Understanding Ijtihad or Personal Reasoning in Islam

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Abstract: **It is legally established that every event or incident in the universe or matter in the world that pertains to human beings has a legal ruling before the Almighty Allah. Some people know the rulings about those events and incidents while others are ignorant about their rulings. And it is the duty of the Muslim scholars to explain and make these rulings clear to Muslim Ummah. In fact, it is their obligation and duty for them to do so because this act is neither limited nor confined with time and duration and does not end with progress and development.**

The texts contained in the Qur'an and the Sunnah to explain the legal rulings are limited and restricted, while the universe's events that relate to human beings in different times and places, and with the development of life, the advancement of science, and the advancement of nations and civilizations are neither limited nor restricted hence it becomes inevitably for both Qur'an and Sunnah to become a legitimate and acceptable source that clarifies the rulings on incidents in which there is no text. This will ultimately help Islamic laws "Shari'ah" to be compatible with the society and make Muslims being part of it instead of being isolated and becoming strange in their own land.

The revelation from the Almighty Allah in the form of Qur'an and Sunnah was completed and stopped with the demise of the Prophet Muhammad (PBUH). Ijtihad, however, continues and this is the source or methodology which gives Islamic law, its adaptability to new situations and capacity to tackle all new issues and problems. The various sources of Islamic law that feature next to the Qur'an and the Sunnah are all demonstrations of ijtihad. In this way, Ijma, Qiyas, Istihsan, etc., are all interrelated and come under the main heading of ijtihad. Ijtihad in its widest sense means the use of human reason in the elaboration and explanation of the Shari'ah.

Key words: **Ijtihad**

I. INTRODUCTION

Meanings of Ijtihad:

a. Literal Meanings

Literally, the word Ijtihad has been derived from an Arabic word "Jahad" (جهد) which mean**s**

- To strike hard or to struggle.
- Expanding the maximum effort in performance of an act or job.'
- 'Juhd' means employing ones complete strength, and'jahd' means hardship and difficulty[1].
- Ibn Mandhur al-Misri says: Jahd and juhd mean power and strength.[2]

b. Technical Definition

Technically there are several definition of ijtihad defined by different Muslim scholars of different times and durations. Some of their definitions are as follows:

It is the effort exerted by a jurist to achieve the Ahkam (rules) of the Shariah (law).[3]

Ijtihad is the effort exerted by the jurist to deduce practical rulings from their detailed evidence.[4]

It is an expression of exerting effort in seeking judgment from the hidden texts.[5]

- By ijtihad is meant the exhaustive efforts of a Mujtahid for arriving at presumption in regard to a hukm of the Shari'ah.

In conclusion, it's the process of exhausting one's efforts especially of a Mujtahid to arrive at a presumption in regard to a hukm of Shari'ah to a specific event or incident that has no ruling in the text. Hence a jurist applies all his faculties either in inferring the rules of Shari'ah from their sources or in implementing such rules and applying them to particular issues.

A person who performs Ijtihad is a Mujtahid; whereas, a person who knows the rules of Shari'ah in detail, but is unable to extract rules directly from their sources, is not a Mujtahid but rather a Faqih, Mufti, or a Qaadhi. The female equivalent is a Mujtahida.

1.1 Objective

this paper intends to discuss the broad meaning, types, sources and implications of ijtihad in Islam so as to broaden the Muslims`s understanding of the term in contemporary world.

II. METHODOLOGIES

This paper has extensively used documentary analysis to collect, record, discuss and summarize the finding .Various

[1]. Muhammad ibn Yaaqub Alfairuzi Aabad (undated) Alqaamusi Almuheeth, Pg-351, Annajaari (undated) AlMuujam Alwaseeth, Pg-142, Distributed by Dar Aldaawah, Ahmad ibn Muhammad ibn Ali (undated), Almisbaah Almuneer, Vo1-1, Pg-112, Distributed by Almaktabat Al-E'limiat – Beirut.

[2]. Muhammad ibn Mukram ibn Mandhur (undated) Lisan Al-Arab, 1st Edition, Vol-3, Pg- 133, Distributed by Dar saadr- Beirut.

[3]. Taqyudeen Abu Albuqaa Muhammad ibn Ahmad ibn Abdulaziz(1997), Shereh Al-Kawakib Al-Muneer, 2nd edition, Vol-4, Pg-458, Maktabat Al-I'bikan

[4]. Muhammad Abu Zaharat () Usul Alfiqh, Pg-379, Dar Alfikr Al-Aracy for printing and distribution.

[5] . Muhammad ibn Ali ibn Muhammad ibn Abdallah ASshaukany(1999), Irshaad Alfahul, 1st edition, Vol-2, Pg-99, Dar Al-kitab Al-Araby for distribution.

sources have been used together with information such as books, articles, various reports, hadith, internet information and other written documents as cited all over the paper. The documentary review analysis has been opted as it is cheap and less time consuming and credible of the data and information published.

Purpose of Ijtihad:

In the introduction of this work, a reference was made to the importance of ijtihad, and that it is legally known and determined that every incident or event in the universe has a legal ruling, and that the texts of the Shari'ah contained in the Qur'an and the Sunnah to clarify the rulings are limited but fortunately they are general in meanings and comprehensive leaving room for inference and interpretation to incidents and events which are not directly dealt with in both Qur'an and Sunnah. The Al-mighty Allah says: "…We did not neglect anything in the book…"

قال تعالى: "...مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ..."[6]

In another verse, the Almighty Allah says: "… And we have sent down to you the book to clarify all the rulings…"

قال تعالى: "...وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تِبْيَانًا لِكُلِّ شَيْءٍ ...ۖ"[7]

From the aforementioned verses, Jurists confirmed that purposes, goals and objectives of the legislation were specified by laying down foundation and curriculum by Qur'an and *Sunnah* in order to regulate and guide the hard-working (*Mujtahid*) in their process of exerting efforts to attain *Shari'ah* rulings on new incidents and events that has no definitive texts in the Qur'an and *Sunnah* in any given society. This act is what has been approved by both primary and secondary sources of Islamic Shari'ah (Law) in the legality of the *Ijtihad*.

Ijtihad was one of the three main sources approved by the Messenger of Allah – peace and blessings be upon him as reported by many of his narrations. The most famous one is of Muadh ibn Jabal when he wanted to send him to Yemen.

The legal texts and Shari'ah laws were sealed by the demise of the Prophet peace and blessings be upon him but Allah has approved *ijtihad* to be an open door for the *mujtahids* until the Hour comes. This is so in order to meet the needs of the ummah in legislation, and to reveal the rulings of the Al-mighty Allah in all that is presented to Muslims in particular, and to humanity in general. This corresponds directly to the status of both Islamic and non-Islamic countries due to global dynamic situations in terms of progress and advancement in civilization and culture, governance and advocacy, legislation and regulation, all this has been catalyzed by the drastic advancement of science and technology.

In a nutshell, the primary purpose of ijtihad is mainly summarized into:

- Discovering the intention of the Ultimate Lawgiver, the Al-mighty Allah.
- To find solution of new legal issues

The Proof (Hujjiyyah) of Ijtihad:

Ijtihad is essential and most required in Islamic Shari'ah; in fact it is one of the fundamentals of Shari'ah. Its need and importance in Islam is indicated in the sources of Islamic Shari'ah either explicitly or by inference. These are mainly proved by the Qur'an, Sunnah, Consensus and intellect (aql) as follows:

By the Qur'an:

There are many verses in the Qur'an that command human being to look, observe, ponder, research, and use reason and thought to know and understand the rulings of the Al-mighty Allah, and indicate that ijtihad is one of the principles of Shari'ah, either by means of declaring or indicating and alerting. Some of those verses are as follow:

'And to those who exert we show our path' (29:69)

The Al-mighty Allah says: "We have sent down to you the Book of Truth, to judge among people what Allah has shown…"

قال تعالى: " إِنَّا أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللَّهُ"[8]

The approval of Ijtihad is deduced in these verses by means of analogy (Qiyas), which is one of the secondary sources of Islamic law that falls under ijtihad[9].

And among many verses which were used by scholars to admit the presence of ijtihad and analogy (qiyas), the Al-mighty Allah says: "The mothers should suckle their children for two whole years, (that is) for those (parents) who desire to complete the term of suckling, but the father of the child shall bear the cost of the mother's food and clothing on a reasonable basis..."

قال تعالى:" وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ..." [10]

This verse indicates the permissibility of ijtihad in two ways:

One of them: The Al-mighty Allah says - "And the father of the child shall bear the cost of the mother's food and clothing on a reasonable basis...".

قال تعالى: " ... وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ... "

Here the known or reasonable is only reached or attained by conjecture and opinion, because it has no known measurement from the text of the Qur'an, the Sunnah, and the consensus (ijmaa)

[6] . Surat Al-Anaam: 38
[7] . Surat Annahl: 89.
[8] . Surat ANnisaa: 105.
[9] . Wahabah Mustapha Zuhayl. (2006), Al-Wajeez fi Usul Al-fiqh. 2nd edition, Vo1-2,Pg- 277 , Dar Al-khair for publishing and distribution, Damascus - Syria.
[10]. Surat Al-baqara: 233.

And on the other side: The Al-mighty Allah says: "…If they both decide on weaning, by mutual consent, and after due consultation, there is no sin on them…"

قال تعالى: "... فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ ... "

And the extent of compromise or mutual consent is not well established or known because it is predominantly achieved by conjecture which is connected and determined by consultation, and unfortunately consultation does not take place in presence of definite evidence or agreement but it is an expression of opinion based on speculative evidence.[11]

There are so many verses determining the presence of ijtihad and its legality in the Qur'an but the few aforementioned suffice to prove its legality in Islamic Shari'ah (law)

By Sunnah:

Like the Qur'an, there are several hadiths quoted in support of Ijtihad explicitly while others indicatively as well as either verbally or practically. Some of those hadiths are as follow:

Abu Hurayrah reported that the Prophet Muhammad (PBUH) peace and blessings be upon him said: "When a judge exercises ijtihad and gives a right judgment, he will have two rewards, but if he errs in his judgment, he will still have earned one reward"

عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ فَأَصَابَ فَلَهُ أَجْرَانِ وَإِذَا اجْتَهَدَ فَأَخْطَأَ فَلَهُ أَجْرٌ[12]

Al-Harith ibn 'Amr reported: The Messenger of Allah, peace and blessings be upon him, sent Mu'adh to Yemen and he said, "How will you judge**?**" Mu'adh said, "I will judge according to the Book of Allah." The Prophet said, "What if it is not in the Book of Allah?" Mu'adh said, "Then, with the Sunnah of the messenger of Allah." The Prophet said, "What if it is not in the Sunnah of the messenger of Allah?**"** Mu'adh said, "Then, I will strive to form an opinion." The Prophet said, "All praise is due to Allah, who has made suitable the messenger of the messenger of Allah.**"**

عَنْ الْحَارِثِ بْنِ عَمْرٍو عَنْ رِجَالٍ مِنْ أَصْحَابِ مُعَاذٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ مُعَاذًا إِلَى الْيَمَنِ فَقَالَ كَيْفَ تَقْضِي فَقَالَ أَقْضِي بِمَا فِي كِتَابِ اللَّهِ قَالَ فَإِنْ لَمْ يَكُنْ فِي كِتَابِ اللَّهِ قَالَ فَبِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ فَإِنْ لَمْ يَكُنْ فِي سُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ أَجْتَهِدُ رَأْيِي قَالَ الْحَمْدُ لِلَّهِ الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ[13]

There are also many examples of how Prophet Muhammad used to make a decision on the basis of his ijtihad after consulting with his companions: like in strategies of war and other worldly affairs. In fact the Prophet Muhammad peace and blessings be upon him stated that in matters that pertained to judgments he had made decisions based on his ijtihad as said: "I am only a human being. When a case is presented to me, I might rule in favor of the party who presents his case in a better way, wrongly leading me to think that he is right. In this case, if I gave someone something that in fact belongs to his brother rather than himself, he should not accept it. For the thing that I gave him is nothing but a piece of fire"

عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ سَمِعَ خُصُومَةً بِبَابِ حُجْرَتِهِ فَخَرَجَ إِلَيْهِمْ فَقَالَ إِنَّمَا أَنَا بَشَرٌ وَإِنَّهُ يَأْتِينِي الْخَصْمُ فَلَعَلَّ بَعْضَكُمْ أَنْ يَكُونَ أَبْلَغَ مِنْ بَعْضٍ فَأَحْسِبُ أَنَّهُ صَدَقَ فَأَقْضِيَ لَهُ بِذَلِكَ فَمَنْ قَضَيْتُ لَهُ بِحَقِّ مُسْلِمٍ فَإِنَّمَا هِيَ قِطْعَةٌ مِنْ النَّارِ فَلْيَأْخُذْهَا أَوْ فَلْيَتْرُكْهَا[14]

By Consensus

The Companions and those who came after them unanimously agreed on the legitimacy of ijtihad. Whenever an incident or any case occurred, the Rightly Guided Caliphs, and the rest of the Companions of the Prophet , may the Al-mighty Allah be pleased with them used to return to the Book of Allah, and if they did not find a ruling in it, they went back to the Sunnah, and they could inquire from each other, and if they did not find the ruling of the case they will turn diligently to ijtihad according to the foundations, principles, rules and methodology taught and trained by the Messenger of Allah peace and blessings be upon him and none could go against what they had agreed upon unanimously and that is what was known as *Ijmaa* or consensus.

By Reason (aql)

In the beginning of this work, a reference was made to the importance of ijtihad, and that it is legally known and determined that every incident or event in the universe has a legal ruling from Allah , and that the texts of the Shari'ah contained in the Qur'an and the Sunnah to clarify the rulings are limited but fortunately they are general in meanings and comprehensive leaving room for inference and interpretation to incidents and events which are not directly dealt with in both Qur'an and Sunnah. And it is the duty of the Muslim scholars to explain and make these rulings clear to Muslim Ummah. In fact, it is their obligation and duty for them to do so because this act is neither limited nor confined with time and duration and does not end with progress and development.

The texts contained in the Qur'an and the Sunnah to explain the legal rulings are limited and restricted, while the universe's events that relate to humans in different times and places, and with the development of life, the advancement of science, and the advancement of nations and civilizations are neither limited nor restricted.

So the ability to tackle these issues by the help of the Islamic sources of Shari'ah lies within the limits of human intellect. Al-Jasas in his book categorical expresses his opinion on the importance of intellect as being one of the important means

[11]. Iman Ahmad ibn Ali ARraazy Al-jasaas (1994), AlFusul fi Al-Usul, 2nd edition, Vol-4, Pg:24-25, distributed by Ministry of endowment and Muslim Affairs – Kuwait.

[12] . Sunan Annasai)), Vol-16, 212.

[13] . Muhammad ibn Issa Attirimidhiyu (undated), Sunan Attirimidhiyu, Vol-5, Pg-162.

[14] . Sahih Albukhar , Vol-8, Pg- 338, Hadith no 2278.

used to prove the ijtihad and as one of the most essential means in determining rulings in Islam.[15]

Ruling on Ijtihad

Being aware of or knowing Islamic rulings on any particular issue or incident is obligatory for every Muslim. If the ruling is found in the Qur'an and Sunnah especially in definitive and decisive texts, then it becomes easy for achievement of the Allah's objectives but if it is not found in both Qur'an and Sunnah or when it is in speculative evidences then it becomes obligatory for the Muslim scholars who have attained the rank of ijtihad to exhaust their energy in deducing laws from their sources so as to come up with the rulings on that particular matter.

So the ruling of Ijtihad in such occasions is then ruled in four different ranks; can be either faradh ain, faradh kifayah, Sunnah meaning recommended and lastly Haram meaning forbidden. This can be briefly explained as follows;

Faradh A'in (فرض العين).

If any new incident or occasion takes place in any given Islamic society in the presence of a Muslim scholar (Mujtahid) with qualities of exercising ijtihad, then ijtihad becomes compulsory and obligatory to him in the following three ways;

The first way: - It becomes obligatory and aright for himself if any new incident takes place and if his efforts of ijtihad leads him to attain a ruling then he is obliged to follow it and put it into practice because the ruling of the Mujtahid is the ruling of Allah in a specific issue in which he exhausted all his effort as per his absolute thinking that it is Allah's ruling.

The second way: - It becomes obligatory when a Mujtahid is presented with an issue to give a verdict on it and solve a dispute among the quarrelling people.

The third and last way: - It becomes obligatory to the Mujtahid when he has been asked about a ruling on a new incident that has taken place and he fears that it could elapse without getting the right Shari'ah ruling especial when there isn't another Mujtahid who can solve it.

Faradh al-Kifayah (فرض الكفاية).

In this type, the ijtihad can occur in one of the two ways:

The first one; where there are many Mujtahidun during the time an incident takes place then the ijtihad becomes faradh kifayah for each of them. If anyone of them exerts ijtihad and arrives at the ruling, then it suffices hence it does not become obligatory to the remaining Mujtahidin. In case all of them ignore to exert efforts in finding out the ruling of that particular issue then all of them become responsible and sinful.

The second one; In case where the Mujtahid is only one and then the issue is presented to him which does not need immediate solution and he does not fear its elapsing then in this case it becomes faradh al-kifayah.

Recommended (الندب)

Ijtihad becomes recommended if the issue presented to the Mujtahid has not taken place whether he has been asked to explain its ruling or not. So ijtihad in this situation is recommended for the Mujtahid to explain Allah's ruling on it.

Prohibited (التحريم)

It's prohibited for one to do ijtihad in what is not allowed to do ijtihad in. i.e. In explicit text which is definite and decisive, in the explicitly Mutawatir Hadith and in the previous consensus in which a ruling of a specific issue has been concluded.

III. PILLARS OF IJTIHAD

Ijtihad has three pillars. If any of them fails to exist, then Ijtihad becomes null and void. The three pillars are as follow:

Ijtihad

It is the process of exhausting one's efforts especially of a Mujtahid to arrive at a presumption in regard to a hukm of Shari'ah to a specific event or incident that has no ruling in the text as defined in the beginning of the work.

Almujtahid

He is an adult jurist (alfaqeeh) who meets the conditions of diligence (al-ijtihad) that enables him to deduce laws from its sources.

Amujtahid fih

It is a practical or scientific Islamic Shari'ah ruling in which there is no conclusive evidence.

Field for diligence (Al-Ijtihad)

Previously we discussed and made clear that Shari'ah rulings are obtained from two important sources mainly Shari'ah texts and Ijtihad hence the Muslim jurists and scholars of Usul Fiqh came up with a basic rule to be put in consideration while dealing with ijtihad. The rule is; No diligence (Ijtihad) in the presence of the text (Nas). Due to this rule, most people believe that ijtihad is absolutely conducted in the absence of a text (nas), whether the text is from the Holy Qur'an or the Hadith of the prophet Muhammad peace and blessings be upon him. This is not true according to the Muslim scholars who came up with this rule. In fact, ijtihad is also conducted within the presence of the explicitly text which is also both certain and definite

In ijtihad, therefore the field of ijtihad is too wide that touches most of the Shari'ah rulings. In fact, there are only two things

[15]. Iman Ahmad ibn Ali ARraazy Al-jasaas (1994), AlFusul fi Al-Usul, 2nd edition, Vol-1, Pg:145-147, distributed by Ministry of endowment and Muslim Affairs – Kuwait.

that are not supposed to be considered as part of the fields in which ijtihad can take place. Those fields according to Muslim Jurists are as follow:

Definite evidence in text and implication (النصوص القطعية في الثبوت والدلالة*)*

Shari'ah text (النصوص الشرعية) is the texts or evidences affirmed or found in the Qur'an and Sunnah even though they mainly come in two ways; definitive evidences which occur in the Qur'an and Hadith al-Mutawatir. Speculative evidences comprising of famous hadith (الأحاديث المشهورة) and solitary hadith (أحاديث الآحاد) and each one of them has either to be a definite indication (قطعي الدلالة) in this sense, the text contains only one meaning which is definite in its meaning without expecting any other meaning.

The text may also appear in a Speculative Implication (ظني الدلالة). In this text the literal meaning is not definite hence the text's content has more than one meaning. In conclusion, there is no room for ijtihad if the text appears to be both definite in evidence (قطعي الثبوت) and definite in implication (قطعي الدلالة) thus it's permitted to do ijtihad in such texts. And it's in this situation where the rule "No ijtihad in the presence of the text" is completely applicable. In this ruling Imam Alghazaaly commented that almujtihad fihi is all Shari'ah rulings that have no definite evidence.[16]

Rulings which occur in evidences that are definite in both the text and indication comprise of fundamental issues in the religion such as doctrine (Aqeedah, Attauheed and Faith) or in the acts of worship (I'baadat) and in the rest of the remaining unmentioned practical rulings. In these issues, the ruling is always one, definite and certain. This helps to unite Muslim Ummah and deter it from conflicts and disagreement which could lead to disintegration of the Muslim Ummah.

Scholars of Usul al-Fiqh termed texts with only one meaning not corresponding to ta'wil from its original meaning, neither be abrogated due to its elapsed time with the end of the revelation "wahy" as definitive text whose research in it is determined by the interpretation of its meaning and understanding it according to the requirement of the language and Shari'ah so as to determine its textual interpretation or to know the rationale for its analogy or deduce its objectives to act as a guidance in other situations. Examples of such texts; five daily prayers, paying alms Zakat, fasting Saum, pilgrimage Hajj, forbidding to kill, prohibition of fornication, adultery, prohibition of alcohol and theft by prescribing their penalties from the texts of both the Quran and Sunnah as shown in the following examples. Allah says, "The Zaniyah and the Zani, flog each of them with a hundred stripes…"

قال تعالي: " الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ... "[17]

Allah says too, "And those who accuse chaste women, and produce not four witnesses, flog them with eighty stripes…"

قال تعالي: "" **وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً** ... "[18]

The two aforementioned examples of Qur'an text do not allow ijtihad to be conducted in them because they are definitive both in evidence and indication.

*Rules agreed upon by Muslim jurists (*الأحكام المجمع عليها*)*

Consensus is inherently ijtihad which occurs to an issue whose evidence is either from a text that is of speculative evidence or on issues without textual evidence completely. After the occurrence of consensus agreement on a given incident, then ijtihad becomes accepted hence the ruling agreed upon becomes binding. Examples of such consensus can be observed in what occurred in the caliphate of Abubakr Sidiq may Allah be pleased with him after the death of the Prophet (peace and blessings be upon him), permission of the agreement of Istisna', put grandfather in the shoe of the father in inheritance etc.

In conclusion, ijtihad is not allowed to be conducted in the aforementioned two points according to Muslim jurists. In short, fields not allowed in ijtihad to be conducted are very few and limited in comparison to fields which accept ijtihad. These fields are mainly divided into two categories; those issues whose rulings have no textual evidence which are many and in diversity and the second one is the one with issues whose rulings can be found in a text that has a speculative evidence. This can be further explained briefly as follows:

Definitive texts with speculative implication ((النصوص القطعية الثبوت الظنية الدلالة

As explained before, definitive text is one which is clear and specific with only one meaning and not admitting any other interpretations and it is found in the Qur'an and in the al-hadith al mutawatir a (continuous) do not connote ijtihad but if it contains speculative implication then it becomes eligible for ijtihad because in speculative implication evidences, more than one meaning occurs hence research is needed to arrive to the desired meaning of the text and the strength of its implication to that meaning. For example, if the text is general or absolute, and each of them signifies several meanings, and the meaning of the word may be by means of a phrase or sign, or by spoken speech, or by concept, or other than that as they appear in semantics, and the general may remain in its entirety, and it may be specific, the absolute may remain absolute or it may be restricted, and the command contained in the definite text originally indicates the obligation, but it may be intended to mean a recommendation or permission or otherwise, while the prohibition contained in the definite text originally indicates prohibition, and it can also be used to be abominable (makruh) or otherwise, and so on. This system is implored to all kinds of studies conducted in the interpretation

[16]. Muhammad ibn Muhammad alghazaaly Abu Haamid (1413), Almustasfah fi Usul al-Fiqh,1st edition, Pg 345, Dar alkutubu Al-ilimy- Beirut.

[17] . Surat Annur: 2.

[18] . Surat Annur: 4

of texts and textual implications as observed in the occurrence of difference opinions of Muslim scholars in the amount of wiping the head in ablution as well as "quru" in relation to the period of divorce and in so many cases not mentioned above.

A text with both Speculative evidence and implication (النصوص الظنية الثبوت الظنية الدلالة:*)*

Famous hadiths أحاديث المشهورة)) and the solitary hadiths (أحاديث الآحاد) that have been proved by away of conjecture, are subject and open to Ijtihad, even if they are definitively indicative, such as the hadith of the nisab of sheep and camels in zakat. The hadith is definitive in its implication but it is subjected to ijtihad in order to explore the degree chain of transmission, the path of access, the narrators' degree of justice and discipline etc. These conditions inevitably lead to difference according to the discretion of the mujtahids. This is one of the main reasons that lead to disagreement among Muslim jurists (Fuqahaa).

Issues without texts and consensus agreement. (ما لا نص فيه ولا إجماع*)*

In cases where there is no text in the first place, and there is no consensus on them, the mujtahids must such and investigate in order to arrive at their rulings using rational evidence approved by the Shari'ah, such as analogy, Istihsan, or Equity in Islamic Law, Maslahah Mursalah (Considerations of Public Interest), 'Urf (Custom) , Istishab (Presumption of Continuity), Sadd al-Dhara'i (Blocking the Means) and other evidence of rulings and sources of legislation not agreed upon by Muslim jurists. All of these secondary sources come under ijtihad, and they are open for ijtihad giving room for the Mujtahid to exert his effort in. And its door is very broad and wide since issues in this field are countless and unlimited because they are influenced by changes which come with development in technology and emergence of incidents and issues in different ages and civilization till the last hour. Due to recurring issues due to advancement of knowledge and technology globally, ijtihad is seen as the best tool of the Islamic Shari'ah to tackle these issues in accordance to Qur'an and Sunnah which are the primary sources of Islamic Law (Shari'ah).

To whom is ijtihad legible?

According to Muslim Jurist, only a jurist (Mujtahid) may practice ijtihad. Requirements of Ijtihad have been laid down by some scholars. Nothing has been mentioned in this regard in the Quran and the Sunnah. Abul Hussain al Basri, laid down for the first time the qualifications of a Mujtahid in the 5th century Hijra which was later accepted by Gazali and other scholars. Generally, Ijtihad is the function of the competent scholars.

Requirements for Mujtahid:

The Mujtahid must be a Muslim male or female of sound mind who has attained a high level of intellectual competence. The requirement of a scholar who is legible to exercise ijtihad according to Muslim Jurists are as follow:

- Must be well versed and knowledgeable of the Qur'an
- Must be well versed with Sunnah related to Ahkam.
- Must be well versed with the knowledge of abrogation and abrogated.
- Good knowledge of Arabic language.
- Knowledge about Ijmaa Consensus.
- Knowledge of principles of Islamic Jurisprudence (Usul Al-fiqh).
- Objectives of Shari'ah (Maqasid Shari'ah).
- He must be an upright person capable of distinguishing between strong and weak evidence.

Procedure of Ijtihad

Whenever an incident or issue occurs and then presented to the Mujtahid, he/she is supposed to proceed in conducting his/her diligence according to the following steps and stages:

In the first stage, the Mujtahid is obliged to refer to authoritative or definitive texts, in case the ruling of the matter is found in them with a definite indication, he/she is obliged to give his verdict basing on its ruling and be committed to. And it is absolutely not permissible for him to contradict it and deviate from it. If the implication of the definitive text is speculative but exerted diligence by the previous mujtahids and agreed upon on a ruling unanimously then it becomes consensus and he has to be committed to it, act according to it and issue verdicts in accordance to those before him. But if the previous scholars did not agree on a ruling, and each had an opinion, and if those previous scholars were among the Companions, then he can choose one of the opinions of the companions and their successors in which to him sounds strong and convincing and should not deviate from them. In case the previous mujtahids were not among the Companions, then the Mujtahid must do his best, look at the evidence, and strive hard, whether his opinion agrees with the opinion of one of them, or disagrees with all of them

The second stage, the Mujtahid, refers to speculative text evidence or speculative implication evidence and follows the same steps as in the definitive text evidence as explained above in the first stage.

When there is no text, if the previous ones strive hard and unanimously agree on an opinion, then it has the ruling of consensus but if it disagree with the Companions opinion then he has to take his opinion in accordance to the companions' methodology, and if the disagreement is not of the companions, then he has to commit to his own ijtihad.

The methodology in conducting ijtihad starts with referring to the texts in the hope that a Mujtahid may find an indication in it of the incident presented to him from the text, or the apparent, and all kinds of indications, and then he/she strives him/herself in knowing the objectives of the Shari'ah and deducing reasons to be applied to the incident.

If the Mujtahid does not find a judgment or a ruling of ijtihad in the texts, then he has to gather all linguistic meanings related to the incident, Qur'an texts, hadiths of the Prophet, the sayings of the predecessor, and possible analogies, and turn sincerely into his heart to know the rule of the Almighty Allah in it without fanaticism, endurance, recklessness or negligence and the ruling attained by diligence is the rule of Allah that he must abide by, act upon, and use it in fatwa.

Some Examples of Ijtihad

During the reign of the Prophet peace and blessings be upon; Battle of Badr as to what to do with the slaves after the battle of Badr ? Battle of Uhad as to where to fight…

During the reign of Abubakr May the Almighty Allah be pleased with him after the demise of the Prophet Peace and blessings be upon him in compilation of Quran and in the expedition under Usama Bin Zayd ibn Harith.

During the reign of Umar ibn Khatb may Allah be pleased with him in denying zakat to Mualafat qulub and suspending the penal code of a thief etc.

Limitations on Ijtihad

As explained earlier, **t**here is no Ijtihad where the rule in text is explicit. In other words, when the rule in the text is so clear that more than one meaning cannot be derived from it, the jurists are prohibited from taking Ijtihad on that.

In summary the application of Ijtihad is subject to a few limitations. It can never be exercised on the following topics.

- A'qaid (Faith)
- Explicit Versus of Holy Quran
- Mutawatir Sunnah
- Five Pillars of Islam
- Moral Truths
- All definitive and authentic rules of Islam.

For example: 100 stripes in the text pertaining to zina (Unlawful sexual intercourse), means 100 stripes, nothing more and nothing less, thus there is no ijtihad to determine the number because it is clear text. However, the meaning of stripes is not so clear (i.e a stick, a whip or something else) Ijtihad is required.

The Ranks/Types of Mujtahidun (مراتب المجتهدين)

Absolute and independent Mujtahid (المجتهد المستقل المطلق)

He is usually the founder of the school. He lays down the principles of interpretation for the school. Examples of this type of Mujtahidun are the companions of the Prophet, then the successors, then Imams who came after them. Some of them who were famously known for their absolute and independent ijtihad included people like Imam Zayd, Muhammad Al-baaqir, Abu Hanifah, Jaafar Asaadiq, Imam malik, Imam Shafi, Imam Hambal, Imam Auzai' Layth ibn Saad, Ibn Jareer Attabary etc.

Absolute but not independent Mujtahid (المجتهد المطلق غير المستقل)

Jurists who fulfil conditions of the absolute and independent Mujtahid but follow the principles laid down by the founder of a particular school in ijtihad. Hence is an affiliated absolute Mujtahid because he does not follow or imitate his Imam blindly in his rulings and evidence but followed the methodology of his Imam in ijtihad and provision of fat-wa. Such mujtahid includes scholars like Abu Yusuf, Muhammad al-Shaybani and Zafr The Hanafs, Ibn Al-qaasim and Ashhab the Malks and the example of the Shafi's include Albuwethy, Azaa'farany and Al-Muzny.

1.14.3. A restricted Mujtahid (المجتهد المقيد)

He is also known as Almujtahid in madhahab or almujtahid attakhreej because he is restricted to a specific school of a given Imam and he mainly struggles to affirm the principles and foundations of the school with evidence. He has qualities of ijtihad that is eligible to deduce rules from its sources under the principles and foundations of his imam. Examples of such scholars are imam al-Karakhy and Athwahawy the Hanaf school of thought, Al-Abhary and ibn Abi Zayd the Malik school of thoughts, Abi Is-haq AS-sheerazy and Abi Is-haq Al-Mar-wazy etc.

Mujtahid attarijeeh.(مجتهد الترجيح)

He is ajurist (alfaqeeh) who preserves and safeguards the school (madhab) of his Imam knowledgeable with its evidence by affirming them. Then illustrates and edits for new issues /incidences, formulates and decides for them, and falsifies what contradicts them, and outweighs the sayings of the imam, and has not reached the rank of Mujtahid in the school (madhab), or Mujtahid for clarification graduation due to his limit on the preservation of the school (madhab). Example of such Mujtahid is Al-Qudduri and Al-Marghaynaani, the author of "Al-Hidaya" from the Hanafi school, and al-Qadi Abdul-Wahab and Sheikh Khalil from The Malikis, Abu al-Tayyib al-Tabari, Abu Hamid al-Asfraiyani, al-Rafa'i, and al-Nawawi from the Shafi'i, and al-Qadi Abu Ya'la, Ibn Qudamah, Ibn Taymiyyah and Ibn al-Qayyim are from the Hanbalis, and many others in every school of thought. To limit it to memorizing the doctrine,

Mujtahid alfitiya

He is the jurist who preserves the doctrine, transmits it, and understands it, and relies on it to transmit the doctrine and fatwa regarding it in the books he tells of and the texts of the imam, and the branches of the diligent companions in his doctrine and their graduations, if he does not find a ruling transmitted in his doctrine, he gives what is meaningful to what he perceives with the slightest thought and contemplation.

IV.THE RANKS OF SCHOLARS TODAY

If we want to apply these foundations to Shari'ah scholars today, we can classify them according to the certificates they

often obtain, that is, the graduate of the Shari'ah high school, or religious institutes, represents the fourth type that transmits the opinion of the imam of his sect and gives fatwas regarding it, and he has no power or energy to strive for new issues, and the graduate from Shari'ah colleges is considered of the third type Whoever transmits the slayings of his imam with his evidence, and may measure it, and the graduate of a master's degree in Shari'ah is of the second type, as he is a Mujtahid who is restricted in the doctrine of his imam, and he may choose and strive within narrow limits, and a specialist in Shari'ah with research and study and a doctorate degree is considered of the first type. He is a Mujtahid and is not independent, so he makes preference and issues fatwas, and he works hard in his field of competence, and makes choices.