

**Causes of Juristic Differences among the Four Schools of Thought
pertaining to Rules of Deduction and its Contemporary Impact with
Reference to Quranic Text and Context**

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Abstract

Islam is a Religion of peace and it condemns extremism and violence. Peace carries a central position in the Islamic traditions. That way main focus of

Islam is to establish a society where all can get prosperous life. Today, the humanity especially Muslim all over the World is suffering troubles, hardships and discord. Some critics argue that Islam struggles to adapt to the rapidly changing world and may hinder progress.

The existence of four schools of thought within Islamic jurisprudence has historically served several purposes. These include fostering the development of Islamic legal principles, demonstrating Islam's adaptability to changing circumstances, and ultimately contributing to the well-being of Muslim societies. Over time, these differences of opinion have also emerged as a significant factor in the fragmentation of the Muslim Ummah. Now this difference of opinion are creating misconception and hurdle in the way of Dawa'h movement. Islamic law (Shariah) is considered by many to possess an enduring capacity to guide society. Proponents argue that its principles can be applied and reinterpreted to address even the evolving circumstances of the modern world, encompassing customs and social realities.

The Muslim world exhibits a diversity of interpretations and practices within Islam. While united by faith, Muslim communities navigate various cultural and political influences, leading to a range of perspectives. In this situation the true/original teaching of Islam can create peace and love by avoiding discord. This paper will focus on the causes and importance of difference of opinion among the four schools of thought and how it impacts in contemporary era. The basic objectives of this paper are to bring awareness and remembrance of our duty regarding the importance of the brotherhood and the solidarity among the Muslim Ummah.

Key words: *Juristic disagreement, four school of thought, causes, contemporary era, Quranic context.*

I: Introduction:

Ikhtilāf is a product of *ijtihad*. A Muslim jurist has juristic right to differ by employing juristic tools of reasoning (*ijtihad*) and opinion (*ra'y*). The importance of studying *ikhtilāf al-fuqahā'* as a tool to re-interpret *Sharī'ah* in a world today and need to Establish and Strengthen Concepts like Collective

Ijtihād by institutions to Promote tolerance in a Society. In a modern world Collective effort is always being highly cherished. There's an urgent need for the Muslim *Ummah* to embrace healthy disagreement based on respectful discourse. This should replace the current situation where Muslims condemn others for following different schools of thought. Differences of opinion should be seen as a source of intellectual richness and diversity, not a cause of discord. Muslim scholars of various perspectives should engage in constructive dialogue on critical issues. Additionally, educating the public on the different interpretations of *Shari'ah* can foster greater understanding.¹

Our capacity for critical thinking and the pursuit of knowledge are essential drivers of human progress. By expanding our understanding of the world, we broaden our perspectives and unlock new possibilities. These qualities have played a significant role in humanity's achievements and contributions.² Holy Quran has been declared that:

*"And [mention, O Muhammad], when your Lord said to the angels, "Indeed, I will make upon the earth a successive authority." They said, "Will You place upon it one who causes corruption therein and sheds blood, while we declare Your praise and sanctify You?" Allah said, "Indeed, I know that which you do not know." "*³

Historically review that after the age of companions, thirteen schools of thought had developed, unfortunately the work of eight or nine leading *A'immah*/scholars has been fully or partially prepared. Among them four famous school of thought; whose principles of jurisprudence are still used in making legal judgment. *Maalik.al Shaafi'ee* and *Hanbali* were quite similar in their methodology even though they differed in some approaches in using deduction, but the methodology of *Imam Abu Haneefah* remained quite distinct. *Imam Shaafi*, *Imam Malik* and *Imam Ahmad* followed the methodology of *Hazarat Saad bin Musahab* and takes advantages from the knowledge of people of *Madinah*. While *Imam Abu Hanfeeh* acknowledged the methodology of the *Ibrahim Nakkhi*.⁴

It is acknowledged that disagreement among the *Fuqha* over the juristic issues mainly due to that Islamic law is described as diversity within unity:⁵

- ❖ Unity regarded as basic principles
- ❖ Diversity regarding details

Disagreements among the four schools of thought are caused by variety of factors; these factors are as follows:

1. Linguistic causes
2. Factors pertaining to the transmission of Hadith
3. Factors pertaining to the principles and rules of deduction⁶

The purpose of Islamic *Shariah* is not only to remove obstacles in the way of humanity but also have a concept of welfare in sense of prosperity, thus social security, stability and its strengthening are the purpose of *Shariah*. There are some important points to be noted before going to this discussion:

- ❖ There is no disagreement in *Definitive proof*.
- ❖ There is disagreement in subsidiary *Commandment*.⁷
- ❖ There are series of principles and laws that governed in the Islam and make it eternal because of the characteristic of accommodate the change. As Divine law Islamic *Shariah* has a flexibility to accommodate the given changes. Non-Muslim is also appreciated of the flexibility Islamic law as Bernard Shaw said that: “*Islam is the only Religion which has the ability to harmonized and exert its control over different circumstances and changing ways of life*”⁸

2: Literature Review:

Brief overview of literature available on the subject of *Ikhtilāf* and its contemporary impact.

- i. Letter of Hazrat Umar (RA) to Hazrat Musa Al Ashari (RA).
- ii. Earlier work on *Ikhtilaf* by Imam Muhammad Abu Yusuf and Muhammad Bin Hassan Al-Shaibani. Imam Shafi expressed his viewpoint regarding *Ikhtilaf* in his famous book *Al-Umm* and also wrote a chapter on *Ikhtilaf* in his famous book *Al-Risaalah*.

- iii. *Bidayah al-Mujtahid wa Nihayah al-Muqtasid* by Ibn-e-Rushd is a 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.
- iv. *Al-Inṣaf fi Bayan Sabab Al-Ikhtilaf* by Shah Wali Ullah
- v. *Khulasat Bidayat al-Mujtahid libni-Rushd* by Jassur Auda.
- vi. *Ikhtilafaat e Aama ki Shari Haisiyyat*. The book is in the form of article assembled by Molana Safdar Zubair Nadavi.
- vii. *Asbab-e-Ikhtalaf-Al-Fuqaha*: Translated by professor Ghulam Ahmad Hurrari. Adb Al-Ikhtilaf fi Al-Islam (The Ethics of Disagreement in Islam) by Taha Jabir Al-‘Alwani)
- viii. *Ikhtalaf Ray Adab-o-Akham* by Dr: Sulaman Fahad Auda.
- ix. *Ethics of Disagreement in Shariah and its Value for Contemporary Pakistani Society* by Dr. Rao Imran Habib, Dr. Naureen Akhtar , Dr. Imtiaz Ahmad Khan
- x. *The scope of diversity and Ikhtalaf in Shariah* by Hashim Kama.

3: Juristic disagreement among four schools of thought:

In Islam the term Religion is more comprehensive. Religion is the name of those order and instruction which provides the guideline in all sphere of human life. Its provide instruction not only for individual life but for society as well. Islam is declared as best religion as Allah has been declared in the Holy Quran:

*“Indeed, the religion in the sight of Allah is Islam. And those who were given the Scripture did not differ except after knowledge had come to them - out of jealous animosity between themselves. And whoever disbelieves in the verses of Allah , then indeed, Allah is swift in [taking] account”.*⁹

There are two steps for the welfare of society.¹⁰

- ❖ **Order and instruction of Religion that are related to the practical life of individual ones.**

- ❖ Order and instruction of Religion that are related to human being, as a vicegerent of Allah for the constructive purpose collectives' life.

There are three pillar of Religion (*Din-a-Haneef*):

- ❖ Faith
- ❖ Sanctification and civilized characteristic
- ❖ Good conduct.¹¹

The person who followed these three pillars of Religion, have an ability of understanding the Religion .The collective understanding of Religion is known as *Fiqh*.It is narrated in a Hadith:¹² "مَنْ يُرِدِ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ" such person is known as *Mujtahid* in Islamic terminology. The *Ijtihad* is not only based on literal meaning of *Fiqh*, but have a comprehensive and more compact skill.¹³

3.I: Difference between *Shariah* and *Fiqh*:

To understand the proceeding discussion there is necessary to differentiate between *Shariah* and *Fiqh*. A detailed analysis of the terms *fiqh*,and *shari'ah*, are reflecting the intricate relationships between these terms, will be explained here.

I: *Shari'ah*:

The revelation that Hazrat Muhammad (PBUH) had received and made practicing it, the message and mission of his life, i.e., the Qur'an and the Prophetic tradition. *Shari'ah* is the way, the path, as declared in the Holy Quran.

Shariah is the Divine, complete, perfect, and constant. *Shari'ah* is the criteria that differentiate that whether *fiqh* is wright and wrong.¹⁵

2: *Fiqh*:

The huge collection of juridical opinions that were given by various jurists from various schools of thought, in regards to the application of the *shari'ah* (above) to their various real life situations throughout the past fourteen centuries.¹⁶ *Fiqh* is opposite of all above mention trait that is: It is not divine, it's a humans, *Fiqh* could be Wright and wrong, not absolute, *fiqh* is changeable according to circumstances. *Shariah* is the organization of revealed laws found both in the Quran and in the *Sunnah*, while *Fiqh* is a regime of laws deduced from *Shariah* to cover specific situations not directly treated in *Shariah* law. *Shariah* is fixed and unchangeable, whereas *Fiqh* changes according to the circumstances under which it is applied. The laws of *Shariah* are, for the most part, general: they lay down basic principles. In contrast, the laws of *Fiqh* tend to be specific: they illustrate how the basic principles of *Shariah* should be effectual in given circumstances.¹⁷

4: Brief History of *Ijtihad*:

The idea of *Ijtihad* is started from the era of Prophet (PBUH), after the 5th year of *Hijra*. It is reported in Hadith أَجْرَانِ فَلَهُ أَجْرَانِ فَأَصَابَ فَلَهُ أَجْرَانِ "إِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ فَأَصَابَ فَلَهُ أَجْرَانِ وَإِذَا حَكَمَ فَاجْتَهَدَ فَأَخْطَأَ فَلَهُ أَجْرٌ" There are multiple evidences in the Quran and *Sunnah* which has been declared the validity of *Ijtihad*.

"O you who have believed, obey Allah and obey the Messenger and those in authority among you. And if you disagree over anything, refer it to Allah and the Messenger, if you should believe in Allah and the Last Day. That is the best [way] and best in result".¹⁸

During his caliphate, 'Umar ibn al-Khattāb (RA) is credited with establishing a more formal judicial system within the Islamic world. A key step in this process was his appointment of Abu Musa al-Ash'ari (RA) as the judge (qadi) in the city of al-Kufah. **Significantly, 'Umar is also known for writing a comprehensive letter to Abu Musa outlining the principles and expectations for judges.** This letter, considered a landmark document, laid the foundation for the Islamic judiciary and continues to be a source of reference for legal scholars. He says in it:

“Now, the office of judge is a definite religious duty and a generally followed practice. Use your brain about matters that perplex you and to which neither Qur'an nor Sunnah seem to apply. Study similar cases and evaluate the situation through analogy with those similar cases”.....¹⁹

5: Kinds of Mujtahid.²⁰

Allama Ibn e Qamal Pasha has been described the following kinds of *Mujtahid* according to their working boundries that leads to difference of opinion.

1: Mujtahid-fi-Sharah

Mujtahid-fi-Sharah is the founder of particular *Madhab*. He deduced the *Fiqhi Akhamat* on the bases of his selected principles and legal maxima. In this category following *Mujtahid* are included:

- ❖ Founder of *Hanfi* School, Imam Abu Hanifa
- ❖ Founder of *Malki* School, Imam Mlik
- ❖ Founder of *Shafi* School, Imam Shafi
- ❖ Founder of *Hambali* School, Imam Ahmad bin Hamnbil
- ❖ Founder of *Jafari* School of thought Imam Jafar Sadaq.
- ❖ Imam Sufayan Surri, Imam Ibna Abi Lala etc

2: Mujtahid-fi-Madhaab

Such kind of *Mujtahid* is not the founder of any particular kinds of *Madhab*, but he followed his Imam while deriving the rules .He derived the *Akhamat* related to subsidiary issues (*Forohi Massail*) on the bases of his own personal inclination. For example the pupil of Imam Abu Hanifa: Imam Yousaf, Imam Muhammad and Imam Zufar. In *Malki* School of thought the Imam Ibna Abdul Bar, Imam Abu Bakar Ibna-ul-Arabi. In *Shafi* School of thought Imam Mazani, Imam Ibna-As-Salah, Imam Taqi-ud-Deen. In *Hanmbali* school of thought there is no *Mujtahid-fi-Madhaab*.

3: Mujtahid-fi-Mashail

Mujtahid-fi-Mashail does his *Ijtahad* in such type of subsidiary issues (*Forohi Massail*) in which tradition of his Imam are absent. He does not deviate from

the rules and principle of his Imam, while deducing the *Akhamat* .For example Imam Tahavi, Imam Karhhi. In *Shafi Madhab* the Imam Ghazali.

4: Mujtahid-a-Muqayyad

Mujtahid-a-Muqayyad also known as *Sahaib-a-Muqayyad*. He is bound to follow the principle and opinion of his Imam. He is unable to conduct the *Ijtihad*, but he is well aware from the principles of his *Madhab*, reality and objectives of *Akhamat* and all related *argument*. His duty is to explain the *Mujmal* statement and gives the preference to one statement in case of more than one opinion .In *Hanfi* school of thought the Imam Jasas and Imam Ibn-ul-Hamam.

5: Ashab-a-Tarjeeh

Ashab-a-Tarjeeh Fuqha have a responsibility to point out that tradition of Imam which is more applicable and have a greatest reward. In *Hanfi Madhab* Imam Qudoori.

6: Ashab-a-Tameez

Ashab-a-Tameez Fuqha have a capability to distinguish among the authentic, daif, apparent of tradition and genuine tradition .In *Hanfi* school of thought the writer of ***Four Matoon*** Allama Mahmood Mahbubbi, Allama Abdullah Musali, Allama Ibna Assati and Allam Nasafi are included in the category of *Ashab-a-Tameez*.

7: Muqaladean-a-Mahiz

Muqaladean-a-Mahiz has none of the above mention capability and followed the opinion of his Imam as it is.

6: Four schools of thought:

The compilation of *Fiqh* had started in the start of second century. Imam Abu Hanifa has started it. Some historian has been declared the ***Kitab-ur-Raay*** the first book in the *usool-Fiqh*. After that Imam Malik derived the Islamic law from the Quran and *Sunnah* and compiled the book ***Al-Mawatta***. Imam Shafi compiled the ***Kitab-ur-Rasala*** in which he himself admitted that he took, explain and compiled the principles of deducting the principles and

legal maxima from the *Hanfi* as well as Malki school of thought. Imam Shafi student Imam Ahmad Bin Hambal takes the responsibility of extended the *Fiqhi Heritage* from his teachers and originated the *Hambli* school of thought. Above mention schools of thought maintain their specific dignity and individuality irrespective of their disagreement.²¹

6.1: *Istaqrari way* and *Istakraji way*:

Imam Abu Hanifa adopted the methodology of *Istaqrari way* in which legal maxima are derived after studying the *Fiqhi* minuteness. Second methodology was adopted by Imam Shafi that is known as *Istakraji way* in which legal maxima are derived first than *Fiqhi* minuteness are discussed according to the rules and principles. In the sixth century both the methodology are sum up in to third methodology homogeneous union (امتزاج). The purpose of third ones is to sum up all the characteristic of each methodology and struggle of *Fuqha* in to amalgamation to facilitate the humanity.²²

6.2: Sources of *Shariah*:²³

Principles of rules of deduction in Islamic Jurisprudence are divided in to primary and secondary sources. *Fuqha* are agreed that there are four following sources of Islamic law to derive the rules and principles.

- I. Holy Quran
- II. *Sunna* of the Prophet (PBUH)
- III. *Ijma*
- IV. *Qiyas*

If we sum up above mention sources in to simple way than there are two basic sources of *Shariah* that: is Revelation (*Wahay*) and Human wisdom (*Aqal-a-Insani*).

Other than above mention sources there are some other sources in which *Fuqha* are disagree upon the validity. Seven disagreed sources are:

- I. *Fiqhi* opinions of the Companion of the Prophet (PBUH)
- II. Juristic preferences (*Isthasan*)
- III. Public interest (*Masalah Mursalah*)

IV. Custom (*Urf*)

V. Previous *Shariah*

VI. *Isthashab*

VII. Resources

In fact every school of thought has its own principles and rules of deduction regarding such issues about *Shariah* are silent, so clear instructions are deduced on the bases of legal maxima (*Qawaida-a –Usool*).

7: Causes of disagreement:

Disagreement among the four schools of thought is caused by a variety of factors; these factors are as follows:²⁴

1. “Linguistic causes
2. Factors pertaining to the transmission of Hadith
3. Factors pertaining to the principles and rules of deduction”.

7.I: Linguistic causes:

With reference to these differences, a text may be viewed as :

- ❖ “Either general or specific”,
- ❖ “Absolute or limited”,
- ❖ “Summing up or clarifying”.

Linguistic difficulties arose in understanding the meanings of individual words:

The richness of the Quran and Hadith lies partly in the potential for multiple interpretations of certain words and phrases. This ambiguity can lead to diverse legal rulings among Islamic scholars (jurists). For instance, the connotation of the word "qar' " in a specific verse has been a point of debate, resulting in a range of interpretations.

“Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day. And their husbands have more right to take them back in this [period] if they want reconciliation. And due to the wives is similar to what is expected of them, according to what is reasonable. But the

*men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise”.*²⁵

“The word qar' (plural: quroo') can either mean menstruation or purity following menstruation”.

Literal and a figurative meaning

Some expressions in the Quran and Hadith can be understood in both a literal and a figurative sense. When encountering a word with multiple possible interpretations, scholars have historically engaged in debate. Some may prioritize the literal meaning, focusing on the direct and surface-level understanding of the word. Others might argue for a figurative interpretation, drawing out a deeper symbolic meaning. For example, certain verses might use language with connotations of "justice." Here, scholars would analyze the context and purpose of the verse to determine if the intended meaning is literal or figurative.

*“And the heaven He raised and imposed the balance. That you not transgress within the balance. And establish weight in justice and do not make deficient the balance”.*²⁶

“In its first and second occurrences the word **meezaan** may signify "justice" (‘adl) or balance. In its last occurrence, the word **meezaan** above has the literal meaning of a scale used to weigh goods.” .Allah has been declared in Quran.

*“We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice. And We sent down iron, wherein is great military might and benefits for the people, and so that Allah may make evident those who support Him and His messengers unseen. Indeed, Allah is Powerful and Exalted in Might”.*²⁷

Here word **meezaan** has signified justice. The Quran also employs figurative speech within the broader context of a passage. To illustrate this point, let's consider the verse:

“O children of Adam, We have bestowed upon you clothing to conceal your private parts and as adornment. But the clothing of righteousness - that is best. That is from the signs of Allah that perhaps they will remember.”²⁸

Analyzing the surrounding verses and the overall theme of the passage is crucial for interpreting the figurative speech accurately.

Muslim jurists have historically debated the appropriate approach to interpreting the Quran. Some argue for a focus on the literal meaning of the text, believing that the Quran's purpose is to clarify laws, not create ambiguity. They see figurative interpretations as potentially introducing vagueness. However, the majority of scholars acknowledge the presence of figurative language within the Quran. They believe that understanding these figurative connotations is crucial for deriving meaning and Islamic legal rulings from the text.

“Linguistic difficulties arose over questions of grammar”:

A direct imperative of a verb has two forms:

- ❖ "Do!" "often indicates a command to fulfill an obligation".
- ❖ "The negative imperative Don't do!" "indicates prohibition".

The Quran's open-ended text and the existence of both positive and negative commands allow for diverse interpretations by jurists. This variation in interpretation shapes their legal methodologies and ultimately leads to a range of legal rulings derived from the Quranic text.

The direct imperative form of a verb may be used, for to indicate:

- ❖ "A commendable course of action"
- ❖ "Offer guidance"
- ❖ "Give a warning, or convey some news".

The command has been mention to "write out a deed of freedom".

“But let them who find not [the means for] marriage abstain [from sexual relations] until Allah enriches them from His bounty. And those who seek a contract [for eventual emancipation] from among whom your right hands possess - then make a contract with them if you know there is within them goodness and give them from the wealth of Allah which He has given you.

And do not compel your slave girls to prostitution, if they desire chastity, to seek [thereby] the temporary interests of worldly life. And if someone should compel them, then indeed, Allah is [to them], after their compulsion, Forgiving and Merciful.”²⁹

Such a deed is viewed by the jurists as an absolute order which has the intention of the:

- ❖ “Abolition of slavery as a social institution” or
- ❖ “As indicating a commendable course of action”.
- ❖ “The command to the believers who give or take credit to” set it down in writing “is regarded as offering guidance and advice”.

Allah has been declared in the Quran:

“O you who have believed, when you contract a debt for a specified term, write it down. And let a scribe write [it] between you in justice. Let no scribe refuse to write as Allah has taught him. So let him write and let the one who has the obligation dictate.”³⁰

In this issues the statement of the companion of the Prophet (PBUH) are as follow.

“An interpretation, constructed on the reading of Ibn `Abbaas, offers the meaning of the Quranic Ayah (verse) as: "And let neither scribe nor witness cause harm." This reading takes the verb as being grammatically in the active voice. Another interpretation, constructed on a reading of Ibn Mas`ud, gives the meaning of the verse as: "And let neither scribe nor witness suffer harm."

This reading sees the verb as passive.

The command (Hukm) spoke to those who intentionally turn away from the Prophet's message to "Do what you will" is commonly viewed as a warning against the consequences of obstinacy.

“Indeed, those who inject deviation into Our verses are not concealed from Us. So, is he who is cast into the Fire better or he who comes secure on the Day of Resurrection? Do whatever you will; indeed, He is Seeing of what you do.”³¹

“The negative imperative may be used to encourage abstinence from acts which are”:

- ❖ “Improper or disliked”
- ❖ “To offer guidance, or to convey some news”.

The negative imperative "turn not your eyes" is engaged to encourage abstinence from a possibly upsetting attitude.

*“Do not extend your eyes toward that by which We have given enjoyment to [certain] categories of the disbelievers, and do not grieve over them. And lower your wing to the believers”.*³²

Allah has been declared:

*“O you who have believed, do not ask about things which, if they are shown to you, will distress you. But if you ask about them while the Qur'an is being revealed, they will be shown to you. Allah has pardoned that which is past; and Allah is Forgiving and Forbearing”*³³.

Conclusion:

Muslim jurisprudentia stress practicality and a balance between freedom and guidance. Whereas promising a natural response to its laws, it also offers a framework to avoid moral drawbacks. The task lies in finding a balance between respecting established traditions and remaining open to reinterpretation in light of changing circumstances. Juristic disagreement among Muslim scholars (*ikhtilaf al-fuqaha*) is not fundamentally negative. It can be a source of academic richness and a substance for Islamic legal development. Learning to "agree to disagree" within respectful considerations is crucial for the Muslim *Ummah*. Islamic Jurisprudence is not meant to be a burden. Its principles can be applied in ways that promote social justice and combat corruption. The query of how to best accomplish this in the contemporary time is an ongoing academic discussion.

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