

Collective Ijtihad: Concept, Evolution & Development

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Abstract

Ijtihad is an important source of finding solutions to the newly emerging issues in the light of Quran and Sunnah by juristic efforts in an extraneous manner. Ijtihad has been much emphasized in Islam. It is a rational, questioning and analytical approach, based on the Quran and on the teachings of the Sunnah, for understanding religious matters. Collective Ijtihad is a new phenomenon that helps to have experts' opinions with consultation and their agreement which makes it an authentic ruling on a Shari'ah problem. The aim of this paper is to evaluate the concept of Ijtihad through the course of history and to clarify the concept of collective Ijtihad with a focus on its importance and significance. The study is descriptive in nature and implies an analytical approach to see how collective Ijtihad materialize into an important aspect of research by the jurists to deduce laws through different stages of development of Islamic Law. The study concludes on marking the importance of collective Ijtihad in present times and its applicability for upcoming problems.

Key Words: Ijtihad, Collective Ijtihad, Islamic Jurisprudence,

Introduction

Life is a continuous process and forces of life keep changing under its effects. The aim of law is that all demands of life are met in such manner that its movement continues in the right direction without any difficulty. With the changed life, earlier laws and rules made in

accordance with objectives and priorities of its own time fail to address the newly emerging complications of life. So if one finds any problem he should first look to Quran if he doesn't find any ruling in Quran then he should concern Sunnah if Sunnah is also silent on that issue he should then do Ijtihad on it with the help of Quran and Sunnah. In Islam, the Holy Qur'an and Sunnah hold permanent, abiding, unconditional and immutable position as a source of law. Therefore whenever the process of law-making is taken on at any level at any time and in any situation, it would surely be subservient to the Holy Qur'an and Sunnah¹.

Ijtihad is an expert reasoning endeavor conducted in accordance with inferential and deductive method to formulate, reconstruct, elaborate, expand and enforce Islamic laws in the light of the Holy Qur'an, Sunnah and Ijma' (consensus). Ijtihad is an intellectual and rational endeavor to find the solutions of day to day matters. Ijtihad has been much emphasized in Islam. It is a rational, questioning and analytical approach, based on the Quran and on the teachings of the Sunnah, for understanding religious matters. Time and again the Quran says that its verses are for thinkers. It stresses the exercise of the sensible mind. Quran says:

“Do not treat Allah's signs as a jest, but solemnly rehearse Allah's favors to you, and the fact that He sent down to you the Book and wisdom, for your instruction.”²

This verse shows that Book and wisdom are prerequisites to keep society on track and a progressive and right path. The Book has laid down the foundations, but one has to be wise in taking steps to build the lives upon it through the course of time.³ A process in which one exerts efforts to full capacity in order to acquire exact or probable knowledge or reach judgment in a given case is known as individual Ijtihad. Collective Ijtihad starts at the time of prophet (S.A.W) but it was properly organized in 20th century.

I. Collective Ijtihad (اجتهاد جماعی)

Collective Ijtihad is a new method formulated by contemporary scholars in response to modern issues and developments. This word collective Ijtihad is derived from two words 'collective' and 'Ijtihad'. The word collective is جمع in Arabic so its الجماعی. The word جماعی/اجتهاد derived

from the word *جُمُوعَة* Allama Ibn Manzoor Afriqi said *جُمُوعَة* means 'group of people' and the word *مَجْلِس* means 'a place where people gathered'. The word *اجتهاد* is derived from the root word *جهد*. Allama Abu al Hasan Ali bin Ismail Ibsayida said that *جهد* means hardship and difficulty. Ibn Manzur al-Misri says: *Jahd* and *juhd* mean power and strength while *جهرا* gives the sense of power and strength. He states that Ijtihad and *tajahud* mean exertion of power and strength.⁴

Ijtihad is defined as to leave no stone unturned in the efforts made for finding out the rule of Shari'ah by the *مجتهدون*.⁵ It may also be understood as putting in the complete efforts by the jurist to find out the Shari'ah rule.⁶ Ijtihad is also taken as exerting strenuous efforts for comprehending and deducing a rule of Shari'ah. Al-Shawkani,⁷ and al-Subki have also defined Ijtihad in similar manner.⁸ The agreement of jurists, on a specific ruling of Shari'ah after they have exerted meticulously for deducing rule from existing sources, is called collective Ijtihad. When the number of mujtahidun of Umaah of the Holy Prophet (S.A.W) agreed on one solution of existing issue, it is collective Ijtihad.

Dr Salih bin Abdullah bin Hameed combined all the definitions of different scholars and invent a new definition of collective Ijtihad. He said: "When the group of the jurist put all their efforts on a certain issue it is known as collective Ijtihad"⁹

II. Collective Ijtihad in Prophetic Era and its Methodology

Both Quran and Sunnah are in the favor of collective Ijtihad. Allah almighty says to prophet (S.A.W) to consult in different matters with his companions. In Quran Allah says:

".....and consult them in the matter"¹⁰

Hadrat Abu Huraira R.A and Hadrat Ibn Abi Hatim explained the tafseer of this verse and says "We heard from Yunus bin Abdullah Ali that he heard from Ibn Wahab that he heard from Sufyan bin Aiyana that he narrated it from Mumaar then Ibn Shahab that Hadrat Abu Hurairah said that I never saw a person to consult so much with his companions than prophet (S.A.W)."

Some scholars said that in the time of prophet S.A.W there was not need of consultation because Quran has revealing at that time and Allah almighty already revealed commandments of different issues. But Allah Almighty said to prophet S.A.W to consult because this will become his Sunnah for the rest of the Ummah and whenever issue raise in future people consult with each other and think that it is the sunnah of our prophet (S.A.W). Allah knows each and every thing and he knows that what will happen in future.

Allah Almighty tells in Quran about consultation process between prophet S.A.W and his companions:

“And those who obeyed the command of their Lord and established prayer and their affairs are decided by mutual consultation and they spend something out of our provision in our way”¹¹

After this verse was revealed prophet (S.A.W) started consulting with companions of the Holy Prophet (S.A.W) more than before. This consultation has different kinds. Sometimes he asked questions from one group of companions about any incident as in the battle of Uhud he consulted with ansaar and muhajireen that whether they should fight in Medina or outside the Medina and about the battle-field; sometimes he only consult with some specific companions which were mostly first four caliphs. He also advised his ummah to consult. Prophet (S.A.W) consulted with companions of the Holy Prophet (S.A.W) in various matters, for example: ¹²

Examples of Collective Ijtihad at the time of the Holy Prophet (S.A.W)

Consultation about azaan (call to prayer). Before Hijrah there was no proclamation of azaan but when Muslims migrated to Madinah they pondered regarding calling Muslims for prayer. They brought the issue to the Holy Prophet S.A.W and he consulted with other companions. Some opined to use any instrument which create noise and people came to mosque on its sound but prophet didn't liked this opinion and said that it will resemble with Jews. Then Hadrat Abdullah bin Zaid said that he saw in a dream the proclamation of azaan, Hadrat Umar R.A also saw the same dream; Prophet S.A.W liked this opinion and ordered Hadrat Bilal R.A to call azaan.

- **Consultation for the battle of Badr**

- **Consultation about the prisoners of Badr** whether kill them or take any ransom from them. Hadrat Umar R.A advised to kill them but Prophet S.A.W didn't like this opinion then Hadrat Abu Bakr R.A stood and said to Allah's messenger what do you think if we forgive them and take ransom from them, Prophet S.A.W smiled and liked his opinion.
- **Consultation for the battle of Uhud**¹³
- **Consultation for the battle of Trench** when Prophet Muhammad (S.A.W) heard that Makkans would attack Madinah, he summoned his companions and had a meeting about the defense of Madinah. During the meeting Hadrat Salman Farsi, an Iranian, described a strategy of defense carried out in defending a city in Iran. In accordance with that strategy, deep and broad ditches would be dug around Madinah and the city would be defended like that. Hadrat Muhammad (S.A.W) liked it; they defended Madinah in accordance with that strategy and became successful¹⁴
- **Consultation for the wages of Quran scribes**
- **In the Trench war about Asr prayers:** Different opinions of companions of the Holy Prophet (S.A.W)
- **Consultation about the incident of Ufak**
- **Consultation about the governorship of Hadrat Muaz Bin Jabal R.A**
- **Consultation about treaty of Hdaybiya**¹⁵

III. Evolution and Development of Collective Ijtihad In the Era of Companions of Prophet (S.A.W)

After the death of prophet (S.A.W) companions of the Holy Prophet (S.A.W) also followed the path and consult with each other on different issues. First incident of collective Ijtihad after the death of prophet (S.A.W) is the selection of first caliph which was chosen with full consultation of ansar and muhajeren. Examples of such incidents can be found in Abu Yusuf's *Kitab al-Kharaj*, al- Qasimibn 'Abd al-Salam Abu Ubayd's book *Kitab al-Amwal* etc.¹⁶

a. During Caliphate of Hadrat Abu Bakr (R.A)

Hadrat Abu Bakr(R.A) also had same method when he faced any difficulty or problem he first looked it in the book of Allah if he didn't find any rule in the book of Allah he then refer to the traditions of Prophet S.A.W if he didn't find anything it he then consulted with other companions and called a group of people and said that any one of you heard from prophet (S.A.W)any ruling about this issue. If any authentic person told him about any tradition of the Holy Prophet (S.A.W) he thanked to Allah Almighty that such people are present who safe the traditions of Prophet (S.A.W)but if he didn't find any traditions of prophet S.A.W from other people he then gathered the most rational and intelligent people and then consult with them about that issue.Others events on which Hadrat Abu Bakr (R.A) consulted with companions are¹⁷:

- **Consultation for the legion of HadratUthman bin Zaid:** Prophet (S.A.W) send HadratUsama bin Zaid for the correction of some apostate tribes, but then Prophet (S.A.W) died and companions consulted on this issue that whether we call HadratUthama bin Zaid back or not but Hadrat Abu Bakr (R.A) said that this is the decision of Prophet (S.A.W) so we can't change it.
- **Consultation for the killing of apostates:** after the death of Prophet (S.A.W) there were some people who rejected to fulfilled some of the basic rulings of Islam or some of the fardahkam like Zakat so Hadrat Abu Bakr (R.A) decided to killed them and Hadrat Umar (R.A) also agreed on his decision
- **Consultation for the compilation of Quran:** In the time Prophet (S.A.W) Quran was in the hearts of believers but it was not in book form, many companions wrote it on different things like branches of dates, stones and on lather. In the era of Hadrat Abu Bakr (R.A) there was a person namedmusailmakazaab who declared himself a nabi, (a person in the distant part of Arabia made the claim of being the prophet.Abu Bakr (R.A) sent army where a battle was fought to bring the false claimer to justice. During the battle, in Muslim casualties there was a high number of Huffaz (person who memorize Quran). On this increasing number of causalities of Huffaz, Hadrat Umar (R.A) became concerned and he advised

Abu Bakr (R.A) to pay attention on the matter and work towards compilation of Quran in a book form. Hadrat AbuBakr assigned this task of compilation to HadratZaid Bin Thabit (R.A).

- ***Consultation on the matters of battles***: it was the methodology of Hadrat Abu Bakr (R.A) to consult with expert people on the matters of battles and received advices from them. There were the words of one narration are¹⁸:

a. During Caliphate of Hadrat Umar (R.A)

In general, the companions of the Prophet (PBUH) kept the spirit of shura alive by seeking counsel and giving advice. This practice was so prevalent that people approach their leaders without fear. Hadrat Umar (R.A) the second caliph also had same methodology of consultation as Hadrat Abu Bakr (R.A) and he even appointed some advisors for him.

When Umar (R.A), the second caliph, was on his death-bed, he instructed that his successor be selected by mutual consultation among six companions. HadratUmar (R.A) like Hadrat Abu Bakr (R.A) also ordered his commanders to consult with other expert commanders on the matter of battle.

In the time of prophet (S.A.W) when there was some person who drunk prophet S.A.W ordered to beat him so people started beating him what they had on their hands at that time no matters it is shoes or shawl or any stick this is because he feel embracement, some companions counted this that it is 40 in numbers. In the era of Hadrat Abu Bakr (R.A) it remained same. But Hadrat Umar (R.A) consulted with other companions on the punishment of wine drinking and Hadrat Ali (R.A) said that when anyone is in the state of drinking wine he start using fowl languages and he even blame on someone, so for him it should be a punishment of Qazaf.¹⁹

b. During Caliphate of HadratUthman (R.A)

With the spread of Islam, people from non-Arabic cultures also became Muslims and since Arabic was not their mother language there was difference in pronunciation of Arabic in general and Quran in particular. In the era of HadratUthman (R.A) it was reported from Huzaifa Bin Yaman that the Quran is being recited in different languages which could create difference of meaning

HadratUthman (RA) took notice of it. To abolish this issue, HadratUthman (RA) requested HadratHafsa (RA) to provide the past compilation of Quran so that more copies could be made out of it. Moreover, He also formed a committee consisting of HadratZaid bin Thabit (RA) and a few other Companions to make sure that they agree on the pronunciation of the original copy and produce more versions of that copy in the very same way. Thus, in the period of HadratUthman (RA) copies of Quran were fashioned with a single version and then were spread to all the Muslim states across the Asia.²⁰

IV. Collective Ijtihad in the Era of Tabieen

In the period of tabieen collective Ijtihad also considered for solving the problems, there are the words of one narration. When people find any difficult in any issue first see that what Hadrat Umar did and said on that issue because Hadrat Umar (R.A) was the person who never do anything without consultation.²¹

Collective Ijtihad of فقہائے سبع

In the time of tabieen there were seven fuqaha in Madinah which were known as فقہائے سبع these had educational meeting in which they consulted with each other on different issues. There were seven fuqaha in Madinah who gave their opinions, they were Saad bin Musaiyab, Sulaiman bin Yasaar, Salim bin Abdullah, Qasim bin Muhammad, Urwa bin Zubair, Ubaidullah bin Abdullah bin Utba and kharja bin Zaid. When any problem came to them they consulted with each other and qazi of that time do not gave his decision of any issue until he first put it in front of فقہائے سبع.²²

These فقہائے سبع gained a lot of knowledge from Companions of the Holy Prophet (S.A.W) and compiled their opinions in book form. Other than these فقہائے سبع there were some more names among tabieen which were very prominent at that time, those were:

- Ata bin Abi Raba'
- Muhammad Bin Muslim Bin Shahab Zuhri
- Imam Nafey²³

All these tabieen lived in different areas and keep on contributing their knowledge in lectures and guiding people about new issues.

Consulted decisions of Judges Hadrat Umar bin Abdul Aziz in his period ordered judges that if they do not find any rulings in Quran Sunnah related to any issue they should than consult with some expert scholars.²⁴

Consultation of scholars on letters: As Islam spread in different states and scholars of Islam were in different states, in this period scholars shared their opinions with other scholars on letters they wrote letters to each other and asked their opinions on certain issues.²⁵

Arguments of different Jurists: Sometimes jurists argue with each other on some issues and in the form of dialogues they consulted with each other, these dialogues later came in the category of collective Ijtihad.²⁶

V. Collective Ijtihad in the Era Tabatabaieen and Four Schools of Thought

There were many scholars and Tabatabaieen who gained knowledge from tabaieen. From those scholars there were some who reached on the level of absolute Ijtihad and established their own schools of thoughts ,common people liked their fatawas and accepted them and gave them the title of *آئمه اربعه*.²⁷

There were almost thirteen scholars at that time who had absolute Ijtihad, they established their schools of thought and became models for the people, they were Sufyan bin Aina in Makkah, Malik bin Anas in Madinah, HasanBasri in Basra, Abu Hanifa and SufyanSuri in Kufa, Awzai in Sham, Shafi and Lais bin Saad in Egypt, Ishaq bin Raho in Nishapur, Abu soor'Ahmed'DawoodZahiri and IbnJareer in Baghdad. In these schools of thought there were some schools that remained same and implemented from that time till today but some were closed down because of different reasons.

Similarly IbnJareerTabri had separate Fiqh and SufyanSori and Dawood bin Sulaiman had separate Fiqh.All these Fiqh started getting finished for different reason. Some other practiced 100 or 200 years but later on assimilated in any of similar Fiqh like:

- IbnJareerTabri and Imam Shafihad a very slight different which faded off in the course of time and both assimilated in each other

- Imam Awzai opinions were similar to Imam Abu Hanifa's opinions so both of them get merged together

The remaining Fiqh and schools which exist are eight in numbers:

- HanafiFiqh
- Maliki Fiqh
- ShafiFiqh
- HanbaliFiqh
- JafriFiqh
- IbadhiFiqh
- ZahidiFiqh
- ZahiriFiqh²⁸

Establishment of Fiqh Sects and Schools

In this period there were some schools in Kufa and Madinah in which there were consultation on some issues. These majalis were not like today's academies and these majalis have not any specific members but the experts and educated people of that time gathered and consulted on issues and gave their own opinions, and in this way a fatwa concluded. Two most importantmajalis of that time were:

School of Medina: In Madinah Imam Malik established "Educated Committee", he was well knows amongst people and considered his opinion more authentic. This committee was only opened for people of Madinah, not anyonefrom outside the Madinah.

School of Kufa: As in Madinah there was one school in Kufa established by ImamAbu Hanifa and his students. Imam Abu Hanifa used to give training in a very different manner. He never dictated his opinions; he only allowed admission to those students to his school who already have got a sound knowledge of different disciplines of religions. During different discussion between Abu Hanifa and his students, this discussion reached to the level of collective Ijtihad.²⁹ Collective Ijtihadwhich started at the time of prophet (S.A.W) is doing much progress and it is the easiest way to solve the problems of society.

Theoretical framework of collective Ijtihad

The theoretical framework of collective Ijtihadis as under:

- Collective Ijtihadis ranked lower than Ijma but higher than individual Ijtihad.
- Collective Ijtihadis preferable than individual Ijtihad.
- Role of collective Ijtihad is essential to Islam's continuity and survival in the modern world.
- Collective Ijtihad may not possess the characteristics of Ijma.
- Collective Ijtihad committees should consist of jurists who possess the rank of mujtahidun as well as researchers of Islamic law. Nevertheless, greater number of mujtahidun may lead to a beneficial and reliable conclusion.
- Collective Ijtihad committees must be constituted with subject experts for a deep insight understanding and a thorough discussion.³⁰

Mujtahid of collective Ijtihad must be expert of the knowledge of the Qur'an and of Arabic literature. A mujtahid must know the Qur'an with all the Traditions and explanations. He must have an excellent knowledge of the traditions of Holy Prophet (S.A.W). He must know their source, history, object, and their connection with the laws of the Qur'an along with a deep knowledge of all the sciences of the Law and a complete knowledge of the four schools of jurisprudence.³¹

Conclusion

Collective Ijtihad is discipline which is old yet new in its essence. The contemporary, difficult and complex problems are resolved by a consultative opinion of jurists who are experts in their fields thus addressing to the complex needs of the society became much easier. This practice of a collective discussion by subject experts not only helps in reducing extremism and disintegration among Muslims but also induces unity and bonding against factions. This procedure is followed by many Muslim countries as the complex issues need to be solved with modern perspectives.

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