



RESEARCH PAPER

Ethics of Disagreement in *Sharī ah* and its Value for Contemporary Pakistani Society

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The division of Muslim *Ummah* and presence of hatred between different schools of thought caused severe damage to the *Ummah*. This paper aims at exploring the importance of Islamic ethics of disagreement and its relevance to bring harmony between various schools of thought, with special reference to Pakistani society. The

Holy Prophet ﷺ declared the jurisprudential disagreements to be a blessing for Muslims. Indeed it was an art of agreeing to disagree. However, this knowledge of disagreement took the shape of discord and division in the world today. *Ikhtilāf* is a product of *ijtihād* and therefore, should not be abandoned. It follows discussion on the need of promoting the concept of disagreeing among the scholars in such a rational way that it elaborates different facets of *Sharī ah*. This article finds that responsibility, of creating harmony among various schools of thought and promotion of ethics of disagreement rests with the Muslim jurists and the international institutions via employing the tool of Collective *Ijtihād*. Furthermore, this article recommends looking at the disagreements as a scholarly discussion for a peaceful society.

Introduction

The contemporary Muslim world is facing the dilemma of intolerant societies. Affliction of intolerance creates severe problems in the states where Muslims are though in majority, yet polarized religiously (Hashmi, 2016). Pakistan is one of the states which are facing intolerance due to religiously polarized societies.

The Constitution of Pakistan, 1973 allows the citizens to profess and preach their juristic school (Article 20). It is generally believed that the various juristic

schools represent diversity in Islamic Jurisprudence. However, in Pakistan, where society is fragile, believers of different juristic schools spread sectarianism because every sect claims to be righteous and declares others to be infidels. This surge in sectarianism leads to intolerance behaviors.

The evidence of *ilm adb al-ikhtilāf fī al-Islām* can be traced to the *adīth* in which the Holy Prophet ﷺ declared jurisprudential disagreement to be a blessing for Ummah. *Ilm adb al-ikhtilāf* or the art of agreeing on disagreement depicts the close relationship between useful knowledge and desirable social change. In modern world, there is a dire need to revamp this art through various scholarly writings so that people at large in a society may adopt the ethics to disagree with one another over issues while living together peacefully.

This research paper aims to spotlight the importance of learning and teaching *ikhtilāf al-fuqahā* as a tool to re-interpret *Sharī' ah* in a world today. Moreover, this study seeks to lay a stress on considering *ikhtilāf al-fuqahā* as a rich source for better and improved understanding of the development of Islamic law.

Initially, this article establishes a link between *ilm al-ikhtilāf* and *ijtihād*. Later on, it explores the position of emergence of ethics of disagreement among earlier Muslim jurists. It follows discussion on the importance of study of reasons of disagreement as an independent subject. Lastly, this article focuses on the need of building a national narrative to promote inclusive and peaceful society in Pakistan in contemporary era.

Disagreement or *Ikhtilāf*: A Product of *Ijtihād*

Disagreement or *ikhtilāf* is a product of *ijtihād*. *Ikhtilāf* is a natural phenomenon where *ijtihād* is strongly encouraged and *taqlīd* is strongly discouraged (Imām Shawkānī, 1938; Zaidān, 1960). The science of disagreeing is directly related with the notion of *ijtihād*. In no doubt, *Ikhtilāf* justifies the continuous need of *ijtihād*. The existence of different opinions through exercising *ijtihād* is sufficient to legitimize *Ilm Al-Ikhtilāf* (Azizy, 1993). Islamic law exhibits great interpretational diversity that ultimately leads to the exercising of *Ijtihād* (Jamal, 2018). A Muslim jurist has juristic right to differ by employing juristic tools of reasoning (*ijtihād*) and opinion (*ra'y*) (Masud, 2009). Practice of *ijtihād*, interpretation and reasoning based on transmitted text (*na*) is required to be revived to take account of contemporary issues (Smock, 2004). It is pertinent to point out here that the opinion of the jurist or *mujtahid* is only binding on him alone and not on other jurists or *mujtahidīn* (Assān, 2010).

Ikhtilāf occurred even among companions of the Holy Prophet ﷺ. The companions of the Holy Prophet ﷺ used to exercise *ijtihād* when they confronted with a problem and rule to sort out that problem was not covered by the text of the Holy Quran and the *Sunnah*. They differed among themselves about the rules as

they discovered those rules by means of *ijtihād*. They did not consider others to be on a wrong path. They respected each other's opinion. None of them urged to consider his opinion to be superior to that of others (Assān, 2010). For example, the companions of the Holy Prophet ﷺ disagreed among themselves on the dower of a woman whose husband died before consummation of the marriage. Similarly they differed among themselves on the rule about stray camels. Likewise, they differed among themselves about the rule of maintenance and dwelling of the woman who is divorced by three pronouncements (Assān, 2010). They completely followed the ethics, manners and etiquettes of disagreeing with others. They never tried to persuade the people to become the follower of their schools of thought only. They always welcomed the analytical study of principles of opposite school of thought so that they may find out the areas where difference of opinion existed. They also exerted efforts in understanding the arguments of other schools of thought.

Ikhtilāf appears as a result or product of an academic activity, *ijtihād*, where methodologies of *mujtahidīn* in determining the meaning of the words of transmitted text (*na*) play a significant role in distinguishing one school of thought from another and maintaining a different opinion. In this regard, two major schools of thought emerged. One is represented by *Imām Abū anīfah* called as *madrassah al-fuqahā* and the other is represented by *Imām Shāfī* called as *madrassah al-mutaqalamīn*. These two schools of thought represent in reality two different structures of interpretation. According to *madrassah al-fuqahā* the four methods include *Ibārat al-na* (the plain meaning rule), *Ishārat al-na* (the connotation of the text), *Dalālat al-na* (the implication of the text) and *Iqti ā al-na* (requirement of the text by necessity) (Assān, 2003). According to *madrassah al-mutaqalamīn* the six methods include *Iqti ā* (implicit meaning), *Ishārah* (indication), *Īmā* (indication of compatibility), *Maḥūm al-Muwāfaq* (compatible high-order meanings), *Maḥūm al-Mukhālaf* (opposite meaning) and *Ma qul* (rational meaning) (Assān, 2003). An analytical and critical study of both above mentioned schools of thought reveals that both schools agree on *Ishārat al-na* and *Iqti ā al-na*. *Dalālat al-na*, of *anafī* school of thought, is considered as *Maḥūm al-Muwāfaq* by *Shāfī* school of thought. Moreover, *Ibārat al-na*, of *anafī* school of thought, is considered as *Īmā* and *Ma qul* by *Shāfī* school of thought. *anafīs* consider *Maḥūm al-Muwāfaq* as *fāsid* (not valid) and therefore, they do not do *istidlāl* with it (Al-Khinn, 2002).

Muslim jurists exhibit different opinions only where text is *zannī al- alālah* or *zannī al-sanad* and not where text implies *qa ī al- alālah* or text is *qa ī al-sanad* (Al-Jūwainī, 1987). *Qa ī* denotes definitiveness and *zannī* denotes presumptive or probable. A transmitted text, either of Quran or *Sunnah*, is *qa ī al- alālah* when the words of the text indicate a single rule, denying the possibility of other rules. For instance, in *Sūrah Al-Baqarah Ayah* No 12 the word *ni f* implies half and no other meaning. Such an incident is not the subject-matter of exercising an effort like *ijtihād*. A transmitted text, either of Quran or *Sunnah*, is *zannī al- alālah* when the words of the text indicate multiple rules, allowing the possibility of other rules. For

instance, in *Sūrah Al-Baqarah Ayah* No 228 the word *qurū* implies either start of menstruation cycle or the end of it. This fact of embracing multiple meanings allows Muslim jurists or *mujtahidīn* to differ in their opinions. It is agreed upon fact that Quran is *qa ī al-sanad*. *adīth* can be *zannī al-sanad*. For instance, *Khabar Al-Wā id* or *adīthMursal*.

This article argues that disagreement is inevitable where *ijtihād* is encouraged and *taqlīd* is discouraged because *ijtihād* results in development of law which flourishes the society whereas *taqlīd* results in stagnation.

Disagreement or *Ikhtilāf* of Various Schools of Thought Regarding the Principles of Jurisprudence

Shari' ah promotes and welcomes the study of reasons of disagreement because *Shari' ah* considers the difference in opinions as a blessing and not a disguise from Allah Almighty. This fact of difference in opinion among the Muslim jurists or *fuqahā* provides a liberty to the followers to choose an opinion containing legal rule on a particular issue from various opinions on the issue which suit to their surrounding circumstances (Masud, 2009). It is *ikhtilāf* which permits a Muslim to take the liberty to choose from among the various viewpoints that suits best to their issue and surroundings (Majid, 2016). Such a liberty or choice does not reduce the importance or value of different opinions or *ikhtilāf*. *Imām Suyu ī* narrated on the authority of *Umar Bin Abdul Azīz*,

عليه " يختلفوا: لأنهم يختلفوا "

"I do not concede the fact that the companions of the Holy Prophet ﷺ do not disagree with one another because if they do not disagree, there would be no concept of *rukḥ ah* (permission)".

Islamic legal tradition provides a law where difference of opinions among jurists is increasingly valued. It is due to this fact that Islamic law and jurisprudence is considered to be a living organism which develops and attains distinct shapes with the passage of time.

It is important to mention here that various schools of thought, which were being followed by millions of people on earth, exist only if one school of thought differs from another school of thought in developing the principles of jurisprudence. For instance, *anafi* school of thought differs from *Shāf ī* school of thought with respect to various principles of jurisprudence. For instance, *anafi* school of thought considers *i ti sān* as a source to derive *Shari' ah* ruling for an issue, while *Shāf ī* school of thought observes that *i ti sān* should strictly not be used as a tool of *ijtihād* for the discovery of *Shari' ah* ruling on an issue. It is generally referred as *ikhtilāf fī al-usūl*.

An eminent Muslim scholar, *Muhammad Hashim Kamali* argued in his article, *The Freedom of Association: The Islamic Perspective* that, “the fact that a distinctive discipline of Islamic learning namely *ilm al-ikhtilāf* has flourished in the midst of the scholastic teachings of *madhāhib* is itself a testimony to the reality of the pluralism and tolerance in the history of Islamic Scholarship” (Kamali, 1993).

Imām Abū anīfah consulted the Holy Quran and *Sunnah* in his *ijtihād*. The other principles which he followed in his *ijtihād* are *qiyās* or analogy and *i ti sān* (juristic preference or preferential reasoning). He resorts to the opinions of the Companions of the Holy Prophet ﷺ only when he does not find a text of the Holy Quran and the *Sunnah* which indicates the rule of the confronting situation. Finally he had recourse to consideration of *isti lah* or public interest and *urf* or custom (assān, 2010).

Imām Mālik’s school of thought is based on, primarily, the text of the Holy Quran and the *Sunnah*. Furthermore, his opinion is greatly influenced by *ijmā* (consensus). The other principles which he follows in his *ijtihād* are *qiyās*, *amal ahal al-medina* (the practice of the people of Medina), *qaul al- ābī* (the opinion of a companion), *i ti sān*, *sad al-dharā i* (the rule of blocking the means), *murā at al-khilāf* (the consideration of disagreement), *isti āb* (presumption of continuity), *ma ālih mursalah* (unrestricted public interests) and finally *shur man qablanā* (the revealed laws before *Sharī ah* of *Islām*) (assān, 2010).

Imām Shāf ī compiled the principles of his school of thought and his methods of *ijtihād* in his famous treatise named as *Al-Risālah*. His legal school is based, at the outset, on the texts of the Holy Quran and the *Sunnah*. He rejected *isti sān* and considered it an assertion based on personal opinion and legislation by desire. *Imām Shāf ī* clearly abandoned *ma ālih mursalah* (Al-Shāf ī, 1960; assān, 2010).

The principles of *Imām A mad Bin anbal* school of thought are the texts of the Holy Quran and the *Sunnah*, the opinions of the companions of the Holy Prophet, selecting from the opinions of the companions, those, who were nearer to the Quran and the *Sunnah*, argumentation by a *adīth* with a broken chain and a weak one and analogy. *Imām A mad Bin anbal* also employed other tools or modes of *ijtihād* upon which he relied while giving his legal opinion (*fatwā*) on an issue. These methods include the *sad al-dharā i*, *ma ālih mursalah* and *isti āb* (assān, 2010).

Therefore, it is argued that the difference in opinions among *Fuqahā*, while deriving *Sharī ah* rulings (*Istinbāt*) from the transmitted text (*na*) by following their rules of interpretation and fundamental principles of their respective schools of thought, is inevitable in Islamic law due to availability of interpretational variations in it.

It is well established conception that *Ikhtilāf fi al-furū* (difference of opinion in small/unimportant matters) can be abandoned easily because it stems only from the way of looking at some narrated text. It contains nothing more than the viewing a matter from another side. Therefore, Muslim Scholars or *fuqahā* must take it seriously to impart the sense of understanding the art of disagreeing on insignificant matters which is negligible.

Review of Literature on *Ikhtilāf*

It is incredibly interesting to study not only the difference in opinions of *Fuqahā* (*Ikhtilāf fi Ārā Al-Fuqahā*) but also to conduct the analytical and critical study of their arguments (*dalā l*) or evidences on the basis of which they differ from one another. There was a time when the scholars engage their students in the study of reasons of *ikhtilāf* among various schools of thought which ultimately results in scholarly approach towards viewpoint of various jurists on an issue at hand. Many scholarly writings are available that traces the reasons of *ikhtilāf* among various schools of thought.

At initial stages, authors dedicated a chapter in their books on *Ikhtilāf*, for instance, earlier treatise by Imām Muhammad Abū Yūsūf and Muhammad Bin assan Al-Shaibānī. Imām Shāf ī expressed his viewpoint regarding *Ikhtilāf* in his famous book *Al-Umm* (Al-Shāf ī, 1990). Likewise, he wrote a chapter on *Ikhtilāf* in his famous book *Al-Risālah* (Al-Shāf ī, 1940). In this chapter, initially, he discussed the prohibited and permissible, the two kinds of disagreement. He substantiated his division with arguments and examples. Later on, separate and independent books were written on the subject of *Ikhtilāf*. Below is the brief overview of literature available on the subject of *Ikhtilāf*.

Bidāyah al-Mujtahid wa Nihāyah al-Muqtasid by Ibn-e-Rushd (2004) is an independent writing on the subject of *ikhtilāf* which not only explores the main points of difference among various *sunni* schools of thought but it also provides an insight about the juristic principles that lie behind these differences in opinions and their impact on secondary issues or *furū*. This masterpiece of Ibn-e-Rushd demonstrates that a difference in opinion is inevitable where the transmitted text exhibits various interpretations.

Al-Fiqh Ala Al-Madhāhib Al-Arb ah by Abdur Rahmān Al-Jazīrī (2003) provides a brief account of opinions of four *sunni* schools of thought namely, *anafī*, *Mālikī*, *Shāf ī* and *anbalī* on various issues where legal view is sought. The author, in the main text provides the agreed upon contents on various topics and provides the details, comprising of opinions of four *sunni* schools of thought, in the footnotes. This book is famous for its easy comprehensible contents for beginners who are keen to learn *Shari' ah*.

Athar Al-Ikhtilāf fi Qawā id Al-Usūliyyah fi Ikhtilāf Al-Fuqahā by Mustafa Sa īd Al-Khinn (2002) is an exceptional script for the learners of *usūl* and *fiqh*. The author of the book elaborates the principles on the basis of which jurists differ from one

another while giving legal rulings on various Sharī ah issues. This book, not only provides difference in opinions among Muslim jurists, but also establishes the reasons for such variant opinions.

Adb Al-Ikhtilāf fī Al-Islām (The Ethics of Disagreement in Islam) by Taha Jābir Al- Alwānī (1987) focused on viewpoint that life of Muslim world has been impacted with the disease of discord due to wrong understanding of the ethics of disagreement. This book provides an introduction of the subject of disagreement in general. Later on, Alwānī emphasized on the usefulness of this text for the Muslims in contemporary times.

Al-Fiqh Ala Al-Madhāhib Al-Khāmisah by Jawad Mughniyyah (1995) is a brief but comprehensive book on five schools of thought namely *anafī*, *Mālikī*, *Shāf ī*, *anbalī* and *Ja fari*. The legal rulings of each school are provided in such a consistent format that the author of the book divided the schools into two categories, that are, group of agreement and disagreement with respect to their opinions.

Some other notable writings on the subject cited above include, *Ikhtilāf Al-Ulamā* by Muhammad Bin Na ar Al-Marwāzī, *Ikhtilāf Al-Fuqahā* by Muhammad Bin Jarīr Al- abrī, *Ikhtilāf Al-Fuqahā* by Abū Ja far A mad Bin Muhammad Al- a āwī, *Kitāab Al-In āf fī mābayna Al- Ulamā min Al-Ikhtilāf* by Ibn-e- Abdul Barr, *In āffī Al-Tanbeeh Ala Asbāb Al-Ikhtilāf* by Abū Muhammad Abdullah Bin Al-Saeed Al-Ba līmūsī and *Aqd Al-Jaid fī A kām Al-Ijtih ad wa Al-Taqlīd* and *Al-In āf fī Bayān Sabab Al-Ikhtilāf* by Shah Wali Ullah.

The literature review on the subject of *Ikhtilāf* reveals that disagreement among Muslim jurists arises due to any of the following reasons:

- Differences in the recitation and interpretation of the holy Quran, usually referred as Quran Sciences;
- Difference in the transmission of adīth of the Holy Prophet ﷺ, reports about the Prophet ﷺ, different levels of knowledge of adīth and assigning various legal values (*Al- ukam Al-Shar ī*) to each report of the Sunnah, usually referred as adīth sciences.
- Differences in diverse local usages in language and customs;
- Differences in terms of geographical locations with special reference to Iraq, Medina and Syria
- Differences in principles of jurisprudence or employing different methods adopted by *mujtahid* in legal reasoning (*Al-Ikhtilāffī Al-Qawā id Al-Usulīyyah*)

- Differences in the rules of interpretation of the words of a transmitted text (*na*)

Furthermore, the review of literature on the subject of *Ikhtilāf* also discloses that books available on the subject cited above can be grouped into following two categories:

- Books which merely provide the collection of different opinions of the jurists and
- Books which not only compile the different opinions but also develop theories to explain the reasons of difference.

This study argues that, regrettably, in present era, such an endeavor to study and teach the subject of art of disagreement lacks because the Muslim jurists fail to make the people at large to realize that difference of opinion leads to diversity and not to a discord. It is imperative for Muslim Jurists, now-a-days, to promote inter-sect studies to create solidarity and inter-sect harmony.

Ethics of Disagreement: A need to Build a National Narrative to Promote Inclusive and Peaceful Society in Pakistan

The government of Pakistan launched a national narrative, to create inclusive and peaceful society, in the form of a *fatwā* duly approved by 1800 Muslim scholars belonging to various sects of Islam (Islamic Republic of Pakistan, 2018). Paigham-e-Pakistan represents the collective thinking of the eminent religious scholars of Pakistan. This document aims to reconstruct the society in Pakistan. Furthermore, it aims to promote national narrative on the need of inclusive and peaceful society in Pakistan.

Islamic Research Institute (IRI) organized a national conference on “The Role of Universities in advancing national narrative to counter violence, extremism and terrorism” on 20th November, 2017 at Faisal Masjid Campus of International Islamic University, Islamabad in collaboration with Higher Education commission (HEC) Pakistan. More than 80 Vice Chancellors of different Universities participated in this conference. In a joint declaration, all participants were agreed to include the subject of ethics of disagreement in the curriculum. Furthermore, the participants vowed that sectarian hatred is a clear violation of injunctions of *Shari' ah*.

This article argues that the reconstruction of Pakistani society is an awful need of the time and therefore, becomes imperative. Propagation of the document of Paigham-e-Pakistan is one of such efforts to bring the citizens of Pakistan, following different juristic schools of thought, to follow a viewpoint which is the result of consensus developed after deliberations among the religious scholars.

Need to Establish and Strengthen Concepts like Collective Ijtihād to Promote Tolerance Culture in a Society

In a modern world, it becomes imperative to constitute different institutions for various tasks to be performed. Now-a-days, *ijtihād* is not only practiced by the individuals but also by various institutions. Islamic countries at large are employing this mechanism of collective or institutional *ijtihād* to ascertain *Sharī ah* rulings on a variety of current issues (Hassan, 2003). Collective or institutional *ijtihād* is a mutual consultation of *Mujtahidīn* to derive the legal rulings on current issues which are not available in transmitted text (*na*) and to achieve any conclusive opinion on current issues through dominant majority (Kausar, 2017).

Practical execution or application can principally be explored by examining the institutions that undertake it. Below is the list of some of well-known institutions that are practicing collective *ijtihād* and issuing resolutions as an outcome of this activity.

- In Pakistan-two institutions have been working after adopting collective *ijtihād* as a methodology, i.e., The Council of Islamic Ideology and The Federal Shariat Court.
- In India-The Islamic Fiqh Academy India (*Majma Al-Fiqh Al-Islāmī Al-Hind*), The fiqh Council (*Majlis-e-Fiqhī*), The Council for Sharī ah Researchers (*Majlis Te qiqāt-e-Sharī ah*) and Institution for legal Discussions (*Idārah Mubā ith Al-Fiqhīyyah*).
- In Saudi Arabia-The Islamic Fiqh Academy Makkah Al-Mukarramah (*Majma Al-Fiqh Al-Islāmī*) and International Islamic Fiqh Academy Jeddah (*Majma Al-Fiqh Al-Islāmī Al-Dūlī*).
- In Egypt- The Academy for Islamic Researchers (*Majma AL-Ba uth Al-Fiqhīyyah*) and The High Council for Islamic Affairs (*Al-Majlis Al-AlālilSha un Al-Islāmīyyah*).
- In Sudan- The Board for Iftā Al-Sharī ah in Sudan (*Majlis Al-Iftā Al-Sharī ahfiSudān*) and The Supreme Council of the Sharī ah Supervisory Board for Banking and Financial Institutions in Sudan (*Al-Hay ah Al-Ulyā AL-Sharī ahliJihāz Al-M rafīwaMu ssassah Al-MālīyyahfiSudān*).
- In Kuwait- The General Administration for Iftā , Kuwait, The Islamic Organization for Medical Researchers (*Al-Munāzamah Al-Islāmīyyahlil Uloom Al- ibbīyyah*), The Islamic Council for Fatwā and Sharī ah Supervisory in the Kuwaiti House of Finance (*Hay ah AL-Fatwāwa Al-Riqābah AL-Sharī ahfi Bait Al-Tamwīl Al-Kuwaitī*) and The International Sharī ah Council for Affairs related to Zakāt under the House of Zakāt in

Kuwait (*Al-Hay'ah al-Ulyā' al-Sharī'ah al-Ilmiyyah lil-Zakāt al-Tāb'at li Bait al-Zakāt fi Daulah al-Kuwait*).

- In Jordan- The National Academy for search of Islamic Culture (*Al-Majma' al-Mulki li Ba'uth al-a'arāt al-Isāmīyyah*).
- In Morocco- The Academy of Ahl al-Bait (*Majma' Ahl al-Bait*).
- In Europe- European Council for Fatwa and Research, Ireland (*Al-Majlis al-Al-Aurūbī lil-Iftā' wa al-Ba'ūth*).
- In United Kingdom- Council for Sharī'ah Researchers (*Majlis Te qīqāt-e-Sharī'ah*).
- In North America- Sharī'ah Scholars Association of North America (*Majma' Fuqahā' al-Sharī'ah*) and The Fiqh Council (*Majlis-e-Fiqhī*).

Keeping the significance of *Ikhtilāf* intact, collective *ijtihād* is considered as a way forward to re-reconciliation. At some places, like the Organization of Great Jurists of Saudi Arabia decided to make the collective *ijtihād* mandatory (Hassan, 2003).

Collective or Institutional *Ijtihād* provides a forum for discussion where scholars of different schools of thought are gathered under one roof. Such a joint academic activity itself is sufficient to raise the slogan of inter-sect harmony. It is obvious that when followers see the manifestation of tolerance regarding difference of opinion among Scholars of their respective schools of thought, they will also allow such feelings to be developed in their hearts. After due deliberations when they reach at an opinion as a result of consensus, it will bring a ray of hope to the followers not to consider others to be infidels.

Accounting and Auditing Organization for Islamic Financial Institutions formulated *Sharī'ah Standards for Islamic Financial Institution*. This is the latest example of collective *ijtihād*. AAOIFI has been exerting a lot of efforts in the preparation of accounting standards for Islamic Financial institutions. AAOIFI formed its Sharī'ah board consisting of scholars who are well versed in *fiqh al-mu'āmalāt* or Islamic Finance Law and Jurisprudence. Till date, 54 standards have been issued by AAOIFI.

This study argues that collective *ijtihād* may be seen as an institutionalized *ijmā'*. Collective effort is always being highly cherished and applauded. Opinion, after consultation and due deliberations, emerges as a collective view and becomes conclusive rather than persuasive. The Holy Prophet said that,

“ يَدَا اللّٰهَ يَجْمَعُ ”

“Allah Almighty will not cause my *ummah* to agree on a falsehood or misconception; the hand of Allah is with the *Jamā ah* and whoever splits away does so into the fire”. (Al-Tirmizi, 1975)

The above quoted *adīth* elaborates that Allah Almighty has protected the *Ulamā* or the Muslim Scholars from unanimously agreeing upon something which is based on falsehood or misconception.

This article argues that *Ikhtilāf al-fuqahā* must be looked as scholarly discussion regarding the present day issues and its relevance in the law reform in the modern context must also not be overlooked and unnoticed. Furthermore, this research work advocates that collective *ijtihād* must be considered as a way forward to the process of re-conciliation. In the present day scenario, where *Ikhtilāf* is considered and propagated as a source of discord and conflict which consequently results in the form of emergence of hatred feelings for opposite group, there is a frequent stress on the need of unifying the law. Collective *ijtihād* would constructively contribute to the elimination of the causes of division and disagreement which could undoubtedly contribute to the unity of the nation.

Conclusion and Recommendations

This article concludes that *ikhtilāf* or disagreement must always be taken as a positive process of legal development. This research article strongly advocates the need of learning and teaching the art of agreeing to disagree for a viable Muslim civilization. It is an urgent need of the time for a state like Pakistan, to promote such etiquette and ethics of disagreement, where Muslims are fighting with one another claiming that other person is following a wrong school of thought and his school of thought is correct only. The national narrative, as depicted in Paigham-e-Pakistan draft, is the need of the time to promote that difference of opinion connotes diversity and it is not a source of discord among the people in general and Muslims in particular. Muslim Scholars, belonging to contrary sects, should promote intellectual and scholarly debates and discussions on various issues with a notion to promote different facets of *Shari ah* to the people at large. This article recommends that the government of Pakistan should make the subject of Ethics of disagreement a part of the curriculum of private and public educational institutions.

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