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## The Contemporary Relevance of Qiyas and Ijtihad in Responding to Modern Social Challenges

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### Abstract

In the evolving landscape of modern society, Islamic jurisprudence faces new and complex challenges that demand dynamic and thoughtful responses. Two foundational tools within Islamic legal theory—*Qiyas* (analogical deduction) and *Ijtihad* (independent legal reasoning)—serve as vital mechanisms for addressing contemporary issues while remaining grounded in the principles of Shariah. *Qiyas* allows scholars to extend established rulings to new situations by identifying shared underlying causes ('illah), ensuring consistency and coherence within the legal framework. Meanwhile, *Ijtihad* empowers qualified jurists to engage in deeper reasoning to interpret texts in light of current realities, promoting relevance and adaptability in Islamic law. These methodologies are particularly crucial in addressing areas unanticipated by classical jurists, such as bioethics, digital technology, environmental concerns, and financial systems. By applying *Qiyas* and *Ijtihad*, scholars can offer reasoned solutions that reflect both the ethical foundations of Islam and the needs of a changing world. While there are debates about the limits and authority of these tools, their continued application supports a dynamic and responsive legal tradition. Thus, *Qiyas* and *Ijtihad* preserve the integrity of Islamic jurisprudence and enable it to evolve in harmony with the demands of contemporary society.

**Keywords:** Qiyas, Ijtihad, Islamic, jurisprudence, Analogical deduction, Legal reasoning, Shariah, Contemporary challenges, Modern society, Islamic law

### Introduction

In contemporary society, everything is dictated by law and order. These laws and order keep the overall system of a said society intact. The same is the case with Islamic Law and Jurisprudence. The word "Sharia" is an acronym for Islamic law. This Arabic term means "the path to water" or "the way." Muslim academics and scholars have defined Sharia broadly

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for centuries, taking into account the various ways that Muslims have tried to comprehend and practice their faith.

### **Definitions of Shariah or Islamic Law**

Islam is a Religion that, in the end, addresses every aspect of life, both here on Earth and beyond. Islam is ordained alongside divine Shariah and unveiled as a religion of faith. A comprehensive set of regulations known as Sharia teaches Muslims how to live decent lives. Many Muslims use it as a way to get moral instruction on behavioral issues, including how to pray and treat family members with respect. The Holy Quran uses the term "al-Shariah" just once, as stated:

ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ<sup>1</sup>

“Then We put thee On the (right) Way of Religion: so follow Thou that (Way), And follow not the desires of those who know not.”

According to Britannica:

“The religious law of Islam is considered the expression of God's command to Muslims and, in practice, constitutes a system of duties that are obligatory on all Muslims by virtue of their religious faith. Known as the Sharia (literally, "the path to a place of water"), the law represents a divinely ordained course of action that guides Muslims towards the practical expression of religious belief in this world and the goal of divine grace in the world to come.”<sup>2</sup>

Beginning in the second part of the eighth century, written legal literature focused on examining the content of the law and the appropriate process for its generation and interpretation replaced oral transmission and scientific growth. The fundamental idea was developed and organized in several commentaries during the Middle Ages, and the extensive body of writing that resulted from this process is what is traditionally recognized as the canonical text of sharia law.

Another definition of Shariah states:

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“Sharia is derived from the Arabic word 'al-Sharġah,’ which literally means "the path to a place of water or, apparently, the path to find happiness and salvation.”<sup>3</sup>

According to the opinion of Ibn Jawziyah:

“The foundation of shariah is wisdom and ensuring the well-being of individuals both here on Earth and in the hereafter. Justice, mercy, wisdom, and goodness are the foundations of the Sharġah. Thus, any ruling that replaces justice with injustice, mercy with its opposite, the common good with corruption, or wisdom with nonsense is a ruling that does not belong to the law, no matter what interpretation it may claim to be.”<sup>4</sup>

The wide scope of Islamic Law has been categorized by Jurists and Scholars in two types of sources;

Primary and secondary. The Holy Quran and the Prophet Muhammad's (PBUH) Sunnah are examples of primary sources. Istihsan (equity in Islamic law), qiyas (analogical reasoning), urf (custom), sadd al-dhara'i (blocking the means), ijma (consensus), and maslahah mursalah (public interest) are the secondary sources.

The most common and most used secondary sources in contemporary Islamic society are Qiyas (Analogical Deduction) and Ijtihad (Critical Thinking). Qiyas is a form of Ijtihad, which means that they are both interrelated. Nonetheless, both are discussed briefly but separately prior to the analysis of common societal challenges of a contemporary Islamic society. The roles of these sources in facing and managing the contemporary challenges of a Muslim society and how they shape the Islamic environment in a society are also discussed below.

### **Description and Significance of Ijtihad in Islamic Theology**

The lexicographers claim that the word "ijtihad" comes from the Arabic word "juhd," which signifies exerting effort or endeavor to carry out a specific task. We'll quote a few of them here:

Ibn al- 'Athir defines 'ijtihad' as:

“The labor and effort made in order to achieve a goal. He adds that numerous Ahadith contain the term "جهـد." "Juhd" denotes hardship and trouble, and

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"juhd" signifies using one's full power. The forces of life are constantly changing since it is a dynamic process.”<sup>5</sup>

Ibn e Manzoor writes in Lisan ul Arab:

“Juhd and Jahd signify strength and force. He continues by saying that it is thought that juhd conveys a sense of strength and power, whereas jahd denotes adversity and difficulties.”<sup>6</sup>

Ahmad al- Qayyumi writes:

اجتهد في الأمر بذل وسعه وطاقته في طلبه ليبلغ مجهوده ويصل إلى نهايته<sup>7</sup>

“Ijtihad means: He spent his strength and capacity to attain his goal and his ultimate objective.”

The goal of law is to ensure that all of life's needs are satisfied in a way that makes progress towards the right unhindered and without interruption. In general, every decree of Islamic law has two levels of meaning:

1. The true essence or fundamental element
2. Formal structure or existential feature

While human life's vital feature ensures its dynamic and evolution, its structure or shape serves to provide it with balance and discipline. When the forces of life force changes in human life, it becomes necessary to review the structure of law in order to maintain it in a way that is appropriate for its intended purpose. The objective is to forbid conflicts between the elements of discipline and life's progress since these conflicts cause human life to move in a static manner, which further impedes the accomplishment of the necessary goal. This state of affairs is against the general goal of Islam. The collective goals of Islam cannot be achieved unless all of life's needs are met. Keeping in view these goal, Dr. Tahir ul Qadri has defined “Ijtihad” as:

“Ijtihad is the process of structurally examining the law in accordance with Islamic teachings on matters not discussed in the Quran or Sunnah and finding new sources of legal structure to sustain life as a progressive and dynamic process.”<sup>8</sup>

This is how the goals of Islam are not only achievable but also realized: via the institution of

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ijtihad. According to Britannica, in plain terms, it can be said that:

“In Islamic law, ijtihad refers to the independent or unique interpretation of issues that are not specifically addressed in the Quran or Hadith (traditions relating to the life and words of the Prophet Muhammad).”<sup>9</sup>

### **Ijtihad (Critical Thinking) and its Significance in Holy Quran**

A person with a reasonable level of comprehension would see that the Holy Quran not only provides many examples of critical thinking and knowledge-building exercises for training and education, but also that these readers could grasp situations in a clear and concise manner in order to develop a strong critical argument against the gullible and unquestioning acceptance of authority. Allah Almighty says in Holy Quran:

وَالَّذِينَ جَاهَدُوا فِينَا لَنَهْدِيَنَّهُمْ سُبُلَنَا وَإِنَّ اللَّهَ لَمَعَ الْمُحْسِنِينَ<sup>10</sup>

“And those who strive for Us—We will undoubtedly direct them to Our ways.<sup>1</sup> And verily, Allah is with the doers of good.”

This verse in the Quran provides the solid basis for the Principle of Ijtihad, which will enable society to satisfy its expanding legal needs going forward. The Holy Quran is the Sunnah's (SAW) Book of Policy; it is the practical interpretation of Ahkam, and it is advised to apply Ijtihad to understand and determine Ahkam.

In Surah Nisa, Allah Almighty says:

وَإِذَا جَاءَهُمْ أَمْرٌ مِّنَ الْأَمْنِ أَوْ الْخَوْفِ أَذَاعُوا بِهِ وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَلِيطُونَ<sup>11</sup> مِنْهُمْ ۖ

“And when they hear news of peace or fear, they spread it. If they had referred it to the Messenger or those in authority among them, the right-thinking ones among them would have confirmed it.”

In our everyday life, events take place as such; Someone said something, and it spread and multiplied tenfold, causing family fights and destruction. All of us will experience hundreds of such things. For all of them, the Holy Quran has given the principle that when something like this happens, it should be conveyed to the people of knowledge and understanding, they will find out the reality of it through reflection and research, and thus won't be any

unnecessary dispute over opinions.

The commentators have said that in this verse there is an argument that critical thinking is permissible and it is also known that one knowledge is that which is clearly obtained from the Holy Quran and Hadith. It is also known that it is not permissible to interfere in the affairs of religion to anyone but only those who are qualified to consider it.

### **Evidence of Ijtihad Extracted Through Sunnah of Holy Prophet (PBUH)**

The Hadith explicitly acknowledges ijtiḥād as a method of decision-making in situations where the Holy Quran and Hadith do not provide a clear guide. In actuality, the Holy Prophet (PBUH) instructed His (PBUH) companions in a way that made them so skilled and knowledgeable in formulating their own interpretations or performing Ijtihad, as well as in handling newly emerging problems and keeping up with society's pace—indeed, they established the standard in this area. The famous narration of Hazrat Moaz bin Jabal (RA) is provided as the basis of Islamic Law. It is narrated that:

أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَمَّا أَرَادَ أَنْ يَبْعَثَ مُعَاذًا إِلَى الْيَمَنِ قَالَ " كَيْفَ تَقْضِي إِذَا عَرَضَ لَكَ قَضَاءٌ " . قَالَ أَقْضِي بِكِتَابِ اللَّهِ . قَالَ " فَإِنْ لَمْ تَجِدْ فِي كِتَابِ اللَّهِ " . قَالَ فَبِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . قَالَ " فَإِنْ لَمْ تَجِدْ فِي سُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَلَا فِي كِتَابِ اللَّهِ " . قَالَ أَجْتَهِدُ رَأْيِي وَلَا أَلُو . فَضَرَبَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ صَدْرَهُ وَقَالَ " الْخُفْدُ لِلَّهِ الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللَّهِ لِمَا يُرْضِي رَسُولَ اللَّهِ <sup>12</sup>

“When the Messenger of Allah (ﷺ) intended to send Mu’adh ibn Jabal to Yemen, he (ﷺ) asked him, How will you judge when the time comes to decide a case? He replied, I will judge according to the Book of Allah. He asked, What if you do not find any guidance in the Book of Allah? He replied, I will act according to the Sunnah of the Messenger of Allah (ﷺ). He asked, What if you do not find any guidance in the Sunnah of the Messenger of Allah (ﷺ) and the Book of Allah? He replied, I will try my best to form an opinion and leave no stone unturned. Then the Messenger of Allah (ﷺ) patted his chest and said, Praise be to Allah Who has helped the Messenger of Allah (ﷺ) to find something that pleases the Messenger of Allah (ﷺ).”

Another narration of Holy Prophet (PBUH) regarding Ijtihad goes like:

إِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ ثُمَّ أَصَابَ فَلَهُ أَجْرَانِ . وَإِذَا حَكَمَ فَاجْتَهَدَ ثُمَّ أَخْطَأَ فَلَهُ أَجْرٌ <sup>13</sup>

“When a judge gives a decision after trying his best to make a correct decision, there are two rewards for him. And if he gave a decision after trying

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his best (to reach the correct decision) but made a mistake, there is one reward for him.”

These narrations demonstrate that the concept of Ijtihad, which involves using one's own judgement in the absence of clear instructions from the Holy Quran or Sunnah, was accepted by the Holy Prophet (PBUH). It also demonstrates that other individuals freely used ijtihad during the lifetime of the Prophet (PBUH) to address novel situations and that the Prophet's (PBUH) Companions were aware of the principle. The Holy Prophet's (PBUH) astute formulation of the Ijtihad principle was the catalyst for the swift and methodical advancement of Islamic law both during and after his lifetime.

### **Description and Significance of Qiyas in Islamic Theology**

When we examine the history of Islamic law, we find that from its inception, it has been subjected to a process of socio-cultural evolution that is always in step with the advancement of human thought. This is particularly true after the Islamic community spreads beyond the Arabian Peninsula, encompassing the Mediterranean region and the region across the river where people come from diverse cultural backgrounds. These kinds of things always happen now, as scientific and technological advancements lead to progress and social transformation. As the society moves, it faces new challenges and problems with advancements. So, exegesis and a specific methodology are occasionally required to determine the law, particularly when it comes to novel issues (furu) that are not covered in the Holy Quran and Hadith. Given this circumstance, it makes sense to investigate the principles of Islamic law, such as al-Ra'y, which Imam Abu Hanifah adopted. Imam Abu Hanifah is a scholar who is renowned for using the most commonly used ratio in ijtihad while still upholding traditions. He is known as the creator of the most popular ratio's Hanafi School.

“The Arabic word "ahlal-ra'y" means "people of opinion." A legal school known as Ahl al-ra'y (rationalists) emerged in opposition to traditionalists. It originated in Kufa, Iraq, and was given that name because its Fuqaha tended to rely more on opinions and analogy to illustrate legal positions, straying from fundamental issues and speculating about events that had not yet occurred.”<sup>14</sup>

Hence, in addition to the two primary sources of Islamic law, one methodology for deciding or discovering a new rule is called Qiyas.



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## Definitions of Qiyas

Literally, Qiyas can be understood as:

“To measure or to ensure the length, the weight, or the quality of something”

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This legal source is not considered a material source, meaning that jurists can rely on its legal content. Nonetheless, it is a legal source that can provide strategies that the jurist can apply to arrive at legal standards.

Technically, as defined by the majority of Scholars, it applies to:

“Based on a shared underlying characteristic known as the "Illah of the hukm," the hukm of an existing case contained in the Qur'an, Hadith, or Ijma is assigned to a new case whose hukm is not present in these sources.”<sup>16</sup>

In Islamic fiqh, an analogy refers to the relationship, through a common cause, between something that is not supported by a text and its verdict rendered by another textual issue. It is a requirement of giving in to the concept of similarity between matters, which mandates similarity in judgements due to the sameness of the cause. Thus, because of the logical relationship based on similarity, analogy is both natural and logical. The similarity must be linked to the same judgement once it is finalized.

## Qiyas in Light of Holy Quran and Sunnah of Holy Prophet (PBUH)

Given the similarity of traits and deeds in all of the Holy Quran's similes and directions, we might conclude that the text applies the law of sameness in judgements. Allah Almighty says:

أَفَلَمْ يَسِيرُوا فِي الْأَرْضِ فَيَنْظُرُوا كَيْفَ كَانَ عَاقِبَةُ الَّذِينَ مِنْ قَبْلِهِمْ ۖ دَمَّرَ اللَّهُ عَلَيْهِمْ ۚ وَلِلْكَافِرِينَ أَمُتْلَاهَا<sup>17</sup>

“Have they not traversed the entire country to discover the fate of their predecessors? They were destroyed by Allah, and the unbelievers will suffer a similar fate.”

In another verse, Allah Almighty also says:

أَمْ نَجْعَلُ الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ كَالْمُفْسِدِينَ فِي الْأَرْضِ أَمْ نَجْعَلُ الْمُتَّقِينَ كَالْفُجَّارِ<sup>18</sup>

“Or should we treat individuals who believe and act morally the same way as those who cause trouble across the nation? Or should we treat the wicked as we treat the righteous?”



In the Holy Qur'an, the principle of logical equality is used in the best possible way. When there is a likeness, the judgement is validated; when there is a difference, it is refuted. The Prophet (PBUH) is said to have adopted this sage advice and directed the Companions towards it on multiple occasions. The narration of Hazrat Muaz bin Jabal mentioned in previous topic of "Ijtihad" is the best example of Qiyas as well since they are both interrelated.

### **Methodology of Qiyas**

The analogy consists of four main components. The first is represented by the new case, which calls for a legal decision, the application of one of the five legal principles described above. The second is the original case that is stated in the Quran or Sunnah or approved by consensus. The third is related to the new case as well as the attribute of the original case. The last component resides in the legal standard that acts as a legal ruling in the original case and is applied to the new case due to the similarity in fact between the original and new cases.<sup>19</sup>

### **Common Examples derived from Islam through Qiyas**

Following are some of the very common examples of Qiyas in Islam

- The Holy Quran deems wine to be intoxicating, making its consumption haram (illegal). Nevertheless, no mention has been made of the narcotics cocaine and opium, which were unknown at the time. But according to the Holy Prophet PBUH, "every intoxicant is haram (illegal) because every intoxicant is khamr." These medications are deemed haram due to their strong intoxication properties.
- The Holy Quran demands that we provide Zakat. According to the Holy Prophet PBUH, for every forty goats, one goat needs to be donated as Zakat. It is acceptable to sell the goat and donate the proceeds to the poor guy after Qiyas since giving a goat to a poor man would be useless for him.
- Following the call for Friday prayers, sales transactions are prohibited by the Quran. By analogy, all forms of transactions are prohibited because they divert Muslims from their prayers, much like sales do.

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- Wuzu is invalid even if the tiniest area of our bodies that needs washing stays dry. As per Hazrat Ayesha's tradition, wuzu cannot be said to have occurred if the flour dries on the nails because only that part of the nails stays dry. If this were applied to nail polish, wuzu would not occur because the nails would still be dry.

### **Ijtihad (Critical Thinking) and Qiyas (Analogical Reasoning) as Tool Against Societal Problems of a Muslim Society**

The initial, principal, fundamental, and core source of Shariah law is the Holy Quran. It is Allah Almighty's final book of revelation to all of humanity. Because of this, its precepts will always serve as the foundation of our Shariah for all people, places, and eras. Next in order to specify the required priorities, permissions, or prohibitions is the Prophet's (PBUH) Sunnah. In some cases, this is done by clarifying and extending the precise meanings found in the Holy Quran, and in other cases, it is done by adding to its commandments, the latter of which has its own legal standing and authority. In this context, the Prophet's (PBUH) Sunnah becomes the exclusive source of Islamic law for matters not mentioned in the Holy Quran.

Thus, in a basic sense, the eternal sources of Muslim law are the Holy Quran and the Sunnah of Holy Prophet (PBUH). These are the "NASS", often known as the textual postulates or fundamental tenets of Islamic law. A Muslim's only option is to explain and apply the Nass to every situation—many and varied as they are in our worldly existence—by using the principles that underpin the Holy Quran and the Sunnah of Holy Prophet (PBUH) and the systematized method of Ijtihad. This section of the Shariah contains all the laws and rules that must be inferred through the process of Ijtihad, or logical reasoning grounded in the Holy Quran and the Sunnah, with a commitment to Allah's Will. Specifically speaking in terms of contemporary society, Ijtihad plays an undeniable role as elaborated by Rahman:

Today's Muslim culture has several political, economic, and social issues that can only be resolved via the application of Ijtihad, particularly when there is no clear and direct Nass found in the Quran or the Prophet's (SAS) Sunnah. One may cite a few of these issues by citing current business dealings and activities, such as insurance, private property rights, nationalization, contemporary fiscal laws and taxation systems, and the process of electing

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representatives to state assemblies and the head of state.<sup>20</sup>

He further says:

The system of adult suffrage in the context of Western democratic practices prevalent in many Muslim countries, the issue of private and public international law, especially on the points of nationality and domicile of various Muslim countries in the context of the old concept of Dar al-Islam, and much more. It goes without saying that ijtiḥad is concerned with matters relating to human actions.<sup>21</sup>

If the abovementioned contemporary challenges are distinguished and classified, following sentences would emerge:

- Commercial Transactions and Financial problems; Insurance and Right to Private Ownership.
- The concept of Nationalization.
- Method of Election to the Assemblies and Selection of Head of State.
- Private and Public International Law.
- Concept of Nationality and Dar ul Islam.

These above-mentioned challenges contain vast jurist debate, which is not the subject of this discussion. But it is important to understand how these challenges shape our society and how ijtiḥad can play a crucial role in facing these challenges. But the problem here is that Muslim societies are not taking this account seriously. If implied in its full capacity, ijtiḥad has the potential to change the infrastructure of Islamic society and evolve in for good. For instance, one of the challenges from the above points can be analyzed as a case study below: the concept of Dar ul Islam and Dar ul Harb.

### **Concept of Dar ul Islam and Dar ul Harb; Role of Ijtiḥad**

To keep Muslims from falling for the deceptive tactics of hardline jihadist groups, it is critical to explain the concepts of Dar ul Islam and Dar ul Harb and to respond to them. Indeed, this contradiction has led to misconceptions among Muslims and non-Muslims alike. Some people assert that the world was split into the land of peace and the land of war by the Holy Quran. Actually, the claim that the Holy Quran splits the world into two groups—Dar Al-Islam and Dar Al-Harb—is untrue. The Quran makes no mention of this kind of

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categorization. Such a claim deceitfully persuades readers of its significance in Islam.

Additionally, the categorization was not known during the Holy Prophet's (ﷺ) lifetime or that of His (رضي الله عنه) companions, the first generation of Muslims. It was created by Muslim intellectuals during the early Abbasid dynasty (750–1258 CE), several centuries later. The classification was an attempt by ancient Muslim academics to make sense of their surroundings and apply certain Islamic precepts, the implementation of which varied based on the nation in which Muslims resided or were stationed.

The ongoing conflict between Muslims and non-Muslims (the Romans and the Persians) was the background that shaped those Muslim scholars. Muslim thinkers believed that nation-state classification was necessary to guarantee that jihadi laws were applied appropriately and in the appropriate context. Since it is a basic tenet of Islamic law that Shariah be applied with adequate consideration of the context, it also assisted them in issuing fatwas in accordance with the suitable social and political setting. The Islamic legal codification period had an impact on the concept. Muslims dominated the international political scene during that time. The psychological component of humans in this situation—a sense of superiority over others—was reflected in the classification.

Muhammad Hanif Hassan writes in this regard:

“The worldwide political culture of the medieval era also had an impact on the classification's binary perspective. States of the time had a great propensity to use war to settle even the most minor conflicts. The viewpoint of Muslim legal scholars was likewise impacted by this pervasive approach in politics. Their interpretation of the Prophet's history, which included disputes between Medina as Dar Al-Islam and Mecca as Dar Al-Harb, as well as the numerous agreements he struck with Arab tribes as Dar As-Sulh (Land of Truce), further shaped the legal perspective.”<sup>22</sup>

It is also important to emphasize that Muslim scholars disagree on what is meant by Dar al-Islam and Dar al-Harb. Unlike the other three major schools of jurisprudence (Maliki, Hanbali, and Shafi'i), the Hanafi school views the binary classification as one of protection and preservation rather than an issue of Islam and kufr (non-acceptance of Islam). This definitional disagreement is important because it shows that there are different definitions

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that are appropriate for current circumstances and that the question is one of *ijtihad*, or the interpretation of scholars. There is not just one definition of *jihadis*.

Not every Muslim scholar uses this distinction to classify states. According to the Shafi'i school, *Dar al-Harb* does not exist in a non-Muslim-majority country that is not at war with Muslims. This suggests that since the area is not Muslim territory, armed *jihad* cannot be waged there. Furthermore, he established a third category called *Dar al-Ahad* (Land of Treaty) or *Dar al-Aman* (Land of Peace), which designates non-Muslim countries that have ratified treaties or peace agreements with one or more Islamic countries, whether those arrangements are temporary or permanent.<sup>23</sup>

### **Contemporary Context of Dar ul Harb**

Drawing from the above, one could argue that the majority of modern secular Muslim nations are not *Dar al-Islam*, just as the majority of non-Muslim nations that are not engaged in hostilities with the Muslim world are not *Dar al-Harb*. These nuances certainly refute the notion that Muslims and non-Muslims are in constant conflict. Importantly, new ideas and perspectives are needed because the modern international system has changed so rapidly since ancient Muslim thinkers wrote about hierarchies.

In this regard, today's Islamic scholars suggest that Muslim political practice shift from a doctrine of perpetual war against non-Muslims to a doctrine of peaceful coexistence through extended ceasefires, formal diplomatic relations, and participation of nation-states in the international community. As a result, under the terms of the UN Charter, any Muslim-governed state that is a member of the UN is automatically in a peaceful agreement with every other member of the UN. A state necessarily enters into a treaty when it agrees to become a member of the UN. Regardless of whether a treaty is concluded with Muslims or non-Muslims, Islam requires Muslims to uphold all treaties.

This was merely one example of utilization of *Ijtihad* for the prosperity of Muslim Ummah which has saved major international conflicts among power holding nations of the world. Nevertheless, there are so many other problematic areas of society where *ijtihad* needs to be implied instead to *taqlid*.

### **Current Situation Concerning Ijtihad**

Dr. Taha Jabir writes about the current situation of Contemporary Islamic society concerning

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Ijtihad:

“The reality is that division is pervasive and Islamic thought and the dominant intellectual climate today are obviously confused, unproductive, and stagnant. The dispute about the nature, function, and authority of the Qur'anic verses revealed in Makkah and Madinah in Islamic jurisprudence, as well as whether the current state of Muslim society is similar to the Makkan or Madinan periods, is an example of the negative disagreement that exists within modern Muslim philosophy. In certain instances, this argument has transcended the boundaries of reason and reality, resulting in a doctrinaire mindset that avoids the true problem of the temporal aspect by insisting that one must either "accept Islam as a whole, or leave it as a whole.”<sup>24</sup>

When fiqh is articulated without question, the mind becomes dull, bland, and uncreative. In practice, modern jurists de-emphasize ijtiḥād, revisions, and critical thought in their articulations of fiqh and its presentation, even though they no longer subscribe to the heresy of innovation, renewal, fresh thought, questioning, and creative thinking and instead support taqlid. An examination of the situation of academic endeavors in Islamic law schools, including research, textbook development, and teaching, reveals that legal theory is still in a state of stagnation.

A further facet involves mandating that ijtiḥād be carried out by conventional techniques, like advocating for the resuscitation of ijtiḥād mutlaq (unconditional inquiry) and conducting intertextual legal inferences without consulting the relevant historical circumstances. Even some excellent studies in the field have been hampered by this later tendency. After identifying this issue, Muhammad Jamil Ghazi, the editor of *Al-Turuq al-Hukmiyah fi al-Siyasah al-Shar'iyah* by Ibn Qayyim al-Jawziyyah, complained:

“Islamic jurisprudence, or fiqh, is currently experiencing both internal and external crises. The former manifests as attacks from its adversaries and those who harbor prejudices against it. On the other hand, this field's internal crisis is caused by its own heedless supporters. The internal one is the most debilitating of the two since these individuals (albeit ill-intentioned) limited their role to strictly preserving the Islamic legal legacy without making any attempt to advance, update, and contextualize it (to better meet the needs of the Ummah today). Neither the people nor God approve of this obvious laxity.”<sup>25</sup>

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### **Ijtihad as a Status of Law in Islamic Society**

We can conclude, after much thought and contemplation, that the only ijtihad that should be recognized as law for an Islamic state in the current era is the collective ijtihad. The Muslim Ummah's body politic is divided along sectarian, socioeconomic, and ethnic lines, making it impossible for "individual ijtihad" to fulfil its intended function at the state level. The diversity and complexity of the issues facing society as a whole also serve as evidence that there ought to be "state consensus" in this ijtihad. Its methodology must to be such that every Islamic state individually accepts the "collective way" of ijtihad in accordance with its unique circumstances.

Dr. Tahir ul Qadri recommends the following criteria in this regard:

Every state should establish such a national institution which has two houses: <sup>26</sup>

1. General House or the House of Commons
2. Special House or the House of the Privileged

Prominent religious scholars, prominent jurists, skilled writers, and specialists in the modern sciences, among others, should be included in the Special House. While the General House ought to be composed of the elected representatives of the entire nation, such a selection may be based on population and quota. the state constitution. Both of these Houses ought to exercise Ijtihad in order to draft the state's constitution and laws. Their 'collective ijtihad' should be:

- i. Obligatory to the Sunna and the Holy Qur'an, and ought to adhere to the customs of earlier consensus.
- ii. Consistent with the fundamental framework of the dominant school of thinking in jurisprudence, but should also allow for the inclusion of alternative schools of thought as necessary.
- iii. The two-house parliament should be able to consult the Islamic Ideology Council, which is made up of technocrats and experts, on relevant issues if they so choose.

According to the above-mentioned pattern, the "collective ijtihad" that results from this procedure will be considered law in an Islamic state, and this advisory body will be known as the national assembly, parliament, or senate of the Islamic state. The most common kind of group ijtihad throughout the Orthodox caliphate was this one.



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## Conclusion

Though often reluctantly in the West, Islamic influence on the Renaissance and the major religious, intellectual, and scientific revolutions in Europe has been largely acknowledged. When European intellectuals and scientists began searching for information and solutions to problems in the Middle Ages, they looked to Muslim universities and knowledge centers, particularly Muslim Spain, as well as to the seminal works of Muslim scientists and philosophers.

Now that the tide is turned, The Ummah is in a terrible state. These days, it is unable to assert that it possesses a special culture, set of moral principles, personality, or any other attribute that sets it apart from other civilizations. This is due to the fact that all of its distinctive characteristics have been weakened and warped by widespread, high-level borrowing from the West. It is now a mockery of what it was, and the only way it can survive is by producing religious experts with a scholarly background restricted to the study of Islam's personal law. Despite everything, there are indications that the process of change has begun.

By combining its past and present, the following metamorphosis will increase the Ummah's consciousness and provide a fresh definition of its distinctive characteristics, enabling it to strategically map out its future. The fundamental ideas that Islam established and Muslim scholars and scientists pioneered for the advancement of human intellect have persisted. In a fresh attempt to arrange modern life in line with Islamic principles, Muslim scholars and scientists should turn to them to revive modern Islamic philosophy and sciences.

Ijtihad is a vital instrument in this endeavor. It is historical evidence that the Ummah did not become involved in its current predicament until taqlid increasingly superseded ijtihaad. It is necessary to study ijtihaad as a unique Islamic technique that will yield an all-encompassing and distinctively Islamic understanding of sociological phenomena, their agents, crucial components, and relationships, as well as the rules and principles that regulate them. Muslims can only build a new, specialized methodological framework through ijtihaad that will enable them to solve the crises facing Islamic thought and, in turn, offer solutions for the numerous issues facing the modern world.

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