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Boundaries of Islamic Legal Reasoning: A Critical Analysis of the Limits of Ijtihad

Dr. Muhammad Zahid Ullah
Assistant Professor, Islamiyat Karnal Sher Khan, Cadet College Ismaila
Swabi.Zahidullah786@yahoo.com

Abstract
Islamic legal doctrine that is based on the Quran and Sunnah employs ijtihad-based reasoning (independent one) to handle complicated situations and obtain impromptu decisions. This article aims reasonably at the boundaries or the confines of the limits acceptable of ijtihad. The course encompasses the principles on which ijtihad is founded, preciseness of references and the objectives of Islamic law that underline all legislation (maqāsid al-sharīʻah). The article will look at the different islamic madhhabs (schools of thought) and how they have varied in their application of the principles in the realm of legal matters. Though the paper discusses the weakness of ijtihad in possibilities like not obeying the spirit of Islamic law or not tackling modern problems, it also considers extra ijtihad benefits like being more capable of solving modern problems. Such understanding will be achieved through the evaluation of the boundaries and limits of ijtihad and the aim of the paper will be to contribute to a more detailed understanding of its role in the emergence of Islamic legal thoughts and to its applicability under the dynamics of the developing needs of the Muslim communities.

Keywords: Legal Reasoning, Ijtihad, Limits, Quran, Sunnah, Spirit of Islamic Law

Introduction

Islamic legal thinking (based on Quran and Sunnah) resorts to the principle of Ijtihad (juristic reasoning by a judge or a group of scholars in order to derive legal rulings from Islamic sources after making efforts to understand relevant Quranic verses or Prophet's practice) (Kamali, 2008). Its practice is the systematic use of legal methods, including analogy (qiyas), preference situations (istihsan), consideration of public interests (maslahah mursalah), and analysis of customs and conventions (urf) (Hashim, 2007). I interpret old religious teachings in a way that meets the needs of the times and the taste of the society through the methodology of Ijtihad- an interpretation of Islamic law (Kadri, 2012). This is the dynamic and ongoing the process of legal interpretation which is central for the Islamic law's development, and its application on various situations.

Proving the historical antecedent to the Ijtihad, one date back to early years of Islam where the scholars known as the Mujtahids had exercised their own reasoning to deduce the legal decisions (Kamali, 2008). While the early development of the Islamic legal system, Ijtihad was thriving, with some of the most eminent jurists, like Abu Hanifa, Malik ibn Anas, Al-Shafi'i, and Ahmad ibn Hanbal, played a crucial role, laying down for Islamic law, the general framework, and the basic principles (Al-Tabari, 1995). But, after temporal development of legal schools(madhhabs) and bringing order to Islamic law, area of ijtihad was narrowed down, which as the result caused a decline in its performance (Brown, 2009). So, the ijtihad is still a dynamic element of Islamic law

but to what degree one school or another might accept and apply it depends on the religo-cultural context.
The provision of the limits inside the legal reasoning of jurisprudence in Islamic jurisprudence helps to recognize the importance of discussing the boundaries of Ijtihad. Although Ijtihad makes possible the application of different interpretations of the law to match specific circumstances by allowing flexibility and adaptability, this process is not above any constraints (Kamali, 2008). This kind of limits could be, for instance, the implementation of the accepted legal technique, the source of legal authority and the adherence of the legal rule within schools of thought such us (maslaha), among others (An-Na'im, 2008). Yet, commonly, the right to Ijtihad is entrusted by the community to mujtahids; reasonable individuals; those who are well knowledgeable, professionally correct and have high moral standard, as it was explained by Hashim (2007). It is imperative to comprehend the limitation of the Ijtihad in order to preserve the Islamic legal reasoning, and prevent any interpretations that would be against the traditions. Furthermore, it is needed to avoid the possibility of arbitrariness interpretation as long as it will be accepted and continued by the legal tradition.

Sources and Methods of Islamic Law

The two main sources of the Sharia are the Quran and the Sunnah, which constitute the core of legal reasoning in Islamic jurisprudence (Kamali, 2008). The Quran, considered the verbatim word of God revealed to the Prophet Muhammad, provides general principles and specific injunctions on various aspects of life, including legal matters (Quran 16:89). The essence of Sunnah consists of the ideology, actions and approvals of Prophet Muhammad, which elucidates and complements the messages and rules uttered in the Quran. Therefore, this holistic vision of Islam is practically exhibited by an individual set of examples (Siddiqi, 2001). Together the Quran and the Sunnah are the two fundamental sources of Islamic law, rule-making and decision-making in Islamic law are done based on the norms and regulations which students learn from this source (Kamali, 2008).
In addition to the primary sources, Islamic legal reasoning incorporates secondary sources, namely Ijma (consensus) and Qiyas (analogy), which have evolved through the process of Ijtihad (independent juristic reasoning) (Kamali, 2008). Ijma refers to the consensus of qualified jurists on a particular legal issue, indicating agreement within the scholarly community and serving as a source of legal authority (An-Na'im, 2008). Qiyas involves the application of legal reasoning by analogy, whereby the rulings derived from the Quran and Sunnah are extended to new cases by identifying underlying principles and similarities (Hashim, 2007). These secondary sources, developed through the exercise of Ijtihad, complement the Quran and Sunnah, providing a mechanism for addressing new legal issues and adapting Islamic law to changing circumstances (Kamali, 2008).
Not only the primary sources of Islamic jurisprudence - Qur'an and Hadith - but ijtihad (independent juristic reasoning) and other secondary sources like Ijma (consensus) and Qiyas (analogy) were incorporated and evolved with time (Kamali, 2008). Ijma stands for the agreement

of acknowledged jurists on law matters, through the collectively understanding of relevant controversial cases and the consensus among jurists, the scholarly community has also become a source of legal authorization (An-Na'im 2008). Qiyas relates to applying judicial pronouncements based on analogy by borrowing conclusions made following the revelations (Quran and Sunnah) in identifying characteristics and similarities in new situations (Hashim, 2007). Such secondary sources referred to as fiqh (principle of jurisprudence) which are the outgrowth of Ijtihad give the Quran and Sunnah a new dimension and serve as the instrument for dealing with fresh legal problems and adequate adaption of Islamic law to meet the new times (Kamali, 2008).
Besides, Islamic reasoning is caused by juristic schools of thought (madhabs) each with not only its own methodologies but also interpretations of Islamic law that differ in detail from the others. The Shafi'i and Hanbali madhhabs were developed in opposition to each other, the former following Quranic text plus interpretation by its founder and body of jurists, and the latter emphasizing Quranic text alone (Kamali, 2008). These madhhabs, while agreement approaches to interpretation of law, diversity of weight to be given to the various resources is found, and application of juristic principles (Kamali, 2008). These schools, however, have the common ground for the system application of the Islamic law for achieving social justice, equity, and peace (Hellarium, 2007)..

Limits of Ijtihad: Historical and Contemporary Perspectives

In this regard, the discourse on Ijtihad including its restrictions has been one of the landmarks of shaping of Islamic Fiqah. Among the critical historical events is the thinking that the "door of tijayyah," which means stopping from having independent jurisprudence reasoning, was closed (Hallaq, 2009). This principle was first highlighted during the post-formative period Islamic law when the Madrassas and Makatib developed as well as the Ulema became accepted authority. A number of the scholars are of the view that the Lock of the Ijtihad was just a pragmatic move to maintain a degree of stability in law and minimize the possibility of new ideas or theories contradicting the existing ones when consensus is not achieved (Brown, 2009). While this debate involved differences of opinions is whether there is need for limitations for ijtihad to prevent abuse, and also if it's even applicable in present times.
Modern Islamic rhetoric offers conflicting stands on the limits of Ijtihad as a dimension of Islamic community shariah facing diametrically contrasting views on the place of Islamic law in society. It is the argument of the opponents of Ijtihad who are in favor of limitation that Islamic tradition should be preserved and that the law needs to be stable (An- Na'im, 2008). According to the opponents, this method gives an individual the opportunity to have a wide range of interpretation of Islamic rules and principles which are not in line with the philosophy of various legal schools of thought. Consequently, it weakens the community's streamlined jurisprudence. (Kamali, 2008) The even opponents of the closures of Ijtihad's gate as well defend the assumption that this stop not only provide legal certainty and predictability, which are the key values of any legal system and the social stability, but also help to develop a new Islamic school of thought (Hall, 2009).

In contrast, the proponents of wider Ijtihad emphasize the fact that there should be no limitations on interpretation and the situation of change in the world today while in the other hand reinterpretation of Islamic law (Rahman, 1982) will remain a crucial issue. They uphold that the closure of the doors of Ijtihad is a historical phenomenon - a relic in the past - instead of being a valid legal principle in the present, arguing for the emergence of independent reasoning for the resolution of recent problems (An-Na'im, 2008). Additionally it is stated that because of this scholars believe that it prevents innovation in intellectual creativity and as a result might keep Islam law from changing and moving to a new stage (Kamali, 2008). On the same note the majority of the supporters of Ijtihad add further that it does not only provide mechanism for the application of Islamic law but also the inclusivity and democratic nature of the legal interpretation so as to allow people with different opinions and views to contribute in the legal ruling's processes (An-Na'im, 2008).

Ultimately, the debate on restrictions of Ijtihad reminds of basic dilemma in Islamic jurisprudence which revolves around the amount of deference needed to repertoire and indeterminacy implied to some extent to the ability of appraisal adaption. In the process of this debate, some people want to limit the scope of Ijtihad so that there is a sense of continuity and stability for legal systems, meanwhile, some others believe in comprehensive as well as the expanding scope of Ijtihad so that Islamic law is able to be useful for the contemporary context. These debates thus only emphasize the evolutionary character of Islamic jurisprudence along with the latest endeavor of bringing tradition and the present day into the same interpretive and implementation frame.

Critical analysis of Limits

Whether the limitations for Ijtihad are justified became a major focal point for re-examination during Islamic jurisprudence which in turn raises questions about their impact on the ability of Islamic law to be dynamic and deal with our contemporary issues. Another cite away by some commentators is the fact that some of these limits may get in the way of the organic change and adaptation of Islamic law in response to likely changes in society and new issues (Hall, 2009). The limitation of independent legal reasoning is of its own kind because, in addition to maintaining the existing styles of interpreting the sacred texts, it impedes the progress of new and innovative approaches towards the proper resolution of the modern legal dilemmas (An-Na'im 2008). Moreover, the powerlessness of mujtahids may lead to a type of legal system that is hands-off on change and focuses on doctrinal dogmas instead of issues of justice and fairness in the society (Kamali, 2008).

Whereas, this restriction in Ijtihad not only affects the ability of a scholar of Islamic law but also the effectiveness of addressing the relevant issues of the present times. By the changing styles, new technologies and moral principles over time, the application of the general legal rules might need a fine-tuning or due consideration of social context (An-Na'im, 2008). But this could imply that the inflexible style of Ijtihad blocks the jurists from considering and working out new legal issues that relate to the present reality they do nowadays (Hall, 2009). Therefore, this weakness can be responsible for a division between Islamic legal rhetoric and actual circumstances of

Muslims resonation, in which case Islamic law could lose its relevance and authority in the current age of societies (Kamali, 2008).

These rationale prove that there should be discussions about restrictions on Ijtihad since it is the right way to play it safe, and maintain more reasonable and responsible usage. There can be a measure of protection, which can be achieved through the setting up of a Self-inquiring, multi-disciplinary and all-inclusive academic environment (An-Na'im, 2008). The cultural diversity of Islamic religious scholarship encourages critical analysis and observation while minimizing dogmatic teachings (Kamali, 2008). Also, the Sharia law community needs to establish ethical norms and methodological frameworks to empower the Jihadists in their quest for truth and justice (Hall, 2009). The rules of the game may contain principles, for instance, adhering to the set methods, transparency in understanding of the interpretation process, as well as availing an accountability for the wider ethical principles (Kamali, 2008).

Deeper analysis of the validity of restrictions against Ijtihad will reveal the fine line between tradition and innovation in the process of constructing the Islamic jurisprudence. Even so, restrictions may set us up for an awkward situation because it might be not so helpful in seeing Islamic law as if it is an inherent not static part of society which always responds to current issues. Therefore, some protection measures can to some extent overcome these concerns as they help practitioners to act both responsibly and grounded enough. Through the setting of an atmosphere of intellectual freedom, scientific methodology, and ethical accountability, scholar jurists of Islamic law can overcome conflict between past and modernity and thus maintain this justice, fairness and mercy in interpretation of Islamic jurisprudence.

Conclusion

In conclusion, the study of historical and current understandings of the Ijtihad takes out a very varied discourse in the themes of Islamic jurisprudence. Compared with those who strive for restrictions on Ijtihad for preserving the stability of the legal systems of the Islamic tradition, others go all out calling for more freedom on vistas to ensure the roots of religious law in modern world. The underlying confusion highlights the struggle between upholding the tradition and the requirement for the law to accommodating the evolving challenges of the present day. The pros and cons of what we should do should be assessed if continuity and innovation are to be equally addressed applying some equilibrium. Ahead, the thrust of the research continues to its ultimate objective of revealing the limits of Ijtihad as well as its ability to help in the navigating contemporary challenges. Therefore, this is likely to lead the research in a clear route towards the progress of Islamic legal discourse and the understanding of its ephemeral nature.

References:

Al-Tabari, M. (1995). The foundation of the community (Vol. 7). SUNY Press.

An-Na'im, A. A. (2008). Islam and the secular state: Negotiating the future of Shari'a. Harvard University Press.

Brown, J. A. C. (2009). Hadith: Muhammad's legacy in the medieval and modern world. Oneworld Publications.
Hall, J. A. (2009). An introduction to Islamic law. Cambridge University Press.
Hall, J. A. (2009). An introduction to Islamic law. Cambridge University Press.
Hallaq, W. B. (2009). An introduction to Islamic law. Cambridge University Press.
Hashim, A. S. (2007). Islamic law: Epistemology and methodology. Ilmiah Publishers.
Kamali, M. H. (2008). Principles of Islamic jurisprudence. Islamic Texts Society.
Rahman, F. (1982). Islam and modernity: Transformation of an intellectual tradition. University of Chicago Press.
Sadakat Kadri, Z. (2012). Heaven on Earth: A journey through Shari'a law from the deserts of ancient Arabia to the streets of the modern Muslim world. Farrar, Straus and Giroux.
Siddiqi, M. Z. (2001). Hadith literature: Its origin, development, special features, and criticism. Islamic Book Trust.