries in his book: "Mortgage (taking a house on interest in Western countries) is permissible for a Muslim".²⁴ Justice Mufti Muhammad Taqi Usmani has also discussed some issues and their solutions for Muslims living in Western countries, such as if there is no separate graveyard for Muslims in Europe, they are allowed to be buried in Christian cemeteries. If a mosque is built in Europe and then it is moved to another place where there is no Muslim population and there is a possibility of the mosque being seized by non-Muslims, it is permissible to sell the place of the mosque. It is permissible for a Muslim to work in a hotel where alcohol or pork is sold, provided that he does not present these items to people. It is permissible to rent a church to perform prayer in Western countries. However, it is advisable to remove the idols and statues during the time of prayer.²⁵

3. Inheritance of a non Muslim:

Mostly Companions said that a Muslim cannot take the inheritance of non Muslim and a non Muslim cannot take the inheritance of Muslim.²⁶ But

²² Al Quran, 130/3

²³ Al Quran, 275/2

²⁴ Al Qadri, Muhammad Tahir, Dr. 2012, Jadid Masail ka Islami Hal, 95, Nayab Printer, Faisal Abad

²⁵ Usmani, Muhammad Taqi, Mufti, 2000, Maghrabi Mumalik ke Chand Fiqhi Masail or Un ka Hal, 19, Fareed Book Dipu, Dehli

²⁶ Al Sajastani, Suleman bin Ashas, Abu Daud, 2020, Sunan Abu Daud, Hadees No: 2909, Bait A Afkar Al Daulia, Al Riyaz

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Hazrat Maaz bin Jabal and Ameer Muavia said that a non Muslim cannot take but a Muslim can take the inheritance of non Muslim.²⁷

Today, stance of Hazrat Maaz bin Jabal and Ameer Muavia is better than others for a person who belongs to West and accepts Islam. Because if he follows the stance of other Companions, it becomes difficult for him to survive economically and chances of rejection of Islam again are very high.

Conclusion

The beauty and secret of progress lies in the diversity of opinions. Diversity of opinions serves as the foundation of Ijtihad and the fundamental unit in mutual consultation. The Companions of the Prophet peace be upon Him were the noble and pure-hearted group of this Ummah, nurtured in the Prophetic chamber, familiar with the spirit of Prophecy, and through them, the complete treasure of Islam reached the nation. Differences in jurisprudential matters among them proved to be a mercy for this Ummah. This made the Islamic law easy to practice in every era. In the present era, where the world has become a global village and new issues arise every day, the importance of the jurisprudential differences of the Companions has increased even more. It is essential to benefit from the insight of the Companions and present solutions to modern problems in a way that enhances the dignity of Islam and once again proves that complete solutions to the problems of every era are found within the fold of Islam.

²⁷ Al Sarkhasi, Muhammad bin Ahmad, Sham ul Aimmah, 1993, Al Mabsoot, 30/30, Dar al Marifa, Beirut