



Al-Azhār

Volume 6, Issue 1 (Jan-June, 2020)

ISSN (Print): 2519-6707



Issue: <http://al-azhaar.org/ojs/index.php/rj/issue/view/12>

URL: <http://al-azhaar.org/ojs/index.php/rj/article/view/104/22>

Article DOI: <https://doi.org/10.46896/arj.v6i01.104>

Title Legal Status of Collective Ijtihād (Ijtihād al-Jamā‘ī) in Contemporary Era

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Received on: 29 June, 2019

Accepted on: 29 May, 2020

Published on: 25 June, 2020

Citation: Dr. Sajila Kausar, Dr. Shaban Nazar, “Construction: Legal Status of Collective Ijtihād (Ijtihād al-Jamā‘ī) in Contemporary Era,” Al-Azhār: 6 no, 1 (2020): 106-120

Publisher: The University of Agriculture Peshawar



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Legal Status of Collective Ijtihād (Ijtihād al-Jamā'ī) in Contemporary Era

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ABSTRACT

This paper attempts to determine the legal status of a most practical method of ijtihād of present era. Ijtihād is a tool to keep Islamic sharī'ah practicable in each era in the light of teachings of Qur'ān and Sunnah. The goal of this paper is to explore the legalized capacity of collective exertion of jurists of current period. This research is very important as it will provide a clear guideline about the worth of method of derivation about newly faced issues of human life in the light of sharī'ah in present era. This study focuses on the concept of ijtihād, its types, historical background, its most appropriate method as per the need of the day and its lawful aspect. It is a narrative and descriptive research highlighting the connection and linkage of flexibility of different methods of ijtihād till present era. This research concludes with the most suitable method of ijtihād and its legal competency in the structure of Islamic sharī'ah.

Key Words: Ijtihād, Individual Ijtihād, Collective Ijtihād, Ijmā', Legal Status.

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1.1 Introduction of Ijtihād

Islām is a complete way of life granted by Allah, the Supreme Being, to provide the direction to the entire humanity. The main source of its guidance is the “Qur’ān” and “Sunnah of the Prophet (ṢAWS)”. The basic code of conduct for the guidance of humanity is provided in “Qur’ān” and “Sunnah”. Due to the changing demands of society and the developments in the life of human beings as a result of advancements in science, socio-economic, political, technological conditions, there is dire need of such tool that can help the “sharī’ah” to fulfill the changing demands of every human age. Islām has presented the “principle of ijthād” to fill this gap. Ijthād is not about producing somewhat different in Islām but it’s about explaining the newly faced problems in line with the religious teachings. The role of Ijthād in the anatomy of sharī’ah can be considered as “fresh blood” that maintain the practicability of Sharī’ah in all ages. Ijthād can be conducted by individual or collectively by a group of people. But in this current age of specialism, performing it individually is not possible, so it’s seems more effective to perform Ijthād using collective method. This paper presents the legal competency of such collective method of ijthād.

1.2 Literature Review

In the present age of scientific and technological advancements and specialization, collective ijthād is much needed and important phenomenon .It is the need of the day for finding the solutions of Muslim Ummah by collective consultation to make Islamic shari’ah dynamic as per requirements of the era. Numerous scholars of 20th century have diverted the attention of Ummah towards the need of this collective ijthād. For example, the renowned intellectual of Pakistan, ‘Allāmah Muḥammad Iqbāl, while he was delivering his lecture in 1928 A.D about “*The principle of movement in the structure of Islām*”¹, he has stressed that Muslim community can find the solutions of their problems with the help of collective ijthād. ‘Allāmah also talked about the methodology of this ijthād and considered Parliament the most suitable and practical forum for this activity if done under the umbrella of guidance of religious scholars. Another seasoned scholar of Syria, Dr. Muṣṭafa Aḥmad Zarqā² suggested to establish an international fiqh academy for collective ijthād in his article in 1952 A.D.³

The idea of an international fiqh academy for collective ijthād was further enhanced by eminent scholar Dr. Ḥamīd Allah.⁴ As per his suggestion, each Muslim territory must have a fiqh academy and all these should be connected with each other just like an association for thinking over the problems and for finding their solutions with mutual consent.

Dr. Aznān Ḥassan⁵ in his article “*An Introduction to Collectively Ijthād (Ijthād Jamā’i): Concept and Applications*”⁶ has a very comprehensive approach towards the orientalist criticism about the closure of door of Ijthād. Addressing this criticism, he also has highlighted the various dimensions of collective ijthād.

International University Islamabad, conducted an international conference on history, evolution and practical aspects of collective Ijthād in 2005.⁷ It provided very rare and thought provoking information about the concept and history of Ijthād as well as its current situation. Number of issues come forth which have achieved the degree of Ijmā’ upon them .

1.3 Research Gap

The need, importance and application of collective ijthād is significant from the above literature review. But a very important aspect of this method is lacking i.e. the legal worth of the decisions finalized by collective exertion of the scholars. This research is aimed to determine the said gap.

1.4 Objectives of the Study

The core objective of this research is to highlight the status of collective ijthād of present era in the legal framework of Islamic shari’ah. How should it be dealt? To what extent it will be

binding for the followers. If a community or country does not own or follows the collective exertion of scholars of that era, how this attitude should be addressed?

1.5 Research Methodology

This is a conceptual paper following descriptive and narrative approach to highlight the concept, proof, methods, history and practical aspects of *ijtihād*. Defining different types of *ijtihād*, this research will determine the scope and status of each type and point out the most suitable one for this present era of scientific and technological achievements.

1.6 Literal and Terminological Meaning of Ijtihād

Ijtihād is an Arabic language word which is extracted from the word "jah'd" literary meaning of which is "strain or great effort".⁸ The words "jahada" or "ijtahada" are verbs that denotes the literary meanings as "to exert oneself or do one's best, and is generally used in an activity which entails a measure of hardship". Hence, the word will be used in a sense when someone will hold a heavy weight but not when the weight will not be so heavy.⁹ The term "*ijtihād*" is a noun, and its meaning in literature are "exertion or putting in the greatest effort possible to achieve something".¹⁰

The literal implication of *ijtihād*, provide this word to the scholars of "uṣūl al-fiqh" who use it for rational application by the experts of jurisprudence. However about the technical definition of *ijtihād*, the intellectuals have different opinions. It is defined by some scholars as: "The total expenditure of effort made by a jurist in order to infer, with a degree of probability the rules of *Sharī'ah* from their detailed evidence in the sources".¹¹

While some other researchers have elaborated it as: "The application by a jurist of all his faculties either in inferring the rules of *Sharī'ah* from their sources or in implementing such rules and applying them to particular issues".¹²

The above discussion about the definition of *ijtihād* can be concluded as an action by a legal expert through paramount intellectual effort possible to reach at the right conclusion in line with the verdict of Allah and His Prophet (ṢAWṢ), regarding any given problem.

1.7 Evidence of Ijtihād

The status of *ijtihād* is explicitly approved by the "Qur'ān" and "Sunnah". Number of provisions prevails in the "Qur'ān", the "Sunnah", the "Ijmā'" of Ṣaḥābah and various school of thoughts who have affirm its authority as the obligation of an expert person to assist the cause of holy principles of Islām.

There are many verses of the Holy Qur'ān which highlight the doctrine as well as technique of *Ijtihād*. The Qur'ān announces:

فَاعْتَبِرُوا يَا أُولِي الْأَبْصَارِ ۝¹³

Take warning, then, O ye with eyes (to see)!"

The method of *ijtihād*, is also explained by the Qur'ān in these words:

الَّذِينَ آتَيْنَاهُمُ الْكِتَابَ يَتْلُونَهُ حَقَّ تِلَاوَتِهِ ۝¹⁴

"Those to whom We have sent the book study it as it should be studied;".

The terms and conditions of the study are also declared by the Qur'ān in following words:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا ۝¹⁵

O ye who believe! obey God and obey the Apostle and those charged with authority among you. If ye differ in anything among yourselves refer it to God and His Apostle if ye do believe in God and the Last Day: that is best and most suitable for final determination."

The significance and need of *ijtihād*, to construct Islamic *Shari'ah* and made it dynamic in each era is evident when Prophet Muḥammad (ṢAWṢ) has also applied the technique of *Ijtihād* although his authentic source of knowledge or God's revelation was there to take any guidance.

The Preacher of God (ṢAWS) said: “When I do not receive a revelation (waḥī), I adjudicate among you on the basis of my opinion (rā’y)”.¹⁶ Prophet also have guided:

“If a judge interprets and gives a right judgment he will have earned two rewards; if he interprets but errs in his judgment he will still have earned one reward”.¹⁷

Moreover, Muḥammad (ṢAWS) said: “If God favours one of His creatures. He bestows him the understanding of Dīn (Makes him a faqīh)”, so “A faqīh (jurist) is a proof against the devil who tampers with the ignorant in the prayer”.¹⁸

The exercise of ijtihād was also practiced by the “Ṣahābah” for the development and promotion of the concepts of law b. Caliph Abū Bakr said:

“I decide the question of Kalālah (a deceased leaving no parent or child to inherit) according to my opinion; if it be correct, then it is an inspiration from God; if it be wrong, then the error is mine and the Satan’s; God and His Prophet (ṢAWS) are irresponsible of such error”.¹⁹

Caliph ‘Umar said: “I do not know whether I have attained the truth but I spare no effort in striving to do so”.²⁰

Caliph ‘Alī, Zayd b. Thābit, ‘Abd Allah b. ‘Abbās, ummul mu’minīn ‘Āishah and others, all were expert in Islamic jurisprudence followed by Sunni schools of thought. They have founded their own school of thoughts by performing the Ijtihād.

1.8 Methodologies of Ijtihād

Ijtihād is performed in many different ways. In case of any problem the first source of guidance for taking any decision is “Qur’ān” and “Sunnah”. If both major sources have explicit instructions, they will be acted upon. Lacking any clear instructions in “Qur’ān” and “Sunnah” will automatically leads towards an effort to derive the rules from Qur’ān and Sunnah is called ijtihād. Ijtihād have different methodologies and modes, individual and collective. The major modes are Ijmā’ and Qiyās, while the sub -modes are “Istiḥsān”, “Istidlāl”, “Istiḥāb al-Ḥāl”, “Urf”, “Maṣāliḥ Mursalah”, “Fath al-Dharā’ah” and “Sadd al-Dharā’ah”. Except Ijmā’, most of the methods are used in individual Ijtihād. However, more practical and effective mode of Ijtihād in present era is “collective Ijtihād”.

2.1 Definition of Collective Ijtihād (Ijtihād Jamā’ī)

“Collective ijtihād or ijtihād al-Jamā’ī” can be defined as mutual discussion and decision making of “Mujtahidīn” to develop the legal rules for any new problems and reaching the conclusion through dominant majority. This method of ijtihād is most suitable according the changing circumstances of the present era of science and technology. Each day human life is facing new social cultural, religious, economic, political and medical issues. No one alone can tackle them thoroughly. So, the mutually agreed decision through “collective ijtihād” is the easiest solution which is the outcome of collective consultation. The platform for such collaborative decision making is established through the meeting of “fuqahā” and “jurists”. Under such gatherings and discussions the religious scholars and legal experts mutually find the legal solutions for problems encountered.

2.2 Collective Ijtihād in early Islamic Era

Guiding and training human beings for their individual as well as collective matters, Allah almighty has explicit instructions to have mutual consultation termed as Mushāwirat where there is not any clear instruction in “Qur’ān” and “Sunnah”. The Qur’ān declares:

21○ وَأْمُرْهُمْ شُورَىٰ بَيْنَهُمْ

Who (conduct) Their affairs by mutual Consultation.

The Prophet (ṢAWS) was also ordered as;

22○ وَشَاوِرْهُمْ فِي الْأَمْرِ

And consult them in affairs (of moment).

The practical aspect of this concept can be observed in the practice of the Prophet (ṢAWṢ) and Rāshidūn Khulafā'. This tradition goes on in later periods of Islamic history as well. In present era, this concept is revitalized and termed as Collective ijtihād.

2.3 Historical Perspective of Ijtihād Jamā'ī

The technique of ijtihād was considered very valuable during the era of the Prophet (ṢAWṢ) as well as Rāshidūn Khulafā'. The Prophet (ṢAWṢ) himself put the foundation of this method of consultation. All important national issues, for instance, strategy of state, planning of war, administrative matters and collective issues were solved by "Mushāwiratī (Collective) Ijtihād" especially. For example, to determine the war location in battle of Badr and Uḥad, the decision was confirmed through collective consultation. During the battle of Aḥzāb, when Madīnah was stringently plagued and natives of Madīnah were going through a very hard time, Prophet Muḥammad (ṢAWṢ) has taken the decision to bargain with the troops of Ghufṭān on 1/3 dates production of Madīnah. But after consultation with the front-runners of Madīnah, Sa'ad b. Mu'ādh, and Sa'ad b. 'Ubaydah, the deal was cancelled. The same situation can be observed about the freeing of war hostages of "Hawāzin tribe" in battle of Ḥunayn (08 A.H.). To keep them war prisoners or to release them, both situations were with many political and psychological influences. Personally, the Prophet (ṢAWṢ) was wishing to have good behavior with them, but He put the matter with Muslim community and take their opinion. At the end, the matter was decided with the mutual consultation of leaders of different tribes and almost six hundred prisoners were released.²³

This consultative method was effectively applied for the nomination of Rāshidūn Khulafā'. After the death of the Prophet (ṢAWṢ), the nomination of caliph comes forth as a big political, governmental and legal issue. The Ṣaḥābah not only applied this Mushāwiratī (consultative) method rather also developed different modes of reasoning and analogies. For instance, while recommending the Abū Bakr as a candidate for selection, 'Umar has supported with the argument that Abū Bakr was the person who has been selected as the leader in prayers by the Prophet (ṢAWṢ). The logic for this recommendation was that as Prophet (ṢAWṢ) has recognized his leadership in al-Dīn, so he must be chosen as leader in worldly matters as well. As described by al-ṭabarī, 'Umar has said no one can reject a person who has been nominated by the Prophet (ṢAWṢ) himself.²⁴

At the end of his period, Abū Bakar has profoundly looked after the matter of caliphate and nominated 'Umar as most suitable person but he consulted his notable colleagues before final decision.²⁵

During the last days of 'Umar's caliphate, a committee comprising of seven people was constituted termed as Shūrā to take over the matter. This committee extended its circle of consultation not only to common people, rather women and external "Cār wāns (troops), who have been visiting Madīnah were also involved in this decision and a unanimous nomination was finalized.²⁶

The caliphate of 'Alī, came into being in very emergency situation but in spite of request of Ṣaḥābah to 'Alī for this responsibility, he extended the matter to the common people's opinion before finalizing the matter.²⁷

This tradition of collective consultation continued in later periods. The "Tābī'īn" and the "Ā'mah" that belong to the renowned schools of thought, i.e. Imām Abū Ḥanīfah has used Ijtihād for building the doctrine of his school of thought.

However, after Imām Abū Ḥanīfah, this tradition discontinued except couple of examples i.e. "Fatāwā 'Ālamgīrī" by the famous Mughal emperor, Aūrang Zayb 'Ālamgīr in eleventh century of hijrah. This step of Aūrang Zayb 'Ālamgīr was one of the most effective and structured endeavor to assemble the Islamic fiqh from all over the world by using the technique of

collective ijtihād. The other living example is “*Majjallah Ahkām al-‘Adliyyah*” in 1876 A.D by Uthmanith Caliph and “*Huqūq al-‘Ā‘ilah*” in 1917 A.D. This contribution of Uthmanith was in line with the configuration of European statute which is also considered as the second well organized effort to collect the Islamic fiqh based on the method of collective ijtihād. Even though, this statute was agreeing with the “Ḥanafī School of thought”, but “Mālikī school of thought” was also adopted as a benchmark in some of the problems.

Except these few examples of collective ijtihād, in most of the cases the Islamic fiqh was developed by individual ijtihād that resulted in intellectual and theoretical based distribution among Muslim ummah rather also concludes at the announcement of the closure of door of “Ijtiḥād-e-Muṭlaq” (Un-conditional Ijtiḥād).

2.4 The significance of Collective Ijtiḥād in Present Era

The need and importance of Collective ijtiḥād cannot be denied in the current era of scientific and technological achievements. The social, cultural, Political and economic advancements of human life compel the scholars to present the verdict of Sharī‘ah about newly faced issues. This need was also realized by eminent scholars of 20th century i.e Dr. Muḥammad Iqbāl, Dr. Muṣṭafā Aḥmad Zarqā, Dr. Ḥamīd Allah and many others.

The concepts and suggestions of all above scholars were converted into practical realism during the last 40 years of 20th century. Such type of various bodies were established in the muslim countries for the purpose of thinking over diverse legal problems and matters to resolve them according to Sharī‘ah. All these institutes are providing the guidance to Muslim Ummah about any newly surfaced problems and topics.

2.5 The Practice of Collective Ijtiḥād in Current Period

The institutions of Collective Ijtiḥād are vigorously performing their operations in different Muslim and non-Muslim countries to cope with any newly raised problem of the Ummah. Below table 1 presents the list of some renowned institutions along with countries where these are located:

Table 1: Institutions of Collective Ijtiḥād in present era²⁸

Sr #	Countries	Institutions
01	Saudi Arabia	The Organization of Great Jurists of Saudi Arabia (Hay’at Kibār al-‘Ulamā’ fī al-Mamlukat al-‘Araybiyyah al-Sa’ūdiyyah). The Permanent Committee for Scientific Researches and Iftā’ (Al-Lujnah al-Dā’imah li al-Buḥūth al-‘Ilmiyyah wa al-Iftā’). The General Commission for the Administration of Scientific Researches, Iftā’ and Missionary Works and Preaching (Al-R’iasat al-‘Āmmah li Idārat al-Buḥūth wa al-Iftā’ wa al- Da’wah wa al-Irshād). International Islamic Fiqh Academy, Jaddah (Majma’ al-Fiqh al-Islāmī al-Dawli). The Islamic Fiqh Academy, Makkah Mukarramah (Majma’ al- Fiqh al-Islāmī).
02	Kuwait	The General Administration for Ifta (Kuwait). The Islamic Organization for Medical Researches (Al-Munazzamah al-Islāmiyyah li’l-‘Ulūm al-Tibbiyyah). The Islamic Council for Fatwa and Shari’ah Supervisory in the Kuwayti House of Finance (Hay’ah al-Fatwā wa al-

		Riḳābah al-Sharī'ah fi Bayt al-Tamwīl al-Kuwaytī). The International Shari'ah Council for Affairs Related to Zakat under the House of Zakat in Kuwayt (al-Hay'ah al-Shari'ah al-'Ālamiyyah li'l-Zakāt al-Tabi'at li Bayt al-Zakāt fi Dawlat al-Kuwayt).
03	Sudan	The Board for Shari'at's Ifta in Sudan (Majlis al-Iftā' al-Sharī'ī fi al-Sūdān). The Supreme Council of the Shari'ah Supervisory Board for Banking and Financial Institutions in Sudan (al-Hay'ah al-'Ulyā al-Sharī'ah li al-Jihāz al-Maṣrafī wa al-Mū'assasah al-Māliyyah fi Sūdān).
04	Egypt	The Academy for Islamic Researches (Majma' al-Buḥūth al-Fiqhiyyah). The High Council for Islamic Affairs (al-Majlis al-A'lā li'l-Shu'ūn al-Islāmiyyah).
05	India	Islamic Fiqh Academy, India Institution for legal discussions (Idārah Mubāḥath al-Fiqhiyyah). The Council for Shari'ah Researches (Majlis Taḥqīqāt-e-Sharī'ah). The Fiqh Council (Majlis-e-Fiqhī).
06	Pakistan	The Council of Islamic Ideology in Pakistan (Islāmī Nazaryāti Council). Federal Shari'ah Court (Wifāqī Shar'ī 'Adālat).
07	Jordan	The National Academy for Research of Islamic Culture (Al-Majm' al-Mulki li Buḥūth al-Ḥaḍārat al-Islāmiyyah).
08	Morocco	The Academy of Ahl al-Bayt (Majm' Ahl al-Bayt).
09	Europe	European Council for Fatwa and Research, Ireland (Al-Majlis al-Aūrūbī li'l Iftā' wa al-Buḥūth).
10	United Kingdom	Council for Shari'ah Researches (Majlis Taḥqīqāt-e-Sharī'ah).
11	North America	Shari'ah Scholars Association of North America (Majma' Fuqahā' al-Sharī'ah). The Fiqh Council (Majlis-e-Fiqhī).

As the above detail of some institutions showed that all of these institutions are not situated in Muslim countries, rather some are in non-Muslim countries, tackling the problems of Muslim Ummah living in non-Muslim states and territories. The fatwā and legal rulings developed by these institutions are a most valuable asset of the Muslim communities of present era. The opinions developed by collective consultation of these institutes are considered as a standard to take guidance for establishing the collective methodology of Muslim community about various problems. Moreover, they have greater contribution in founding the legal and judicial system of a large number of Muslim states.

3.1 Legal Status of Collective Ijtihād of Islamic Countries

The classical jurists categorized ijtiḥād as; individual ijtiḥād and ijmā'. If the intellectual exertion was done by a single mujtahid following the proper rules of derivation, it was termed

as individual *ijtihād*. On the other hand, if all the *mujtahidīn* or a dominant majority developed a consensus on a particular issue, was titled as *ijmā'*. The collective *ijtihād* is a latest terminology presented by jurists of the contemporary era, although the concept and methodology is very ancient rooted back to the era of the Prophet (ṢAWS). The motive behind this term is to tackle the newly faced issues of present era with ease and more effectively.²⁹

Collective *ijtihād* was introduced basically to overcome the hurdles and complexity faced in the procedure of classical *ijmā'*.³⁰ So, status wise this method of *ijtihād* became controversial between the legal experts of current era. It is considered by some jurists as a type of *ijtihād* that is not up to snuff as compare to the classical *ijmā'* but higher in its authenticity in contrast to individual *ijtihād*.³¹ Consequently, it was not considered mandatory to fulfill all the requirements of classical *ijmā'*. As a result, common jurists, non-*mujtahidīn* and researchers of Islamic law became easily entertain able for this process. Some intellectuals have the opinion that expert from multidiscipline of life i.e. doctors, social scientists, and economists must be the part of the team who is performing the collective *ijtihād*.³²

Accordingly, it produced a wide difference about the decision developed by collective *ijtihād* and *ijmā'*, as the outcome of collective *ijtihād* is neither valued as definite nor it gets uttermost soundness and liableness that does the *ijmā'*. Though, opposite to it, various legal experts consider the collective *ijtihād* equal to classical *ijmā'*, both with their highest level of authenticity and validity.³³

There is also an enhanced opinion that collective *ijtihād* is considered as a middle way among *ijmā'* and individual *ijtihād*, so its authority must be accepted just like classical *ijmā'*; regarding the time and place where it is performed.³⁴ For instance, the institution of collective *ijtihād* of Saudi Arabia "Hay'at Kibār al-Ulamā' fī al-Mamlukat al-Araybiyyah al Sa'udiyah" has a unanimous decision to ensure collective *ijtihād* as mandatory at least in Saudi Arabia.³⁵ Nevertheless, this proposal proves non-practical in those countries, where this activity is performed by more than one body and in case of adverse opinion, there will be no way to authorize and implement the decision of any one organization.

Various legal experts of present era are doing the efforts to resolve this misperception. They have proposed to define the boundaries between the consensus by all *mujtahidīn* and that is reached by their majority. In the first case their collaborative opinion will be considered as *ijmā'* by considering this decision as "yaqīn (assured)" and any controverting point of view will be considered as "Khāriq li al-*ijmā'*" (ripping the consensus)" and consequently acknowledged as unacceptable.³⁶ When some of the legal experts will reach at some agreement with majority of the members then it will be considered as collective *ijtihād*. In contrast to *ijmā'*, collective *ijtihād* can be considered as one of the leading view, as it does not take the resulted decision as "yaqīn" nor it discourage the controverting point of view while reaching the agreement, this method entails accepting the conflicting point of view if appropriate measures have been taken to reach the decision. But such collective *ijtihād* inspite of its all positive characteristics will be thoroughly studied in its each aspect by the legal experts before adopting the decision to a similar situation.³⁷ This method for applying the concept of collective *ijtihād* seems more realistic, although still some people think of collective *ijtihād* less authentic as compare to the classical *ijmā'*³⁸ and there is opinion that it can't achieve the authority of the latter.

Keeping in view all these examples, it can be concluded that collective *ijtihād* theoretically differs from classical *ijmā'* and individual *ijtihād* in two ways. Firstly, collective *ijtihād* includes the opinion of more than one *mujtahid*. While the benchmark set by the legal experts for conducting the classical *ijmā'* is not followed by it, according to which participation by all living *mujtahidin* is considered as mandatory. The current research has found no evidence that

confirms the way collective *ijtihād* is accomplished in the same way as classical *Ijmā'* was supposed to perform.

Following can be the reasons for such inconsistency: Currently, although classical *Ijmā'* theoretically looks easy to conduct but lot of complications are faced by legal experts to perform it practically. Most of the legal experts have shown their concern for devising a standard procedure for the selection of a *mujtahidin*, the bench mark attributes required in that person and the method for collecting them from all over the world. Almost all of the Islamic countries have established various committees and institutions. Here, the problem arises about the way to deal with these institutions and their decisions about a variety of issues. Whether they all agree for breaking their status quo for founding the only one institution of *Mujtahidīn*? Keeping in view all these dilemmas, it is recommended that in the present time most effective and practical form of *ijtihād* is the collective *Ijthād* rather than *Ijmā'*.

One more important difference point resulted as an outcome of this dissimilarity between classical *ijmā'* and collective *ijthād* that is its reliability, because any agreement reached through classical *ijmā'* is considered to be unalterable and no future generation can't assign any new explanation of it nor challenge it.³⁹ However, such honor is not protracted for collective *ijthād* by a large number of scholars, while few of them have their opinion against it.

3.2 Theoretical Grounding of Collective *Ijthād*

Theoretical grounds of collective *ijthād* are discussed as under:

1. Based on the authority, collective *ijthād* is placed at second position, which is graded lower as compare to *ijmā'* but superior to individual *ijthād*, event is superior to *ijmā'-e-Sukūṭī* if not addressed through *ijmā'*. It is such method of *ijthād* which is more practicable and reliable. Practically, collective *ijthād* is more realistic than classical *ijmā'* and more reliable than individual *ijthād*.
2. In this contemporary world, for the endurance and survival of *Islām* collective *ijthād* is very crucial. In the modern world, the role of collective *ijthād* is much necessary for the survival and continuity of *Islām*. It is one of a practicable technique for all institutions, Muslim community and all those bodies who wish to find out more suitable ways to accomplish the demands of modern age and business.
3. It doesn't contain all the qualities of *ijmā'*. For example, the authority of collective *ijthād* is different from *ijmā'*; moreover its decisions are also not obligatory. Due to these reasons the difference of opinion among the institutes that are performing the collective *ijthād* is inevitable. The agreements reached under collective *ijthād* are subject to be reviewed till the point where all the involved parties agreed for the implementation of a binding decision. For example, the decision of the "Shari'ah Advisory Board (Hayat al-Riqābah al shari'ah)" regarding particular banking institutions will be considered binding for that institutions.
4. Members who will be the part of bodies involved in performing collective *ijthād* must include following members: 1) Legal experts or jurists who have achieved the status of *ijthād*. 2) Those jurists that have still not became the *mujtahidin*. 3) scholars who are involved in studying Islamic law. So, such groups must have sufficient number of *mujtahidin* for producing reliable and valuable outcome. Moreover, there exists lack of standard criteria for the selection of a contemporary *Mujtahid*.
5. Such committees must comprise of specialists from multidiscipline of life other than the jurists of Islamic law. Like issues related with medical or economics fields must be dealt by the experts of related fields. Their association with such bodies can be in any way temporary, permanent or honorary. Though they will help the committees as an advisor

but their professional expertise will support the other members of the group in understanding the issues under discussion or may eliminate their ambiguities.⁴⁰

Covid-19 and Collective Ijtihad

In the light of above discussion, a most current issue can be helpful to understand the situation i.e. pandemic of covid-19, a very hot issue raised about collective worships and rituals of muslims all over the world. Collective congregations (bā jamā'at namāz) were banned. A number of followers got confused and annoyed on such decisions relating it to some propaganda etc. Some tried to violate it concealing from law enforcing institutions just for their mental satisfaction that they are following the instructions of Allah and his Prophet (SAWS) of congregational prayers, which itself was a mall practice paving the way for spread of this pandemic. In such situation, when a person came to know that this decision is not solely by a single scholar, rather all over the world, religious scholars have developed a consensus that safety of human life is top priority, so to save and protect human life, it is more appreciable to perform worships individually at home.⁴¹ This consensus is a result of collective exertion of religious scholars with detailed consultation and guidance of Medical doctors and health related personals. This decision from different fiqh academies strengthen the worth of the ruling and more satisfactory for the followers to abide by not only to fulfill the administrative criterion of the territory rather also to achieve the pleasure of Almighty as well.

Conclusion

The conclusion of above discussion is that most powerful and irrevocable form of ijthād is ijmā', but it is not practical enough to be done on any issue due to its structural and legal academism. On the contrary, individual ijthād comes forth with a very narrow scope and reliability. A medium of ijmā' and individual ijthād is collective ijthād. Which is going on in different countries and territories addressing the issues of human life. Basically it is more easy to manipulate, higher authoritative than individual ijthād and puts forth plat form for ijmā' in prospective. It has variety of membership i.e. as per situation, relevant persons from concerned field are consulted for technical guidance. Currently, its status vary from country to country. Some countries have owned it by their governments and implement it by their courts of law like Kuwait and Saudi Arabia. While others have given them the status of consultative institutions and their opinion is not being binding for legislature like Council of Islamic Ideology of Pakistan etc. Consequently, collective ijthād can be regarded a more suitable form of ijthād meeting the legal demands of current era.

Future Researches

Collective ijthād is more practical, effective and reliable source of legal guidance in this challenging era of scientific and technological achievements. Number of institutions is working on it according to their own requirements and parameters. It is needed that there should be further working on the legal production of these institutions. A comparative study of opinion of different institutions about one by one issue should be compiled. Finally, a large number will come forth having developed an ijmā' upon them. A huge number will appear showing the adoption of principle of Talfiq and Marā'āt al-Khilāf setting a road map for future cosmopolitan fiqh for a unanimous Muslim ummah.

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³⁶ The doctrine of *ijmā‘* operated as a restrictive principle to ratify the status quo, for once the *ijmā‘* had cast an umbrella authority not only over those points that were the subject of a consensus but also over existing variant opinions, to propound any further variant was to contradict the infallible *ijmā‘* and therefore tantamount to heresy. See Ignaz Goldziher, *Introduction to Islamic Theology*, tr. Andras and Ruth Hamori (Princeton, NJ: Princeton University Press, 1981) 50.

³⁷ Sirāj, “Al- Ijmā‘ fi Aḥkām”, 2: 664-65

³⁸ Even the existence of the classical *ijmā‘* in practice is also arguable. Al-Shāfi‘ī for instance, maintained that *ijmā‘* only existed regarding obligatory duties, such the five pillars of faith, and other matters on which Qur’anic verses or Prophetic significance of such *ijma*, for as long as these two sources have already pronounced rules, no other sources are necessary for these rules to be effective. In this way, the authority of *ijmā‘* is only redundant in the face of a decisive ruling of the Qur’ān or the Sunnah. See: Muḥammad Hāshim Kamālī, *Principles of Islamic Jurisprudence* (Kuala Lumpur: Ilmiyyah Publishers, 1998) 168-69.

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⁴¹ Majority of muslim countries have announced it officially with consultation of their religious scholars.