

***Ijtihad* and the legacy of Islamic thought – for what purpose?**

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The religion of Islam is, in essence, something quite simple. Yet, when the mind takes hold of something, it is capable of producing whole edifices of thought. This is, in nature, the legacy of Islamic thought. The disciplines of Islamic theology, philosophy, law, the arts and sciences, were constructed for the purpose of supporting a growing and developing Islamic civilisation, from the time of the Prophet Muhammad (SAW) and throughout the centuries that followed. The practical application of these disciplines, which we can assume was their primary aim, was greatly assisted by a unitary Muslim authority, such as a Caliph. The Caliphate, in theory, and in practice, gave a form of sovereignty and authority to Muslim rule in Muslim lands, i.e. lands where Muslims were in the majority. However, since the imposition of colonial rule in Muslim lands and the subsequent fall of the Ottoman caliphate, this great body of learning has, in many respects, ceased to be able to perform its functions in an unrestricted manner, as it once did. For this reason, I am asking the question, what is the purpose now for the legacy of Islamic thought?

For well over a century, Muslims, aware of the loss of sovereignty in Muslim lands, have been searching for the way forward for their peoples. It is possibly true that, perhaps more than ever before, we have a substantial body of, often Western educated, Muslims who are turning directly to the *Qur'an* and *Hadith* for their understanding. Without any disrespect for the great scholars of the past, they are finding strength in new ways to face the challenges of the modern world, to keep their faith alive and to put it into practice. Whilst religious authority has waned, or become less accessible to many in the West, many Muslims have drawn closer to the source of their religion, finding in it their renewal.

In this age of easy access to information, there exists also an opportunity, that of self-directed learning, leading many to seek their own answers, in matters of learning, without the function of intermediaries. Is this not part of God's blessing for mankind, when he gave the world Islam, through His Prophet (SAW)? All priestly orders, all religious hierarchies, were radically changed with the coming of Islam, and ceased to hold sway in the same manner as they had in Judaism and Christianity. Furthermore, Muslims have been given a way of worship that teaches them to appeal to God directly. For example, there are no intermediaries, to whom Muslims appeal, to ask forgiveness of sins. Except in some cases for Muhammad (SAW)), there can be no intercession, by way of a priest or other religious authority. Mainstream Islam makes Muslims self-reliant, even though they may wish for a father (or mother) figure, or some wise man, to guide them. Everything they need for their way of life is contained within the religion. In its essence, it is not something complicated, it simply requires effort, and now, more urgently, unity. For how can Muslims have the strength, and the sovereignty that they need so much in their

lives, in their communities, without this unity? For our personal relationship with God, and to understand and apply His laws, we each one of us have to exert ourselves, according to our own lights, using our own gifts, bestowed on us by God. If Muslims are united, then all can benefit from these gifts, in mutual striving and in mutual support.

How united or divided is the Muslim world? To make an objective & authoritative assessment is a huge, perhaps impossible task, but in an attempt to answer this question, we can perhaps begin to appreciate the principles that unite the worldwide Muslim Ummah¹, and the range of diversity that exists within it. It is reasonable to assume that the majority of Muslims affirm their religious identity in accordance with beliefs and practices based upon the 'Five Pillars of Islam'². It is these 'articles of faith', above all else, that serve to unite Muslims. This is the 'orthodox' view. However, with the existence of the four major schools of thought, (*Hanafi, Shafi'i, Hanbali, etc*), and the identities of the Sunni and Shia, not to mention the Sufi sects, we can appreciate that Muslims also possess a considerable potential for disagreement and discord, owing to their various interpretations of the religious tradition. In addition, there are the newer identifications of 'traditional' and 'modernist' Islam, which also serve to divide the opinions of Muslims, particularly with regard to the way they view the contemporary world. In addition to differences of interpretation, there also exist questions of authority. Perhaps these can best be summed up by asking, 'Whose Islam?'

One of the differences between the 'traditional' and the 'modern' perspectives appears to be in their understanding and use of the terms *ijtihad* and *ijma*³. During the preparation of this essay, I started a thread⁴ in a discussion forum on a UK Muslim website⁵. Using the title and introduction for this essay, I requested contributions from interested members of the forum. For the first week, the response was limited to a handful of individuals, who expressed various comments and opinions, ranging from mild interest and approval, to sharp

¹ 'Ummah (arabic): Nation; referring to the Muslim people.'

Bulugh Al-Maram – Attainment of the Objective according to Evidence of the Ordinances, Compiled by: Al-Hafiz Ibn Hajar Al-Asqalani (Riyadh: Dar-us-Salam Publications, 1996) Glossary, P. 578

² 'The Messenger of Allah (SAW) stated that Islam is based on five (things):

1. The Shahadah (testimony): *La ilaha illa-Allah, Muhammadur Rasulullah* (None has the right to be worshipped but Allah, and Muhammad is the Messenger of Allah).
2. *Iqamat-as-Salat*: [to offer the (five obligatory daily) prayers...]
3. To pay Zakat. ("a certain fixed proportion of the wealth and of each and every kind of property liable... of a Muslim to be paid yearly for the benefit of the poor in the Muslim community."- Ibid. Glossary. P. 579).
4. Hajj (the greater pilgrimage to the House of Allah in Makkah) for whoever is able to do so.
5. To observe Saum (fasting during the month of Ramadan)...

Zeno, Muhammad bin Jamil, *The Pillars of Islam & Iman*. (Riyadh: Dar-us-Salam Publications, 1996)

³ One definition of these terms is as follows:

'*Ijma*: "Agreeing upon," the consensus of accepted and trustworthy *ijtihad* or interpretations of *shari'a*.

Ijtihad: "Exerting oneself to the utmost degree" (to understand Islam) through disciplined judgement, the verdict or interpretation of an individual *mujtahid* on the meaning of the *Qur'an* and/or *Sunna*.'

Faruki, Kemal A., *Ijma and the Gate of Ijtihad* (Karachi: Gateway Publications, 1954) P40-41

⁴ theloveterrorist, 'Ijtihad and the Legacy of Islamic Thought – for what purpose?' Muslim Public Affairs Committee UK (online) <<http://forum.mpacuk.org/showthread.php?t=20944>> 27-12-2006

⁵ Muslim Public Affairs Committee UK (online) <<http://www.mpacuk.org/>> 2006-7

criticism. In terms of volume, the thread was quickly dominated by a single contributor, submitting a series of posts which questioned the need for a new *ijtihad* of any kind; in sum, it constituted a vigorous denial of its possibility in the contemporary world. From this particular response it is evident that criticism exists within the Muslim community, not only of attempts to define the purpose of *ijtihad*, but also of those who might call for a contemporary *ijtihad*.

The severity of such criticism, and the volume of posts albeit from a single contributor, raised the issues of strict conformity to *madhabi* teachings, and aggressive attempts to stifle open discussion and debate within the Ummah. Some observers in the wider community have defined criticism of this nature as stemming from a 'traditional' Muslim perspective.⁶ As a result, those that argue for a renewal of *ijtihad* are generally regarded as 'modernists'.

However, the points of disagreement are not always easy to ascertain, and hence difficult to understand. For this reason, the use of such terms as modernist and traditionalist are not always helpful, and serve only to further polarise the debate without helping us to focus on the issues at stake. The tools of *ijtihad* and *ijma* provide the means by which laws have been derived in Islam and, in the modern context, there is a consensus among the major schools of thought that, in the words of Tariq Ramadan:

*'there can be no ijtihad when an explicit text exists in the sources'*⁷

In addition to Ramadan, several modern Muslim thinkers have also held this view. One prominent example is Muhammad Iqbal, writing in 1930:

*'A close scrutiny of the immutable aspects of Islamic law and Islamic jurisprudence will make anyone with sound judgement accept the fact that these immutable sources and binding rules have been laid down in such a crystal-clear formulation that no room is left for ambiguity because these are indeed the areas where the human intellect is liable to make errors. That is why the scholars of Islamic law have agreed that Ijtihad is not acceptable in the presence of clear-cut indications in the Holy Qur'an or the Sunnah.'*⁸

The areas of contention are possibly focussed more intently on what Iqbal called 'new situations'. Showing a remarkable correlation to events in the present day, the situation he describes renders his comments no less pertinent:

⁶ 'Conservative traditionalism sees all Muslims as bound by what it deems the authoritative juridical or theological decisions of the past.' Safi, Omid, ed., *Progressive Muslims*. (Oxford: Oneworld, 2003) P.5

⁷ Ramadan, Tariq, *Western Muslims and the Future of Islam*. (Oxford: Oxford University Press, 2004) P. 43

⁸ Iqbal, Muhammad, Sir. *The reconstruction of religious thought in Islam*. (Lahore : Javid Iqbal : Muhammad Ashraf, 1954)

*'In any event, we should not forget, especially in this age unfortunately characterized by factional strife and split between the Muslims, that any Mujtahid (scholar engaged in Ijtihad) whether an individual or a group, has no right to impose on others a particular view about a given issue because the laws (Akham) that are clearly laid down in the Qur'an and the Sunnah are the only ones to be strictly complied with in all times and places by the Muslim Ummah as individuals, states and groups.'*⁹

The potential of *ijma* to overcome differences of opinion within the Muslim community could be easily acknowledged if it were applied more consistently within a contemporary context. Referring to South Asia, Kemal Faruki observed the implications of ignoring *ijma* in terms of establishing a consensus between Muslims:

*'... the Quranic verse¹⁰ and the hadith, "My community will never unite in error" on which the doctrine of ijma is based referred to the community as a totality. Indeed, it is not difficult to imagine the disastrous schismatic and caste-creating consequences of trying to restrict the meaning of "believers" in the Quranic verse and of "Community" in the hadith to any particular group within the Community'*¹¹.

Faruki's conclusions suggest that the Community itself, in enacting a consensus, possesses a moral authority.¹² We could usefully compare it in a limited sense to the Roman dictum: *'vox populi, vox Dei'*. More urgently, we could address the dire negative consequences of attempts to deny the necessity of contemporary debate on the interpretation of *ijtihad*, and *ijma*. Without *ijma*, any struggle for a new *ijtihad* can never be legitimated for the whole community, according to Faruki. Well disciplined and honest discussion and debate are essential in the process of achieving consensus. *Musyarawah* is therefore the lifeblood of a healthy and engaged community.

Many Muslims have argued that fixed and rigid attitudes limit an understanding of Islam, and that it is completely in accord with Islam that all members of the Muslim Community should undertake discussions of this kind. Concerning *ijtihad*, we are also able, as a community, to reach a consensus, to agree upon trustworthy *ijtihad*. Therefore *ijma* is the responsibility of the community and not the right of any single person. It is at the same time relevant to question whether Muslims can legitimately impose such a consensus on others outside of their own

⁹ *Ibid.*

¹⁰ The Qur'an, 4.115

¹¹ Faruki, *op. cit.*, P.32

¹² The passage continues, asserting the collective rights of the Muslim Community: *'That being the case it is clearly for the Community (as a brotherly and equal totality) to decide whether they want to delegate the task of exegesis as a trust to any group within the Community and if so it is also for the Community as a totality to decide by what criteria (ascertained from the Qur'an and Sunna) this group within the Community should be chosen, this group of 'competent' and 'trustworthy' interpreters of shari'a. One might also add that the more extensively, the more clearly, the more intimately and the more tangibly, these 'trustworthy' receive their sanction from the Community as a totality, the more nearly is "the way of the believers" being ascertained and the more likely is it that God's assurance of "protection from error" is being guaranteed.'* *Ibid.*P.32

Community. As an alternative, it may be far more beneficial for Muslims, and others, to actively seek a wider consensus.

From the explanations I have come across so far, I believe it is rationally possible to derive two clear meanings for the word *ijtihad*. Both meanings can be considered to originate from the sources quoted by Muhammad Iqbal in his book, *The Reconstruction of Religious Thought in Islam*, published in 1930, which are the Qur'anic verse:

*'And to those who exert We show Our path'*¹³

and the *hadith*:

*'When Mu'adh was appointed ruler of Yemen, the Prophet is reported to have asked him as to how he would decide matters coming up before him. "I will judge matters according to the Book of God," said Mu'adh. "But if the Book of God contains nothing to guide you?" "Then I will act on the precedents of the Prophet of God." "But if the precedents fail?" "Then I will exert to form my own judgement."'*¹⁴

In the first case, which I refer to as a 'root' meaning, the evidence from these sources indicate that, in cases where we can find no guidance in the Qur'an and the *hadith*, we are to form independent judgements, and it has generally been understood to mean that we should use our intellect, our powers of rationality and reason, in this endeavor. The second meaning I refer to, and the one most commonly used, is the legal term of *ijtihad*, as used in the fields of Islamic law and jurisprudence. I feel it necessary to make such a distinction because it shows that there is a need for human beings to exert their intellect whenever they have to make a decision of a temporal nature in their lives, and for which there is no explicit guidance i.e. as contained within the Qur'an and the *sunna*. It may be impractical, unreasonable, inconvenient or in other ways inappropriate to approach or ask a trustworthy Islamic scholar, *ulama*, or *mujtahid*.

To give a banal example, we would not approach a scholar for advice on which socks to buy, even though it may be a somewhat difficult decision. We are rather more likely to exercise our own judgement, hopefully based upon a practical estimation, which is in accordance with our needs. How can we reach the right decision? The logical answer is by the use of our God-given intellect. We are using the very tools that God has given to each and every human being of sound mind, and for the purpose which he has revealed to us in the Qur'an and *sunna*. Some people may refer to it as common sense, yet we should not underestimate it. It is the very tool by which we solve so many of our problems in our everyday lives, and in the modern world, we are continually faced with decisions of a similar nature. Some are important, others less so, but, as with all material and temporal

¹³ Qur'an 29:69

¹⁴ Iqbal, *op. cit.*,

considerations, they challenge our intellect, and require our effort in the formulation of practical and necessary resolutions.

Where we cannot find clear guidance in the Sources (Qur'an and hadith), are we really going to further our dependence on scholars for rules on this and that, like children, when we possess an intellect for the exact same purpose? I believe such a dependency is harmful, and leads to a lack of healthy development, and ultimately a negative passivity. Muslims need to be self-reliant to meet the challenges facing them as an *ummah*, so that they are able to reach hopefully swift conclusions on the issues facing them, both individually and collectively. I do not believe that this is an outrageous proposition, however, I believe that the human intellect has a limited role, and I do not doubt that someone may come along who can give an alternative, and equally viable, explanation. Al-Shafii, founder of one of the traditional schools of thought, was not arrogant in this respect, as Tariq Ramadan relates:

*'The imam al-Shafii aptly said, concerning the state of mind that should characterize the attitude of the ulama: "[As we see it] our opinion is right though it may turn out to be wrong, while we consider the opinion of our opponents to be wrong though it may turn out to be right"'*¹⁵

The real question is, can Muslims reach a consensus, which satisfies them individually and unites them in a way that enables progress, as a society, as an *ummah*? What hope is there for Muslims if they cannot accept their own diversity, when their fellow brothers and sisters are suffering widespread injustice and oppression in so many parts of the world? Why is it taking Muslims so long to put their affairs into perspective, accept, or even celebrate, their diversity, and proceed with 'putting their own house in order', whilst their enemies are ranged against them and their rights to freedom, even to govern themselves, are being swept progressively away? Several Muslims, from different walks of life, have expressed similar concerns to me, recalling the Qur'an with statements like: 'if Muslims cannot unite together in these times, maybe Allah will raise a better people than us as his vicegerents on earth, a people who show true humility, enjoining the right and forbidding the wrong in unity.'

On its website, MPACUK declares itself as:

'... the UK's Leading Muslim civil liberties group, empowering Muslims to focus on non-violent Jihad and political activism.'

Can Muslims seriously undertake this work without accepting, even celebrating, their diversity of opinion, expressing their needs, and establishing a consensus on their common social and political goals? This is the real challenge. Of course there should be respect for the views of those who possess qualifications, but it should be

¹⁵ Ramadan, *op. cit.*, P.51

remembered that prophet Muhammad (SAW) was 'unlettered', and his *sahabah* did not require qualifications in order to establish Allah's word as supreme, and Islam as a religion of truth. It is to these people that Muslims inevitably turn, for an example of trustworthy and righteous human beings. What has really changed? I have no doubt that something more than qualifications is needed, and scholars, if they are honest and possess humility, can recognise this fact.

The concern as to who possesses authority in the Muslim world is a sensitive and highly contentious one. This could be regarded as an issue that relates to all authority, both religious and political. The claim of some of the more 'conservative' minded Muslims, that only certain Muslim scholars possess the necessary authority to sanction renewed efforts to discuss contemporary issues, only serves to oppress those who are prepared to contribute to an open minded and rational discourse. According to Muhsin Mahdi¹⁶, in the time of Al-Farabi, the early Muslim Students at Islamic Schools of Philosophy were permitted to study the works of Plato & Aristotle to the higher levels, as long as they felt themselves capable of the attempt. This was in contrast to the Christian schools of philosophy at that time, where students were forbidden to study philosophy beyond a certain level. This shows that Islamic civilisation encouraged such seekers of knowledge in the earlier period. Perhaps Muslims ignore at their peril the prophet's (SAW) injunction to 'Seek knowledge, all the way to China'.

According to Mahdi:

*'Islamic philosophy shared the ancient view that man is a special kind of being; ... that his ability to reason ... is the activity that marks him as different from other animals. ... This is a philosophic view; This difference (between man & animals) is regarded as a radical one.'*¹⁷

What is the cause of a rigidity of mind that leads to a refusal of the call for *ijma* and *ijtihad*? Could it be due to the concern of so-called 'traditionalists' that the Qur'an and the *hadith* could suffer from misinterpretation? Writers such as Iqbal and Ramadan have consistently demonstrated that there is no justification for wholesale reinterpretation of the Qur'an and *hadith*. Referring to the rise of Wahhabism in the 18th Century, Iqbal seeks to define its positive aspects:

*'The essential thing to note is the spirit of freedom manifested in it, though inwardly this movement, too, is conservative in its own fashion. While it rises in revolt against the finality of the schools, and vigorously asserts the right of private judgement, its vision of the past is wholly uncritical, and in matters of law it mainly falls back on the traditions of the Prophet.'*¹⁸

¹⁶ Mahdi, Muhsin, *Al-Farabi & the Foundation of Islamic Political Philosophy*, (Chicago: Chicago University Press, 2001)

¹⁷ *Ibid.* P.16

¹⁸ Iqbal, *op. cit.*,

Importantly, Muhammad Iqbal also helps us to recognise the distinction between the healthy impulse of modernism, inspired by Islamic values, and the spread of liberalism in the Muslim world, which is something quite different:

*'If the renaissance of Islam is a fact, and I believe it is a fact, we too one day, like the Turks, will have to re-evaluate our intellectual inheritance. And if we cannot make any original contribution to the general thought of Islam, we may, by healthy conservative criticism, serve at least as a check on the rapid movement of liberalism in the world of Islam.'*¹⁹

So, if Iqbal, whom we should acknowledge for supporting the worldwide renaissance of Islam, was able to produce such relevant work, what is holding Muslims back today? As a reminder that the systems of law in Islam, throughout history, provided a stimulus for intellectual activity, Iqbal relates:

*'Turning now to the groundwork of legal principles in the Qur'an, it is perfectly clear that far from leaving no scope for human thought and legislative activity the intensive breadth of these principles virtually acts as an awakener of human thought.'*²⁰

There is not necessarily any intention to provoke controversy when calling for a contemporary *ijtihad*, as something that should concern all Muslims, collectively or individually. Neither, I believe, is it out of ignorance. There is no suggestion or even implication from many Muslim writers that they consider themselves qualified as a jurist or a *mujtahid*. What is apparent is the intention to encourage Muslims to use their intellect. There is, however, a necessary humility in the awareness that all such human endeavours are subject to flaws and temptations. There is also a belief that the knowledge of the Qur'an and the *hadith*, together with the guidance that they contain, is more readily available than ever before to ordinary Muslims, and that there is a purpose in this. If modern, educated Muslims are returning to these sources for guidance, combined with the active use of intellect in order to fulfil the contemporary political, economic and social needs of the contemporary Muslim world, it is surely a positive development.

By contrast, when we examine the kind of 'Conservative traditionalism' that amounts to a virtual censorship of freedom of thought, this is clearly against the spirit of Islam. The Qur'an firmly speaks out against oppression, and enjoins Muslims to defend the rights of those who are oppressed. In the contemporary world, these are the very people who suffer from the lack of a voice that speaks for them, and addresses their concerns. Furthermore, aggressive claims to define authority as only limited to certain, often opposing, groups is an inhibiting factor when it comes to seeking a consensus through discussion and agreement, whereas this, as Faruki points out, is the right

¹⁹ *Ibid.*

²⁰ *Ibid.*

of the Ummah in its entirety, and not only the preserve of scholars. In seeking knowledge, all Muslims have a right to ask questions, indeed it is imperative that they do so when seeking to clarify and ascertain matters which concern the fulfilment of their needs in this world. There should be no obstructions when this work is undertaken within the commonly accepted laws of the *Shari'a*, based upon the Qur'an and the *hadith*. Whilst it is the obligation of every Muslim to establish for himself the 'five pillars', and not to neglect them, is it necessary for him to restrain his intelligence and creativity, and whatever gifts he has been blessed with, due to a lack of comprehensive knowledge of the huge legacy of Islamic thought?

Is it also possible that this legacy is in danger of becoming a burden in terms of fresh thinking and fresh approaches? Why are such approaches needed? For Muslims living in the West, Tariq Ramadan stresses the need for independence in order to develop a legitimate identity²¹. Perhaps no further evidence is necessary than is provided by the loss of Muslim sovereignty over their lands, and the unacceptable level of conflict between Muslims. Framed by a lack of justice and peace in the contemporary world, this situation calls for *ijtihad* in a search for the establishment of a coherent political framework for Muslim societies. The failure of the United Nations to guarantee security, international law and human rights in the Muslim world, has demonstrated the need for such a framework, established by and for Muslims. This is a huge task, and it can only be brought to fruition through a comprehensive process of *ijma* and *ijtihad*, whereby a consensus can be renewed and affirmed, conferring legitimacy on appointed authority, and legal and political frameworks. A clear objective would be, for example, the ending of a war between Muslims, whether national or civil. Justification for such a renewal should take into account the failure of the existing authority, and, by extension, the inappropriate regard for the legacy as supreme and final. How can such a legacy be considered immutable, when it is only a legacy of human thought? Whilst we have respect for this legacy, in Islam there can be no such reverence, and unquestioning obedience, attached to a purely human endeavour.

²¹ Ramadan, *op. cit.*, Introduction: 'What I mean exactly by the idea of "independence" is that Western citizens of the Muslim faith must think for themselves, develop theses appropriate to their situation, and put forward new and concrete ideas. They must refuse to remain dependent, either on the intellectual level or, more damagingly, on the political and financial levels. These types of dependencies are the worst because they prevent the acquisition of responsibility and the reform and liberation of hearts and minds.'

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