

The levels and meanings of Ijtihad and the Mujtahid's qualifications

What follows are the entries for: *Ijma*, *Ijtihad*, and *Inspiration* as cited in the Dictionary of Islam, by Thomas Patrick Hughes.

IJMA. The third foundation of Islam. It literally means “collecting.” or “assembling,” and in Muslim divinity it expresses the unanimous consent of the *Mujtahidun* (learned scholars); or, as we should call it, “the unanimous consent of the Fathers.” A *Mujtahid* is a Muslim divine of the highest degree of learning, a title usually conferred by Muslim rulers.

There are three foundations of *Ijma*’ :

- (1) *Ittifaq-i-Qauli*, unanimous consent expressed in declaration of *opinion*.
- (2) *Ittifaq-i-Fi’li* expressed in unanimity of *practice*;
- (3) *Ittifaq-i-Sakuti*, when the majority of the *Mujtahidun* signified their tacit assent to the opinions of the minority by “*silence*” or non-interference.

The *Mujtahidun* capable of making *Ijma*’ must be “men of learning and piety, not heretics, nor fools, but men of judgment.”

There is great diversity of opinion as to up to what period in the history of Islam *Ijma*’ can be accepted. Some doctors assert that only the *Ijma*’ of the *Mujtahidun* who were *Ashab* (Companions); others, that of those who were not only *Companions* but *descendants* of the Prophet, can be accepted; whilst other accept the *Ijma*’ of the *Ansars* (helpers), and of the *Muhajirun* (fugitives), who were dwellers in al-Madinah with Muhammad. The majority of learned Muslim divines, however, appear to think that *Ijma*’ may be collected in every age, although they admit that, owing to the numerous divisions which have arisen amongst Muhammadans, it has not been possible since the days of the *Taba’u ‘t-Tabi’in* (i.e. the followers of the followers of the Companions).

The following is considered to be the relative value of *Ijma*’ : –

That of the *Ashab* (Companions) is equal to *Hadis Mutawatir*. That which was decided afterwards, but in accordance with the unanimous opinion of the *Ashab*, is equal to *Hadis-i Khaba-i-Mashhur*, and that upon which there was diversity of opinion amongst the *Ashab*, but has since been decided by the later

Mujtahidun is equal to *Hadis-i-Khabar-i-Wahid*.

Some European writers confuse the term *Ijma*’ with *Ijtihad*. But *Ijtihad* is the deduction made by a single *Mujtahid*, whilst *Ijma*’ is the collective opinion of a council of *Mujtahidun*, or enlightened doctors.

Amongst the Shi’ahs, there are still *Mujtahidun* whose *Ijma*’ is accepted, but the Sunnis have four orthodox schools of interpretation, names after their respective founders – Hanafi, Shafi’i, Maliki, and Hambali. The Wahhabis for the most part reject *Ijma*’ collected after the death of the Companions.

It will be easily understood what a fruitful source of religious dissension and sectarian faith is. Divided as the Christian Church is by its numerous sects, it will compare favourably with Muhammadanism even in this respect. Muhammad, it is related, prophesied that as the Jewish church had been divided into seventy-one sects! And the Christians into seventy-two! So his followers would be divided into seventy-three-sects! But every Muslim historian is obliged to admit that they have far exceeded the limits of Muhammad’s prophecy; for, according to Abdul-Qadir al-Jilani, there are at least 150.

IJTIHAD. *Lit.* “Exertion.” The logical deduction on a legal or theological question by a *Mujtahid* of learned and enlightened doctor, as distinguished from *Ijma*’, which is the collective opinion of a council of divines.

This method of attaining to a certain degree of authority in searching into the principles of jurisprudence is sanctioned by the Traditions: –

“The Prophet wished to send a man named Mu’az to al-Yaman to receive some money collected for alms, which has was then to distribute to the poor. On appointing him, he said: “O Mu’az, by what rule will you act?” He replied, ‘By the Law of the Qur’an.’ ‘But if you find no direction therein?’ ‘Then I will act according to the Sunnah of the Prophet.’ ‘But what if that fails?’ ‘Then I will make an *Ijtihad*, and act on that.’ the

Prophet raised his hands and said, 'Praise be to God who guides the messenger of His Prophet in what He pleases.'"

The growth of this system of divinity is traced by a Sunni writer, Mirza Qasim Beg, Professor in the University of St. Petersburg (extracts from which are given in Sell's *Faith of Islam*) as follows: –

1. God, the only legislator, has shown the way of felicity to the people whom He has chosen, and in order to enable them to walk in that way, He has shown to them the precepts which are found partly in the eternal Qur'an, and partly in the sayings of the Prophet transmitted to posterity by the Companions and preserved in the Sunnah. That way is called the *Shari'ah* (law). The rules thereof are called *Ahkam* (commandments).

2. The Qur'an and the Sunnah, which since their manifestation are the primitive sources of the orders of the Law, form two branches of study, viz. *'Ilm-i-Tafsir* or the interpretation of the Qur'an and *'Ilm-i-Hadis*, or the study of Tradition.

3. All the orders of the Law have regard either to the actions (*Din*) or to the belief (*Iman*) of the faithful (*Mukallif*).

4. As the Qur'an and the *Sunnah* are the principal sources from whence the precepts of the *Shari'ah* have been drawn, so the rules recognized as the principal elements of actual jurisprudence are the subject of *'Ilm-i-Fiqh* or the science of Law.

Fiqh in its root signifies "conception, comprehension." Thus Muhammad prayed for Ibn Mas'ud: "May God make him comprehend (*Faqqaha-hu*) and make him know the interpretation of the Qur'an." Muhammad in his quality of Judge and chief of the believers decided, without appeal or contradiction, all the affairs of the people. His sayings served as a guide to the Companions. After the death of the Prophet, the first *Khalifahs* acted on the authority of the Traditions. Meanwhile, the Qur'an and the Sunnah, the principle elements of religion and legislation, became little by little the subject of controversy. It was then that men applied themselves vigorously to the task of learning by heart the Qur'an and the Traditions, and then that jurisprudence became a separate science. No science had as yet been systematically taught and the early Musalmans did not possess books which would serve for such teaching. A change soon, however, took place. In the year in which the great jurisconsult of Syria died (A.H. 80), Nu'man ibn Sabit, surnamed Abu Hanifah, was born. He is the most celebrated of the founders of the schools of jurisprudence, a science which ranks first in all Muslim seats of learning. Until

that time and for thirty years later, the learned doctors had all their knowledge by heart, and those who possessed good memories were highly esteemed. Many of them knew by heart the Whole Qur'an with the comments made on it by the Prophet by the Companions; they also knew the Traditions and their explanations, and all the commands which proceed from the Qur'an and the Sunnah. Such men enjoyed the right of *Mujtahidun*. They transmitted their knowledge to their scholars orally. It was not until towards the middle of the second century of the *Hijrah* that treatises on the different branches of the Law were written, after which six schools (*Madhabs*) of jurisprudence were formed. The founders (all Imams of the first class) were Abu Hanifah, the Imamu 'l-A'zam or greatest Imam (A.H. 150), Sufyan as-Sauri (A.H. 161), Malik (A.H. 179), ash-Shafi'i (A.H. 204), Ibn Hanbal (A.H. 241), and the Imam Dawud as-Bahiri (A.H. 270). The two sects founded by as-Sauri and az-Zahiri became extinct in the eighth century of the *Hijrah*. The other four still remain. These men venerated one another. The younger ones speak with great respect of the elder. Thus ash-Shafi'i says: "No one in the world was so well versed in jurisprudence as Abu Hanifah was, and he who has read neither his works nor those of his disciples know nothing of jurisprudence." Ibn Hanbal, when sick, wore a shirt which had belonged to ash-Shafi'i, in order that he might be cured of his malady; but all this did not prevent them starting schools of their own, for the right of *Ijtihad* is granted to those who are real *Mujtahidun*.

There are three degrees of *Ijtihad*:

1. *Ijtihad fi'sh-Shar'*, absolute independence in legislation.

2. *Ijtihad fi'l-Madhab*, authority in the judicial systems founded by the *Mujtahidun* of the first class.

3. *Ijtihad fi-l-Masa'il*, authority in cases which have not been decided by the authors of the four systems of jurisprudence.

The first is called a complete and absolute authority, the second relative, the third special.

(1) *Ijtihad fi'sh-Shar'*

Absolute independence in legislation is the gift of God. He to whom it is given when seeking to discover to meaning of the Divine Law is not bound to follow any other teacher. He can use his own judgment. This gift was bestowed on the jurisconsults of the first, and to some of the second and third centuries. The Companions, however, who were clearly connected with the Prophet, having transmitted immediately to their posterity the treasures of legislation, are looked upon as

Mujtahidun of much higher authority than those of the second and third centuries. Thus Abu Hanifah says: "That which comes to us from the Companions is on our head and eyes (i.e. to be received with respect): as to that which comes from the Tabi'un, they are men and we are men."

Since the time of the Tabi'un, this degree of *Mujtahid* has only been conferred on the six great Imams before mentioned. Theoretically any Muslim can attain to this degree, but it is one of the principles of jurisprudence that the confirmation of this rank is dependent on many conditions, and so no one now gains the honour. These conditions are: –

1. The knowledge of the Qur'an and all that is related to it; that is to say, a complete knowledge of Arabic literature, a profound acquaintance with the orders of the relationship to each other and their connection with the orders of the *Sunnah*. The candidate should know when and why each verse of the Qur'an was written, he should have a perfect acquaintance with the literal meaning of the words, the speciality or generality of each clause, the abrogating and abrogated sentences. He should be able to make clear the meaning of the "obscure" passages (*Mutashabih*), to discriminate between the literal and the allegorical, the universal and the particular.

2. He must know the Qur'an be heart with all the Traditions and explanations.

3. He must have a perfect knowledge of the Traditions, or at least of three thousand of them.

He must know their source, history, object, and their connection with the laws of the Qur'an. He should know by heart the most important Traditions.

4. A pious and austere life.

5. A profound knowledge of all the sciences of the Law.

Should anyone now aspire to such a degree another condition would be added, viz: –

6. A complete knowledge of the four schools of jurisprudence.

The obstacles, then, are almost insurmountable. On the one hand, there is the severity of the '*Ulama*', which requires from the candidate things almost impossible; on the other there is the attachment of the '*Ulama*' to their own Imams, for should such a man arise, no one is bound now to listen to him. The Imam Ibn Hanbal said: "Draw your knowledge from whence the Imams drew theirs, and do no content yourself with following others, for that is certainly blindness of sight." Thus the schools of the four Imams remain intact after a thousand years have passed, and so the '*Ulama*' recognize since the time of these Imams no *Mujtahid*

of the first degree. Ibn Hanbal was the last.

The rights of the man who attained to this degree were very important. He was not bound to be a disciple of another, he was a mediator between the Law and his followers, for whom he established a system of legislation, without anyone having the right to make any objection. He had the right to explain the Qur'an, the *Sunnah*, and the *Ijma'*, according as he understood them. He used the Prophet's words, whilst his disciples only used his. Should a disciple find some discrepancy between a decision of his own Imam and the Qur'an or Traditions, he must abide by the decision of the Imam. The Law does not permit him to interpret after his own fashion. When once the disciple has entered the sect of one Imam he cannot leave it and join another. He loses the right of private judgment, for only a *Mujtahid* of the first class can dispute the decision of one of the Imams. Theoretically, such *Mujtahidun* may still arise; but, as we have already shown, practically they do now.

(2) *Ijtihad fi'l-Madhab*

This degree has been granted to the immediate disciples of the great Imams who have elaborated the systems of their masters. They enjoyed the special consideration of the contemporary '*Ulama*', and of their respective Imams who in some cases have allowed them to retain their own opinion. The most famous of these men are the two disciples of Abu Hanifah, Abu Yusuf, and Muhammad ibn al-Hasan. In a secondary matter, their opinion carries great weight. It is laid down as a rule that a *Mufti* may follow the unanimous opinion of these two even when it goes against that of Abu Hanifah.

(3) *Ijtihad fi'l-Masa'il*

This is the degree of special independence. The candidates for it should have a perfect knowledge of all the branches of jurisprudence according to the four schools of the Arabic language and literature. They can solve cases which come before them, giving reasons for their judgment, or decide on cases which have not been settle by previous *Mujtahidun*; but in either case, their decisions must always be in absolute accordance with the opinions of the *Mujtahidun* of the first and second classes, and with the principles which guided them. Many of these men attained great celebrity during their lifetime, but to most of them this rank is no accorded until after their death. Since their Imam Qazi Khan died (A.H. 592), no one has been recognized by the Sunnis as a *Mujtahid* even of the third class.

There are three other inferior classes of jurists,

called *Muqallidun*, or followers of the *Mujtahiddun*; but all that the highest in rank amongst them can do is to explain obscure passages in the writings of the older jurisconsults. By some of the 'Ulama' they are considered to be equal to the *Mujtahidun* of the third class. If there are several conflicting legal opinions on any point, they can select one opinion on which to base their decision. This a mere *Qazi* cannot do. In such a case he would have to refer to these men or to their writings for guidance. They seem to have written commentaries on the legal system without originating anything new. The author of the *Hidayah*, who lived at the end of the sixth century, was a *Muqallid*.

INSPIRATION. Arabic *wahy*. According to the *Nuru 'l-Anwar*, by Shaikh Jiwan Ahmad (A.H. 1130) inspiration is of two kinds. *Wahy zahir*, external inspiration, or *Wahy batin*, internal inspiration.

I. *Wahy zahir* (External Inspiration) is of three kinds:

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(1) *Wahyu Qur'an*, or that which was received from the mouth of the angel Gabriel, and reached the ear of the Prophet, after he knew beyond doubt that it was the angel who spoke to him. This is the only kind of inspiration admitted to be in the Qur'an. It is sometimes called the *Wahy mathlu*.

(2) *Isharatu 'l-Malak*, or that which was received from the angel, but not by word of mouth, as when the Prophet said, "the Holy Ghost has breathed into my heart."

(3) *Ilham* or *Wahyu qalb*, or that which was made known to the Prophet by the "light of prophecy." This kind of inspiration is said to be possessed by *Walis* or saints, in which case it may be either true or false.

II. *Wahy batin* (Internal Inspiration) is that which the Prophet obtained by thought and analogical reasoning, just as the *Mujtahidum*, or enlightened doctors of the law obtain it. It is the belief of all orthodox Muslims that their Prophet always spoke on matters of religion by the lower forms of inspiration (i.e. *Isharatu 'l-Malak*, *Ilham*, or *Wahyu qalb*); and consequently a Hadis is held to be inspired in as great a degree, although not in the same manner as the Qur'an itself. The inspiration of the Hadis is called the *Wahy ghair mathlu*. (See *Nuru 'l-Anwar*, pg. 181; *Mishkat*, book i.

Ch. Vi. Pg. 2)

Suratu 'n-Najm, [Qur'an 53:2] "*Your lord (sahib) erreth not, nor is he led astray, neither speaketh he from impulse.*"

The following is a description of inspiration as given by Ibn Khaldun, "The sign that a man is inspired," he says, "that he is at time completely absent, though in the society of others. His respiration is stentorious [powerful] and he seems to be in a cataleptic fit or in a swoon. This however, is merely apparent; for in reality such an ecstasis [ecstasy] is an absorption into the invisible world; and he has within his grasp what he alone is able to conceive, which is above the conception of others. Subsequently these spiritual visions descend and become perceptible to the faculties of man. They are either whispered to him in a low tone, or an angel appears to him in human shape and tells him what he brings from God. Then the ecstasis ceases, and the prophet remembers what he has heard."