

How to revive ijti had and reopen closed doors religion essay



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This third chapter is to seek what caused stagnation in Ijtiḥad, than find answers for how to possibly revive and initiate a Revolutionary Contemporary Ijtiḥad? It looks also at its common misconceptions and finally cites the newly existing subjects; which need an urgent attention from current mujtahids.

What Caused Stagnation In Ijtiḥad?

Current Ijtiḥad is severely suffering crisis of thought and lack of prospective.

“ Ijtiḥad ...began to be viewed as limited to legal matters, rather than as methodology for dealing with all aspects of life.” (Al-Alwani, 2005, p. 65).

And even the broad judicial matters that relate to methodology of all aspects of life become narrowed and confined into few legal matters. This limitation made Ijtiḥad to become more duplicate and unable to prompt solutions, or meet the current challenges.

The causes of stagnation are actually at multiple levels; political, social, moral, but the most important for this project is that related to intellect of mujtahids and Ijtiḥad itself. “ The methods of reading and interpreting the Islamic heritage itself also suffered from serious lapses...reflected in doctrinal splits, political and intellectual muddles.” (Tamimi & Esposito, 2002, p. 153). There are serious debates and criticism that the Contemporary Ijtiḥad school has been initiated to oppose the orthodox schools which strictly adheres to Al-Shafi' orthodox formulation of the principles of shari'ah Law, and criticise the Abbasids political coercion of what existed of Ijtiḥad outside the sphere of the four officially adopted Sunni schools of thought.

These debates and criticism reveal the unbridgeable chasm between the adherents of classical schools and some modernist tendencies to seek more flexible and liberal approach to Ijtihad. “ People seeking knowledge were thus caught between following alien contemporary thought or sticking to old traditional ways of thinking” (Al-Alwani, 2005, p. 1). The core of dispute appears to be about the role and function of Prophetic Sunnah/ Hadith, in the equation of Ijtihad; besides to the revering grade of secondary sources such as; consensus, analogy, and Shafi’ principles!

A healthy process of Ijtihad should seek continually for the best way to improve its ways and contemplate on what cause stagnation; rejection of each-others, chronic sectarianism, political oppression, social injustices, economic slowdown and nesting fanaticism. Regrettably these negativities are even aggravating and running out of control; the Muslim nation lives in turbulence; Palestinian lands are still occupied, imperialist west and sectarian wars in Iraq, Afghanistan, and Somali, Sudan... Muslims are turning against each others, dictatorships flourishing... The tricky problem is what caused stagnation in the first place?

Imam Shafi’ as the other early Muslim jurists set the foundation of Muslim classical jurisprudence principles; in order to wipe out the prevailing confusion and bring unity to the Muslims. “ In theory, Shafi’i distinguished simply between the argument taken from traditions and the results of systematic thought”...Shafi’i created the *usul alfiqh*”. (Semerdjian, 2008, p. 16) He introduced the grade of precedence for the compiled testimonial Based-Hadith of the Prophet as well as the secondary conjectural sources of consensus, analogy, and logical jurisprudential principles, then empowered <https://assignbuster.com/how-to-revive-ijtiḥad-and-reopen-closed-doors-religion-essay/>

them to become as revered as the Quranic teachings. He might have a noble intention seeking Muslim unity, but his method is for sure erroneous; as his formulation of principles surely proved not always to be bright. He must have caused a significant problem for every generation, as creativity has stayed confined for over a millennium!

The fear of traditionalist that theological debates may create havoc and uncertainty is groundless; as there is already a great deal of havoc and uncertainty because of the accumulated Ijtiḥad methods and absolute policies. The traditionalist school has to defend its position in free open theological debates, on the base of Quranic teachings that human are able to rationalise for themselves; as it is baseless to claim that such debated matters have already been argued and resolved along before. To advance positively the civilization; every generation need to revise and sift its heritage by retaining the good facets and discarding the bad ones. Within the shari'ah spheres; the theological debates have to be liberated again from Shafi's traditional-blockade.

There is prevailing concurrence asserts that the Muslim-thought continued to thrive luminously for three centuries after the Prophet's death, introducing such top-calibre historian such as al-Tabari, mathematician such as Al-Khawarizmi, astronomer such as al-Battani, physicist such as Al-Biruni, and many others. (Said &Khan, 1996, p. 44). The orthodox school with its anti-evolutionary and absolutist attitude is still the major obstacle for the modern school to re-conquest the Ijtiḥad's territories that was owned once, in the early centuries! This liberal modernist relativist attitude does not wide-open the doors for revolutionary Ijtiḥad; it is just an add-on tension to the conflict

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where orthodox Muslims have sporadically labelled them as non-believers and issued death-religious-edicts against them! It will be better to have comprehensive outlook where absolutism and relativism coexist and cooperate rather as a pair.

One of the key problems challenging the Muslim nation now is frequently swamped in nostalgia for long-ago glories and confined into the past customary approaches of Ijtihad. The hard-hitting equation that the past Muslim scholars paved the way for Western notions of reason which tended to be sophisticatedly categorised for example Western critique of reason is outstandingly segmented into various types of reasoning: critical reason, functional reason, instrumental reason, imperialist reason, abstract reason... While the Muslim scholars of Ijtihad are still oblivious which definition should be given to reason whether analogical or consensual...Instead of seriously looking how to revive their Ijtihad and enriching it with the new scientific achievements!

02. How to Revive Ijtihad?

The classical mujtahids in naʿve attempt to establish a uniting universal rules to solve the legislative problems of their time; they ended in abating the Ummah intellectual powers. A proper Ijtihad would not be initiated “ unless the call to Ijtihad becomes widespread intellectual...” (Al-Alwani, 1993a, p. 234); emancipated from the existing traditional schools of thought while its religious institutions independent from the manoeuvring of political regimes. What the Muslim Ummah should bear in mind; without the mean of Ijtihad; it will never rise to the Muslims’ inspiration, solve their problems, and earn a respectful place in the current world!
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Regarding the question of who is eligible to practice Ijtihad, Allah endowed every human with the right to reason for himself; it would be absurd to claim that access to reasoning in Muslim Ummah is the exclusive right of a few qualified? Ijtihad is not only open to the ones who displays moral excellence of piety and equity, further attained a high status in Arabic linguistics and branches of jurisprudence; deep understanding of the fundamentals of the original sources and Islamic history...In fact, every Muslim has the full right to engage in creative and scientific reasoning, as he should not allow Ijtihad to be hijacked by legal scope, a political authority or handful of male jurists, whose Ijtihad achievement is private and suspending female and collective contributions?

Ijtihad should now confront, in Muslim societies, the reality of current circumstances and variations; which urge a serious study of the Muslim societal needs and aspirations for social justice, freedom of expression, economic prosperity, and moral government... Hence, the required Ijtihad should be revolutionary and make the present-world patent in the light of Islam not rather Islam interpreted in the shade of the present-world as it is reflected indirectly in the tendencies and forms of liberal contemporary Ijtihad.

03. Revolutionary Contemporary Ijtihad:

To escape this long lasting vicious circle, the Muslims should think outside the models of past Ijtihad! By going back to the simple basic Quranic precepts such as “ Let there arise out of you a group of people inviting to all that is good, enjoining the good (Al-Ma’rûf) and forbidding the wrong (Al-Munkar). And it is they who are the successful.” (Quran, 3: 104) “ You <https://assignbuster.com/how-to-revive-ijtihad-and-reopen-closed-doors-religion-essay/>

(Muslims), the best nation ever raised up to mankind commanding the right, warding off the mischief and believing in Allah." (Quran, 3: 110) yet, so simple, but religious theologians mystified them by their inconsistent and idiotic offers such as Muslim would get blessing from Quranic recitals even if he might not grasp a word of what he recites; simultaneously, Muslims should not attempt to comprehend the Quran as it is beyond their comprehensions; in actual fact distancing the Muslims from the essence of Islamic message-the actual Quran itself.

How it comes that the Sunni traditionalists have claimed for more revered secondary sources because the Quran for them contains finite rulings; whereas Allah himself certified in his Book that is complete: "" All the creatures on earth and all the birds that fly with wings are communities like you. We did not leave anything out of this scripture, to their Lord; all these creatures will be summoned."(Quran, 6: 38). The Quran offers great comprehensive teachings and a right life-guidance to all mankind; as its moral aspects are potently reflected in the successful model of all Allah's Prophets and His last Prophet Muhammad (peace be upon all of them).

Once-as a source of Muslim creativity- the proper theological debates and proper Quranic teachings are liberated, then Ijtiḥad as rationale and method will automatically rehabilitate and the creative intellectual activity will mechanically flow. On the basis of the universal dogma taught in the Quran; the contemporary Ijtiḥad should take two principal forms: the practical and the theoretical, In spite of the preservation about philosophy because of 12th century Ghazzali's eminent philosophy-refutation.

Muslim societies should allow and encourage the Critical philosophical thinking for inquisitive thought according to the Quranic teachings. While the practical form of Ijtihad should not be just confined in rituals and the dichotomy of what is permissible and not permissible; it has rather to be bravely involved in all levels of legislations at the fields of politics, economics, and social life. Similarly the academic credentials should not be equalised to stern thought or an apprehension for society. Figure. 05 summarises what contemporary Ijtihad, in my view, should encompass to stir a revolutionary move towards a fruitful Ijtihad?

All other sciences

Challenge/ traditions

Primary -Quran

Imaginative impulse

Qua creative

Analogical/ legal

Both genders

Collective/ communal

Consultative/ expertise

Figure. 05

The Essential Possible Components of revolutionary Ijtiḥad

What Revolutionary Ijtiḥad should encompass!

THE ENTITLED

SEVERAL

SOURCES

CONSULTATIVE APPROACH

THE SCOPE SPHERES

Sciences Sphere

Politico-Societal sphere

Religious Sphere

TOOLS of

RATIONALE/

Rational inquiry

Rational Criticism

Theological debates

In short, the Algerian scholar Malik Bennabi in his book “ Les Conditions de la Renaissance” (1948) has brought up, the foremost independence; is the mind independence from the lasting effects of both traditional Ijtihad tenets and Western colonialism which nurtured the Muslim feelings with inferiorities and shaped Muslim-mind with fluctuated ideologies. To realise this mind independency, the very basic concept of monotheism (tawhid) should be restored to its origins that a Muslim fears and bows only to Allah, all human are free intellectually and socially equal. From here He would seek and follow what Allah has already defined in His own words as the right-path, this is, in fact, the most significance step towards Ijtihad revival far from misconceptions of the Western influence and classical Ijtihad.

4. Misconceptions in Ijtihad:

The aforementioned views concerning current Ijtihad are due to some key misconceptions that have slithered into mujtahids’ mindset: some scholars state that the Ijtihad-doors are closed because the early scholars have discussed every issue and settle it; simultaneously to practice Ijtihad you need to have the knowledge of one of those leading scholars such as Shafi’; the scope of Ijtihad include only definite matters as shari’ah rule. Ijtihad is the field of only selected elite and only allowed in the absence of clear text...

Ijtihad is not a private privilege of some religious or scholarly elite as it does not occurs only in legal areas; therefore Islamic evidences have to be

discussed directly upon any novel issues. Ijtiḥad should be open for private and collective mujtahids based on autonomous ground; as it should cover all areas of a Muslim-life. Ijtiḥad is also an individual obligation of every Muslim—whether man or women— with sound rationale to be involved in the contemporary Ijtiḥad that can reflect on different old and new subjects.

5. New subjects for Ijtiḥad:

The subjects of Ijtiḥad are as multiple as the spheres of life; as well as its scope are so-broad and unlimited. Ijtiḥad subjects might envelop all simultaneous matters of a Muslim-life while its scope might encompass all matters that hold the Muslims' interests. Indeed, Islam deals with all life-aspects and covers all human situations. It is therefore not true that Ijtiḥad should not stipulate upon the complex and far-attaining subjects which need now to be examined and investigated.

1. The mission statement of modern Ijtiḥad is to spread and imply the creator message of mercy and wisdom to benefit the whole mankind and globe, Islam hence as divine message is global and not monopole of tribe, race, or particular society in particular land. Message of Islam embeds a humanitarian and global spirit; Muslims therefore should reinterpret the classical narrow outlook to divide the world into what is world of Islam and what is world of no-Islam. Emphasis should be placed on responsible citizenship for the whole mankind in the whole globe with all its add-on aspects of other creatures and environments

2. Shari'ah objectives should be more explored; as its scope in the Quran go beyond the five universal tenets introduced by Al-Shatibi—protection of faith,

intellect, life, property, and lineage —to safeguarding morality and freedom, prevailing peace and mercy, establishing social justice and order, and protecting people's stability and interests in all events. Hence; every Ijtihad should observe synchronically ihsan in all the shari'ah objectives -whether universal or conventional; simultaneously eliminate their paradoxes of mental and physical servitude, tyranny, injustice, cruelty, disorder, immorality and harm. The modern Ijtihad should indeed preserve and observe the Shari'ah objectives and Shari'ah constitutes.

3. Political and social realities of Modern life have generated about countless and complex problems in the Islamic societies. Following this comprehensive broadened approach necessitates that the contemporary Ijtihad's fields and scope should cover all the spheres of what the Muslim-life noticeably occupies and should not stay confined in the jurisprudential notions and their terminological implications; or confined into legal matters in the proficient notions, but they should also cover political, economic, social, administrative, medical, educational, scientific and circumstantial aspects plus any aspect associated in time with the Muslim society.

4. Islamic Economics today need radical U-turn to procure creatively novel Islamic economic theories fully binding to the Quranic ethical guidelines and far away from adaptation to western fluctuated secular economic theories and also far away from reconciling tendencies on the expenses of Islamic Shari'ah equitable aims. Indeed without denying the due process that incorporates modern elements of the existing economic theories. What cause the Muslim world impoverishment and how can it be altered? How

could Muslims build correlation with world economics without compromising their equitable principles of Islam?

5. Muslims today are confronting many new issues that require urgently attention to be inferred such as: The role and rights of women in Islam has to be reconsidered carefully by examining the original scripture-the Quran. The Sunnis and Shiites doctrinal gap and that one existing in between various Islamic schools of thought need a well-devised system to promote similarities and eliminate prejudices; why not dissolve the sectarian spirit among Muslims through spreading tolerance and dialogue.

6. How to create a Unity among Muslim states despite their contingent differences, at the same time how to form Islamic political authority systematically without being subject to influence by the historically formulated Islamic political systems after the demise of the Prophet, and even far from the western doctrine of democracy. How can Muslim states collaborate together and how to create preliminary unity among Muslim states? How to create proper Ethical-based Islamic governmental system that could become even a model to promote democratic systems in the whole world.

7. Modern Ijtihad should look for better concept of formulating treaties whether among the Muslim or across the other humanitarian societies, in a way it preserves the universal ethics and looks for conventional grounds to manage conflicts and clash between mankind societies. Proper Islamic Ijtihad should be used to guide Muslims and to act as model for none Muslims.

8. Ijtiḥad should inevitably foster a better communication for mutual relations with people of diverse faiths and cultures to promote positive dialogue and peace among various groups and nations around the globe instead of encouraging the impression of a clash across cultures and civilizations.

Conclusion:

If the current Ijtiḥad remains unclear and our thinkers stay still captive to that restrictions imposed upon Muslims a long time ago; leaving them with a lot of misconceptions and little room for creative and incentive free thought; there would be never any change in the Muslim Ummah situation: “ Thus, Allah does not change the condition of any people unless they themselves make the decision to change. If Allah wills any hardship for any people, no force can impede it; for they have none beside Him as Lord and Master.”

(Quran, 13: 11)

Hence, all stratum of Muslim-societies regardless to their gender and sect; religious jurists and academic scholars should project mutual sincerity, tolerance, openness, and dialogue to make a change and build a fruitful Ijtiḥad with a greater Muslim world to represent the Muslim nation with an ideal-image of Islam; work also hand in hand to find an alternative approach for more effective creative Ijtiḥad which can cope with our current piling-up problems!

Chapter IV:

Is there any alternative approach to new effective Ijtihad?

Introduction:

This last chapter is devoted to seek for an alternative approach to Ijtihad where creative impulse and the faculty of imagination are employed to broaden the scope of Ijtihad beyond the narrow legal compass to include all the other subjects of modern life. Then it looks for the suitability of each type of Ijtihad, by pointing out the key points that risen a dispute among Sunnis and Shiite regarding opinionative Ijtihad, and what type of Ijtihad should be forbidden for mujtahids to engage in.

Islamic Ijtihad is the sole legitimate device for intellectual rationale within the house of Islam; historically tracing its developments reveals three different modes: for Muslim Ijtihad as a interpretive and legislative tool, a type of technical reasoning for jurists; while for common Muslims Ijtihad was a creative and imaginative impulse. Muslim scholars are still speculative and imprecise about Ijtihad nature and generally the Ijtihad term implies either to an interpretive approach or legal analogical reasoning. Unlike the privileged jurists who knowledgably practiced their Ijtihad technicalities in their private auspices; ordinary Muslims before the nine century employed their initiative, imaginative and creative impulse to practice Ijtihad in their day-to-day life and environment to meet their life necessities within the framework of their Islamic set of beliefs, ethics, and Quranic notions.

An Alternative Approach: Qua Creative and Imaginative Impulse:

1. An Alternative Approach: Creative Impulse

The contemporary Iranian sociologist, “ Dr. Ali Shariati suggests an alternative approach to Ijtihad i. e creative impulse and imagination” (Ibrahim, 2008, P. 188); essentially to emancipate Muslim prospects and construct a new world that would stimulate the Islamic civilization to flourish. Earlier Muslim thinkers of the second period of the nineteenth centuries initiated such a trend of thinking, unfortunately such a refreshing wave was suffocated by the reputed jurists of the time; because for them it might create -among the Muslims- confusion and disunity which were already swamping the nation. In reality, they did not like the very idea of Ijtihad as creative` and imaginative impulse; because they were captives of classical technical Ijtihad; they also perceived this movement as a threat to their social status and even to their source of revenues.

For example the Quran has a great creative impulse as inspiring force behind the birth of the flourishing sciences at a time when Muslim began reflecting on Quranic notions and its inductive reasoning. The dynamic notions of creation and universe in the Quran stirred evolutionary movements; the Quran knowledge also constitute of historical notions that urged its readers to rethink the cited experience of mankind in the Quran ...etc Then in so being, by the fourteenth century, a new trend of theological, mathematic, scientific, astronomic... and philosophical inquiries were initiated. Sadly this legacy did not last for long, and then the qua creative of Islamic thought endured rapid decline as a result of internal Muslim-turbulences -such as the

occurrence of rational conservatism Muslims, sectarian storms; sciences declined rapidly while more stiff theory of Ijtihad rulings and narrower prospectus prevailed. The door for Ijtihad was closed and never opened again? Any attempts -to free qua creative of Islamic thought -have been tainted by the orthodox and dogmatic radical trends with cynicism 'kufr' and innovations 'bid'ah' up till now.

It seems that the application of Ijtihad that was approved by the Prophet is qua creative thinking as he did not restrain it by methodology; similarly although there is no explicit Quranic text on Ijtihad, the Quranic plea to sensible enquiry and thinking is also not attached by certain attitude of Ijtihad. Hence, it becomes so clear that the Prophet, peace be upon him, also considered Ijtihad as a creative impulse rather than technical and legal reasoning which later was developed in affluence.

Alas, the methodology of Ijtihad has been encapsulated in the scope of principle of jurisprudences while they are themselves an artefact of Ijtihad. In the course of time; this methodology has been dramatically shaped by several factors; such as sectarianism, political atmosphere of monarchic caliphate, figurative thought such as analogy (qiyas) and clustered accord such as consensus; and so resulted into an unpleasant cost for Ijtihad. It ludicrously imposes restrictions on thinking by construed culture and untouchable traditions; alternatively, free imaginative and creative reasoning would be enhanced and orientated with an ethical and innate Islamic approach of regulations.

2. An Alternative Approach: Imaginative Thinking to Ijtiḥad:

Imaginative insight is not yet encapsulated by procedures and definitions framework of Ijtiḥad; Quran seems to provide symbols and markers of the unique thinking attribute such as innateness, imagination, and constructive criticism which inspire quite often the creative mind for new ingenious ideas. The thinking is one of the greatest Creator's gifts and sign of His creation that can fit as divine example of God's power of creation. The imaginative thinking of 'bien-fait' mind of a Muslim thinker can be also glistened by sources and tainted by cultural and religious influence, it is therefore to be explored and explained adequately to avoid being trapped in its deceptive prospects!

For instance, imagination is required to grasp the essence of these Sunnis Prophetic statements upheld in a famous hadith in which the Prophet instructed " Pursue knowledge even to China, for its pursuance is the sacred duty of every Muslim." (Al-Bukhari , V. 4, p. 357} and in a further hadith explained that wisdom was the lost property of the believer; he was permitted to it wherever he found it. (Al-Tirmidhi, v. 1, p. 245) Hence, wisdom and knowledge must, therefore have been the ultimate achievements of human marvellous and creative thinking. The outcomes of creative thinking are often experienced in global spirituality and far beyond geographical settings or physical objects. Hopefully those sages of Muslim societies wisely adopt an imaginative thinking in their agendas of deliberations to inspire them into the genuine visions; caused them to narrow the remoteness and division between the intellect and the culture;

commit themselves to better serving human fraternity, solidarity and global civilization.

Furthermore; Quranic verse which states that Good and evil cannot be equalised. Repel evil with goodness; those who are foes become your best friends. (Quran, 41: 34), incite you to envisage a different future, reasoning on this verse without using imagination does not help to get near its essence. So imagination is here an input to a better future, it is also the input to a fine society. Imaginative Ijtiḥad must cooperate with legal reasoning without being hampered by it.

Imaginative and creative Ijtiḥad should be therefore adopted by mujtahids to practice true Ijtiḥad, which “ cannot be a true Ijtiḥad unless scholars are free to express their opinions and others are free to criticize them if they make errors.” (Smock, 2004, p. 4) Novelty and success of Muslim nation necessitates the absolute involvement of the average Muslims in practice of a creative impulse Ijtiḥad to unravel their every day dilemmas. The Rationale is not the only legitimate way to revelation, theological debates should be also left open to average Muslims to express their alternate notions of reality within the given sense of human innateness, which enables them to morally sense what is right and what is wrong.

Performing Ijtiḥad as imaginative impulse, creative thinking or legal reasoning accrues potential dangers that of being confined in the restraints of the past Ijtiḥad. For example although few Muslim scholars had attempted to ban slavery such as the Algerian scholar Ahmed b. Yahya al-Wansharisi whose famous fatwa “ described slavery as a humiliation and a servitude

caused by previous or current unbelief, and having its purpose as to discourage unbelief” (Clearence-Smith, 2006, p. 28); most traditional scholars have failed to prohibit slavery, neglecting the essential universal Quranic teachings of human social-equality; since the slavery practice had always subsisted, the scholars were letdown by their poorer imagination and subdued them from accomplishing an insight-change as they could not imagine a world free of slaves, so-many Muslim scholars rather hold on the opinionative Ijtiḥad of there is nothing wrong with maintaining the evil institutions of slavery up-till- now!

Dispute over Opinionative Ijtiḥad:

Verily, the Muslim Shiites and Sunnis opinions are clashingly divided on the issue of what kind of Ijtiḥad is forbidden in Islam! Unlike fiqh Al-ather – narrative based hadith approach to Ijtiḥad-that thrived in Shiite Ja’fari, Sunnis Malliki and Hanbali schools, “ fiqh al-ra’y developed in Iraq as ” (jurisprudence based on personal analogical efforts; This trend, which early on crystallized in the Hanafi School, fostered reasoning by analogy (Qiyas or Ijtiḥad Al-ra’y) and juridical preference (Istiḥsan).” (Crow, 2005, p. 12). But how each school envisaged the trend of Ijtiḥad is a contradictory problem?

This sort of Ijtiḥad is forbidden according to Shiite Islam and Hanbali School while it is permitted in other Sunni schools and considered as valid proof as Quran and Sunnah in determining Shari’ah rulings; believing that the Islamic rulings available in Quran and Sunnah are finite and limited while situations and actions are not. They therefore ruled out in the cases which had no ruling by divine text, the mujtahids must exercise his personal thinking to derive a new ruling. This permission has been grounded on some narrated <https://assignbuster.com/how-to-revive-ijtiḥad-and-reopen-closed-doors-religion-essay/>

ahadith from the Prophet and the most famous one is the Prophet's hadith when he sent to Yemen, the companion Muadh Ibn Jabal, he question him on how he would issue rulings there. He replied: " In compliance with the Book." " And if it is not in the book?" " I will exercise the Sunnah of the Prophet." " And if it is not in the Sunnah of the Prophet?" " I will exercise my own opinion (Ajtahidu ra' yi) " he replied. (Abu Dawud, V. 3, p. 303)

In fact, Sunni Muslims differ on what is Ijtihad al-ra'y and how is going to be envisaged as binding testimony in shari'ah? Al-Shafi'i maintains that the sole valid Ijtihad is qiyas. Nevertheless some other Sunni jurists see beside qiyas as Ijtihad al-ra'y; finding judicial preference ' istihsan' -by jurist's personal deliberations in quite independent cases on the base of justice and truth. Similarly with public-interest ' istislah'- as weighing one thing as more convenient than another- some others counted too as an add-on in opinionative Ijtihad besides to the principles of jurisprudence. (Coulson, 1964, p. 53-64)

In contrast; the Shiite Islam believes, that Quran and Sunnah are complete and adequate; it therefore rejects and prohibits both Ijtihad al-ra'y, especially analogy. Shiite Jurists back up their view with so many relevant Quranic verses and ahadith from their Imams and reject the very idea of revering qiyas as absolute; because it is a type of conjecture and misleading methodology that can generate various errors. Despite their anti-qiyas attitude, they anonymously adopted the aspects of the principle of jurisprudence.

The right of such Ijtihad proved the Sunnis wrong in practice; if everyone is allowed to exercise and revere his own interpretive opinion, and then Islam as religion would be distorted. It might have been for this reason that the validity of independent Ijtihad was gradually cancelled by instructing Sunni mujtahids to exercise taqlid of the four Sunnis famous schools of thought, in the absence of the Abbasid political impulsion. Nevertheless, Ijtihad should not be left hijacked by classical sectarian schools' fundamentals and special elite of Muslim scholars whether in Shiites or Sunnis, then what kind of Ijtihad should be forbidden in Islam?

4. The kind of forbidden Ijtihad:

Whether is the narrow legal definition of Ijtihad as a struggle of intellectual process to interpret primary sources and derive rulings;