

The Doctrine of Taqlid: A Road Block to The Progressive Development of Muslim Law

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ABSTRACT: The doctrine of *taqlid*, meaning blind adherence to classical juristic opinions, has played a significant role in shaping Islamic legal tradition. While it once served to preserve legal continuity and unity within the Muslim community, in the modern context it is increasingly viewed as a barrier to the dynamic evolution of Islamic law. This article critically examines the historical emergence of *taqlid*, its justification in classical jurisprudence, and its implications for legal reform in contemporary Muslim societies. Through comparative analysis and scholarly perspectives, the article explores how rigid *taqlid* has impeded the resolution of new issues arise in the Muslim world (known as *ijtihad*) which is very much needed to address new socio-legal realities. It concludes that for Muslim law to remain relevant and responsive, a re-evaluation of *taqlid* and a revival of *ijtihad* are essential. The approval of *ijtihad* rooted in the Qur'an and Sunnah must guide future legal discourse to enable contextual and progressive development.

KEYWORDS: Taqlid, Ijtihad, Islamic Jurisprudence, Legal Reform, Shariah Law, Modernization, Muslim Legal Thought

INTRODUCTION

The dynamic nature of human society necessitates continual legal evolution to respond to emerging realities. Islamic law (*Shari'ah*), historically rich in flexibility and adaptability, originally developed through scholarly reasoning (*ijtihad*) guided by the Qur'an and Sunnah. However, the rise and entrenchment of the doctrine of *taqlid*—the uncritical adherence to established juristic opinions—has been a major factor in stagnating the development of Muslim legal thought in many parts of the Muslim world (Hallaq, 2004). Although *taqlid* once played a stabilizing role in preserving legal continuity and unity within the *ummah*, it has, in the modern era, become a significant roadblock to the progressive development of Islamic law.

The term *taqlid*, derived from the Arabic root *q-l-d*, literally means "to imitate" or "to follow." In jurisprudential terms, it refers to the practice of adhering to the legal rulings of past jurists without seeking fresh interpretative engagement (Kamali, 1991). Following the closure of the so-called "gates of *ijtihad*" in the post-classical period, Muslim scholars in many regions adopted *taqlid* as a norm, often discouraging independent reasoning even among qualified jurists (Coulson, 1964). This closure led to the canonization of legal schools (*madhāhib*) and the prioritization of earlier rulings over evolving socio-political needs. While *taqlid* initially aimed to protect the integrity of Islamic law from arbitrary interpretation, its long-term effect has been the ossification of legal thought.

In pre-modern times, this reliance on classical juristic precedent may have been justified by the relative uniformity of societal structures and the limited scope of legal complexity. However, in the context of modern nation-states, globalized economies, and evolving human rights standards, the uncritical application of medieval legal rulings can hinder justice, equity, and social welfare (An-Na'im, 2002). The overemphasis on *taqlid* has prevented Muslim law from addressing contemporary challenges such as gender equality, democratic governance, bioethics, and digital technology within a robust Islamic framework.

Furthermore, the Qur'an and Sunnah—the foundational sources of Islamic law—encourage reflection, reasoning, and moral judgment, not blind imitation. The Qur'an repeatedly emphasizes the use of reason (*'aql*) and understanding (*tafakkur*) in interpreting divine guidance (Qur'an 38:29; 3:191). Prophet Muhammad (peace be upon him) himself demonstrated flexibility in legal decision-making, adapting rulings to the needs of context, and encouraging his companions to exercise independent reasoning when necessary (Abou El Fadl, 2001). The Companions and early generations of jurists engaged in *ijtihad* not only to resolve new legal questions but also to preserve the *maqāṣid al-sharī'ah*—the higher objectives of Islamic law, such as justice, public interest, and human dignity.

Modern reformist scholars, such as Muhammad Iqbal, Jamal al-Din al-Afghani, and Rashid Rida, have challenged the dominance of *taqlid*, calling for a revival of *ijtihad* to reinvigorate Islamic legal thought. They argued that *taqlid* represents intellectual laziness

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and spiritual stagnation, contrary to the dynamic and reformist spirit of Islam (Rahman, 1982). In the 21st century, the call for *ijtihad* is even more critical, as Muslims seek to harmonize their religious values with the complexities of modern law, ethics, and governance.

This paper seeks to critically assess the doctrine of *taqlid* and its impact on the evolution of Muslim law. It explores its historical development, theoretical justifications, and its socio-legal consequences in various Muslim societies. By contrasting *taqlid* with *ijtihad*, the paper argues for a renewed commitment to interpretive dynamism grounded in the Qur'anic ethos and Prophetic practice. Ultimately, the goal is to demonstrate that abandoning rigid *taqlid* in favor of contextual *ijtihad* is essential for the progressive development of Islamic law in the contemporary era.

2. DEFINITION AND ORIGIN OF TAQLID

The term *taqlid* (تقليد) in Islamic jurisprudence refers to the act of following the legal opinions or rulings of qualified jurists without demanding detailed evidence or personal *ijtihad* (independent reasoning). Etymologically, *taqlid* is derived from the Arabic root *q-l-d*, meaning “to imitate” or “to bind,” and implies placing one’s trust in the expertise of a scholar by metaphorically placing a collar (*qilādah*) around one's neck (Kamali, 2003). In legal terms, it denotes a layperson or even a scholar adhering to the judgment of a recognized authority within a particular *madhhab* (school of law), particularly when the follower is not capable of deriving rulings directly from primary sources (Ibn Khaldun, 1967).

Historically, the practice of *taqlid* emerged during the early Islamic centuries as a practical necessity. During the first two centuries of Islam, legal rulings were primarily based on *ijtihad* through direct engagement with the Qur'an, Sunnah, consensus (*ijma'*), and analogical reasoning (*qiyas*) (Hallaq, 2001). However, as Islamic territories expanded and legal cases grew more complex, the need for consistent legal doctrine led to the formalization of legal schools such as the Hanafi, Maliki, Shafi'i, and Hanbali traditions (Coulson, 1964). Within each *madhhab*, a body of legal thought was developed and systematized by prominent jurists, whose rulings were thereafter considered authoritative.

By the 10th century CE, a consensus gradually formed among Sunni scholars that the “gates of *ijtihad*” were closed, signaling that all major legal questions had been addressed by previous jurists (Makdisi, 1981). Consequently, subsequent jurists and scholars were encouraged to engage in *taqlid*, which became institutionalized as the dominant method of legal transmission and preservation (Schacht, 1982). While this preserved doctrinal stability, it also limited innovation and context-based reasoning in many cases.

Notably, classical jurists did not universally support blind *taqlid*. Scholars like Imam al-Ghazali and al-Shatibi acknowledged the necessity of *taqlid* for laypersons but warned against its use by those capable of *ijtihad* (Al-Ghazali, 1997; Al-Shatibi, 1997). Moreover, the Qur'an criticizes uncritical imitation of forefathers without knowledge (Qur'an 2:170; 5:104), a warning that reformist scholars later applied to *taqlid*.

In the modern era, the critique of *taqlid* has intensified, especially in response to the socio-political stagnation witnessed in Muslim societies. Reformists such as Jamal al-Din al-Afghani, Muhammad Abduh, and Muhammad Iqbal argued that excessive reliance on *taqlid* had paralyzed the intellectual vigor of Islamic jurisprudence (Hourani, 1983). Contemporary scholars continue to debate the balance between *taqlid* and *ijtihad*, urging a rethinking of legal methodology to respond effectively to modern challenges (Zaman, 2012).

In sum, *taqlid* arose from a legitimate historical need for legal coherence and preservation, yet over time it evolved into a rigid framework that often discouraged critical thought and reform. Understanding its origins helps contextualize current efforts to revitalize *ijtihad* as a means of developing responsive and relevant Muslim law.

3. THE DECLINE OF IJTIHAD AND RISE OF LEGAL STAGNATION DUE TO TAQLID

The decline of *ijtihad* (independent legal reasoning) and the concurrent rise of *taqlid* (uncritical imitation) is widely regarded as a major factor contributing to the stagnation of Islamic legal development. While *ijtihad* was the cornerstone of jurisprudential creativity in the formative period of Islamic law, over time, its practice diminished in favor of adherence to the rulings of earlier jurists. This shift—rooted in both socio-political and theological rationales—led to a legal culture marked by rigidity and intellectual conservatism.

In the classical era (8th–10th centuries CE), *ijtihad* was the primary method through which jurists derived rulings from the Qur'an, Sunnah, consensus (*ijma'*), and analogical reasoning (*qiyās*) (Kamali, 2006). Jurists such as Abu Hanifa, Malik ibn Anas, Al-Shafi'i, and Ahmad ibn Hanbal were recognized *mujtahidūn* who actively engaged with evolving societal issues through independent reasoning. However, by the 10th century, the dominant legal view emerged that the “doors of *ijtihad*” had been closed, implying that all major legal questions had already been resolved by the classical jurists (Hallaq, 1984).

This belief in the closure of *ijtihad* was not unanimously agreed upon but became influential across most Sunni legal schools. It was argued that the complexity of Islamic law and the high qualifications required for *ijtihad* rendered it practically impossible for later scholars to match the insights of the founding jurists (Makdisi, 1981). Consequently, scholars were urged to practice *taqlid*—to rely on authoritative legal opinions within their respective *madhāhib*. Over time, this created a legal culture that prioritized precedent over reasoning, and replication over innovation (Coulson, 1964).

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The long-term effects of this shift were significant. Islamic jurisprudence became increasingly static, often detached from the socio-political and economic realities of changing Muslim societies. Legal texts focused more on internal consistency within school doctrines than on contextual problem-solving (Zaman, 2012). The use of *ijtihad* was limited to marginal matters or confined to certain elite scholars operating under tightly regulated parameters (Weiss, 1998).

Furthermore, the decline of *ijtihad* weakened the dynamic relationship between Islamic law and public welfare (*maslahah*). The classical jurists had once used *ijtihad* to promote ethical and just outcomes aligned with the higher objectives of Shari'ah (*maqāṣid al-sharī'ah*), such as justice, mercy, and public interest (Auda, 2008). Without active *ijtihad*, Muslim law struggled to address novel issues arising from modernity, including constitutional governance, women's rights, biomedical ethics, and international law (An-Na'im, 1990).

Modern reformers such as Muhammad Iqbal, Rashid Rida, and Fazlur Rahman criticized the culture of *taqlid* as intellectually debilitating. They argued that Islamic law must be re-opened to *ijtihad* in order to revive its moral and social relevance (Iqbal, 1930; Rahman, 1982). This reformist call gained urgency in the colonial and post-colonial periods, as Muslim-majority states sought to modernize their legal systems while preserving Islamic identity.

In summary, the decline of *ijtihad* and the dominance of *taqlid* led to a stagnation of legal thought, distancing Islamic law from contemporary realities. Reviving *ijtihad* is thus considered essential not only for legal reform but also for restoring the vitality and ethical foundations of Islamic jurisprudence.

4. CRITICISM OF TAQLID BY ISLAMIC REFORMERS AND SCHOLARS

The doctrine of *taqlid* has been a subject of sharp criticism by numerous Islamic reformers and scholars from the 19th century onward. While historically it served to ensure legal consistency, in modern times, *taqlid* has been widely perceived as a primary factor contributing to the stagnation and decline of Islamic jurisprudential thought. Reformers argue that *taqlid* suppresses the Qur'an's call to use reason, inhibits legal adaptation to contemporary realities, and entrenches rigid traditionalism that contradicts the dynamic and moral spirit of Islamic law.

One of the earliest and most prominent critics of *taqlid* in the modern period was **Jamal al-Din al-Afghani** (d. 1897), who emphasized that Muslims had lost their intellectual edge due to the blind imitation of medieval jurists. He called for a revival of independent reasoning (*ijtihad*) to enable Muslim societies to regain their vitality and strength (Keddie, 1968). His student, **Muhammad Abduh** (d. 1905), further developed this critique by asserting that *taqlid* had led to the spiritual and intellectual decay of the *ummah*. Abduh advocated a return to the original sources of Islam—the Qur'an and Sunnah—through reasoned interpretation, unhindered by the constraints of legal schools (Hourani, 1983).

Rashid Rida (d. 1935), a key figure in Islamic modernism, argued that *taqlid* had become a tool for perpetuating outdated rulings and had created a clerical elite resistant to reform (Rida, 1994). He supported the reopening of *ijtihad* as a religious obligation to address contemporary issues such as constitutionalism, modern education, and women's rights. Rida's work was especially influential in shaping 20th-century Islamic reformist discourse.

The South Asian context also produced powerful critiques of *taqlid*. **Shah Waliullah Dehlawi** (d. 1762), although predating the above reformers, warned against rigid adherence to a single school of thought, emphasizing the necessity of examining rulings in light of the *maqāṣid al-sharī'ah* (higher objectives of Shariah) (Baljon, 1986). In the 20th century, **Muhammad Iqbal** (d. 1938) powerfully denounced *taqlid*, calling it "the greatest obstacle to the reconstruction of Muslim thought." In his seminal work *The Reconstruction of Religious Thought in Islam*, he urged Muslims to embrace *ijtihad* as a means to revitalize the spiritual and ethical dimensions of Islamic law (Iqbal, 1930).

Fazlur Rahman (d. 1988) took the critique further by linking *taqlid* to the decline of intellectualism in Muslim civilization. He maintained that Muslim jurists had reduced Islamic law to a mechanical discipline disconnected from ethical and societal concerns (Rahman, 1982). He proposed a double-movement theory of interpretation—linking historical context with moral objectives—to renew Islamic law's relevance in the modern age.

Contemporary scholars continue to challenge the validity of *taqlid* in the modern world. **Khaled Abou El Fadl** (2001) argued that *taqlid* enables authoritarianism by giving unchecked power to jurists who present their opinions as divine law. He advocates for interpretive pluralism and moral reasoning grounded in the spirit of the Qur'an. Similarly, **Abdullahi An-Na'im** critiques *taqlid* as incompatible with human rights and democratic governance. He promotes a historicized and context-sensitive approach to Shariah (An-Na'im, 2002).

From a legal-theoretical perspective, scholars like **Jasser Auda** emphasize the need to revive *maqāṣid al-sharī'ah* and systems thinking in Islamic law. He argues that *taqlid* limits the legal system's adaptability, undermining justice and welfare in the modern context (Auda, 2008). **Mohammad Hashim Kamali**, while acknowledging the value of precedent, supports qualified *ijtihad* as necessary for reforming Islamic legal systems in pluralistic societies (Kamali, 2009).

In essence, the critique of *taqlid* by reformist scholars is both theological and practical. They contend that Islam's legal tradition must be revitalized through dynamic reasoning, ethical reflection, and engagement with changing realities. Their work collectively

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calls for dismantling the monopolization of legal authority and reviving *ijtihad* as a moral and intellectual obligation to ensure the continued relevance of Islamic law in the modern world.

5. IMPACT OF TAQLID ON LEGAL REFORM IN MUSLIM SOCIETIES

The persistence of *taqlid*—defined as the uncritical imitation of past juristic rulings—has had a profound and often restrictive impact on legal reform in Muslim societies. While it initially served as a stabilizing force for legal systems in classical Islam, in modern contexts, *taqlid* has become a barrier to adapting Islamic law to contemporary social, political, and technological realities. The dominance of this doctrine has curtailed dynamic legal thinking, hindered institutional reform, and weakened the responsiveness of Shariah-based legal frameworks.

One of the major impacts of *taqlid* has been the inflexibility of legal rulings across Muslim-majority countries. Since many contemporary jurists rely heavily on medieval legal manuals, rulings are often applied without sufficient regard for current socio-cultural contexts (Vikør, 2005). This has particularly affected areas such as family law, women's rights, and criminal justice, where classical rulings may conflict with present-day ethical standards and human rights norms (An-Na'im, 1990).

In many countries, the judiciary and religious institutions continue to enforce legal doctrines derived from a specific school of law, often ignoring the diversity of thought within Islamic tradition itself. For instance, the codification of family law in countries like Egypt, Jordan, and Pakistan tends to be narrowly based on the Hanafi school, despite the existence of more progressive rulings within other schools (Welchman, 2007). This rigid adherence to *madhhab*-based precedents restricts lawmakers from adopting contextually appropriate and morally superior alternatives available within the broader Islamic heritage (Mir-Hosseini, 2000).

The institutionalization of *taqlid* has also impeded efforts toward legal harmonization between Shariah and modern civil law systems. In some countries like Nigeria, dual legal systems exist—one rooted in British common law and the other in classical Islamic jurisprudence. The inability to reform Shariah-based laws through *ijtihad* has led to legal contradictions and social tensions (Oba, 2004). In such contexts, *taqlid* reinforces outdated laws that do not meet the expectations of modern pluralistic societies.

Additionally, *taqlid* has contributed to the marginalization of women and minorities in legal processes. By strictly following rulings that were formulated in patriarchal and pre-modern settings, legal systems often fail to protect women's rights to divorce, inheritance, and custody (Sonbol, 2003). Reform efforts—such as Morocco's 2004 reform of the *Mudawana* (family code)—faced significant resistance from traditionalists who viewed any deviation from classical rulings as un-Islamic (Buskens, 2003).

Moreover, *taqlid* limits juridical innovation needed to address new challenges in finance, bioethics, environmental law, and digital technologies. Without a renewed practice of *ijtihad*, jurists are poorly equipped to develop Shariah-compliant responses to issues like organ transplantation, cryptocurrency, or artificial intelligence (Sardar, 2003). This leaves a vacuum that is either filled by state legislation divorced from religious legitimacy or left unresolved, fostering confusion among Muslims about the applicability of Islamic law.

In conclusion, *taqlid* remains a significant obstacle to meaningful legal reform in many Muslim societies. While its historical function in preserving legal consistency is acknowledged, its continued dominance hampers progress toward justice, equality, and contextual responsiveness—core aims of the Shariah. Reformers increasingly argue that reviving *ijtihad* is essential for restoring the relevance of Islamic law in the contemporary world.

6. RECLAIMING IJTIHAD: A PATHWAY TO PROGRESSIVE MUSLIM LAW

The reclamation of *ijtihad*—the process of independent legal reasoning—is central to the revival and progressive development of Muslim law in the modern era. Historically, *ijtihad* served as the dynamic engine of Islamic jurisprudence, enabling jurists to respond to evolving social, economic, and political circumstances. However, its marginalization following the widespread adoption of *taqlid* contributed to legal rigidity and intellectual stagnation (Hallaq, 1984). In response, contemporary Muslim scholars and reformers advocate for the restoration of *ijtihad* to rejuvenate Islamic legal thought and enhance its relevance to the modern world.

The revival of *ijtihad* is particularly critical in addressing novel issues that did not exist during the classical period, such as organ transplantation, digital finance, biotechnology, and environmental law. Traditional rulings often provide little or no guidance on these matters, necessitating fresh interpretive efforts grounded in the higher objectives of Shariah (*maqasid al-shariah*)—namely, justice, welfare, and human dignity (Auda, 2008). Reclaiming *ijtihad* allows jurists to derive rulings that align with these objectives while maintaining fidelity to core Islamic principles.

Modern scholars such as Fazlur Rahman (1982) and Mohammad Hashim Kamali (2003) have emphasized the need to move from a formalistic to an ethical-teleological approach to Islamic law. This entails prioritizing values like equity, public interest (*maslahah*), and justice over mechanical adherence to precedent. Rahman (1982), in particular, advocated for a "double movement" theory—first understanding the historical context of Qur'anic verses and Hadiths, and then applying their ethical values to contemporary contexts.

The reactivation of *ijtihad* also supports democratic legal reform in Muslim societies. It empowers qualified scholars to engage in legal reasoning that reflects local realities and community needs, breaking the monopoly of traditional elites and fostering pluralism

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(Soroush, 2000). In countries like Malaysia and Tunisia, contemporary legal scholars have successfully employed *ijtihad* to reform family law, expand women's rights, and adapt to constitutional norms without undermining Islamic legitimacy (Yilmaz, 2005). Furthermore, reclaiming *ijtihad* can counteract extremism and promote a more tolerant and inclusive interpretation of Islam. By encouraging critical engagement with texts rather than blind imitation, *ijtihad* nurtures a jurisprudence that is both authentic and adaptive (Ramadan, 2004). This intellectual openness is essential in an age where Muslims are grappling with global ethical challenges, including gender justice, interfaith relations, and minority rights.

However, the effective revival of *ijtihad* requires institutional support, educational reform, and the cultivation of jurists who are deeply versed in both classical Islamic sciences and contemporary disciplines such as sociology, economics, and international law (Esposito & Voll, 2001). Without such integration, *ijtihad* risks being superficial or disconnected from lived realities.

In conclusion, reclaiming *ijtihad* offers a viable pathway toward a progressive, just, and context-sensitive Muslim legal system. It represents not a departure from tradition, but a return to the original spirit of Islamic jurisprudence—dynamic, rational, and deeply concerned with human welfare.

7. CASE STUDIES: LEGAL REFORM THROUGH *IJTIHAD*

Reform through *ijtihad* has proven to be an effective mechanism for harmonizing Islamic law with contemporary socio-legal needs wherever justified by the primary sources of Islamic law. Several Muslim-majority countries have successfully implemented legal reforms grounded in *ijtihad*, demonstrating that Islamic law possesses the adaptability to respond to modern challenges while preserving its foundational values. These case studies illustrate how *ijtihad* has enabled the development of more inclusive, just, and responsive legal frameworks in areas such as family law, constitutional law, and women's rights as far as they are not in congruity with proven *shariah* principles. The governments of the Muslim countries must take into consideration that no *ijtihad* can contradict with the well-established principles of Islamic law derived from the Quran and Sunnah.

1. Tunisia: Reform of Family Law

Tunisia stands out as a pioneering example of legal reform based on *ijtihad*. Following independence in 1956, Tunisia enacted the Code of Personal Status, which abolished polygamy and established gender equality in marriage and divorce—measures supported by *ijtihad* reasoning rather than strict adherence to classical *fiqh* (Charrad, 2001). The reforms were justified by invoking *maqasid al-shari'ah* (objectives of Islamic law), particularly justice and social welfare. However, this *ijtihad* must have justified exceptions. More recently, in 2017, the Tunisian government proposed granting Muslim women the right to marry non-Muslim men (Grami, 2018), which clearly contradicts with the well-documented *shariah* principles.

2. Morocco: *Moudawana* Reform

In 2004, Morocco undertook a significant reform of its family law (*Moudawana*), incorporating gender justice and human rights norms. King Mohammed VI, referencing both Islamic principles and international law, declared that *ijtihad* must reflect the changing needs of society. The reform raised the minimum marriage age for women, improved child custody laws, and granted women greater rights in divorce (Buskens, 2003). These changes were based on reinterpretations of scriptural sources in light of *maslahah* (public interest) and *istislah* (consideration of welfare) (Welchman, 2007). Nonetheless, the raising of minimum marriage age for Muslim women must incorporate exceptions wherever justified for social welfare. Similarly, granting Muslim women greater rights in divorce must be backed by acceptable grounds.

3. Indonesia: Fatwas on Contemporary Issues

Indonesia's Ulama Council (*Majelis Ulama Indonesia*) has utilized *ijtihad* to issue fatwas on matters such as organ donation, environmental ethics, and Islamic banking. These rulings reflect an integration of Islamic legal tradition with the nation's pluralistic and democratic context (Salim, 2008). The ability of Indonesian scholars to accommodate local custom (*urf*) and modern ethics exemplifies *ijtihad* in action in a diverse society as long as the *ijtihad* does not become paradoxical to fundamental Islamic law principles. Nevertheless, an Islamic *ijtihad* is not binding on the non-Muslims in a multi-religious society.

4. Malaysia: Islamic Banking and Legal Modernization

Malaysia has used *ijtihad* extensively to develop a modern Islamic financial system. Institutions such as the Shariah Advisory Council and the Islamic Financial Services Board have formulated *ijtihad*-based rulings that align Islamic commercial law with international regulatory standards (Dusuki & Abdullah, 2007). Moreover, Malaysia has allowed *ijtihad* in its family law reforms, permitting limited judicial discretion in marriage and divorce cases to prevent injustice (Yusof, 2013). Notwithstanding, the Shariah Advisory Council and the judges of the courts must act in line with the *maqasid ash-shariah* to avoid explicit incongruity with Islamic *shariah* principles.

5. Egypt: Court-Based *Ijtihad*

In Egypt, the judiciary has occasionally employed *ijtihad* to interpret Islamic law in line with constitutional principles. For instance, the Supreme Constitutional Court has ruled in favor of gender equality and religious freedom using an *ijtihad*-based approach that emphasizes the ethical spirit of *Shariah* rather than literalist readings (Lombardi, 2006). Such cases show that judicial *ijtihad* by

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qualified Muslim judges can serve as a means for progressive interpretation of Islamic norms. However, gender equality and religious freedom issues must not controvert the clear rulings of the fundamental sources of Islamic law.

6. Turkey: *Ijtihad* in Legal Codification

Although Turkey's legal system is largely secular, scholars have argued that many of its legal reforms during the early Republic period—such as the abolition of *qadi* courts and codification of civil law—were informed by an implicit form of *ijtihad*, aimed at achieving justice, equality, and modernization (Zürcher, 2004). Turkish reformers framed their actions within the broader *maqasid* tradition, but they must make sure that the judges in the courts must be trained with Islamic *fiqhi* principles so that they are qualified enough to deliver judgments on *shariah* matters.

These case studies illustrate that *ijtihad* is not merely a theoretical tool but a practical instrument for achieving reform in diverse Muslim contexts. Whether through legislative action, judicial reasoning, or scholarly fatwas, *ijtihad* has proven essential in aligning Islamic principles with contemporary human rights standards and social needs if not paradoxical to the holy Quran and *Sunnah*. Such successes affirm the potential of *ijtihad* to contribute to a living and evolving Islamic legal tradition.

8. QUR'ANIC AND PROPHETIC BASIS FOR LEGAL DYNAMISM

The dynamic nature of Islamic law is firmly rooted in the Qur'an and Sunnah, which provide a flexible and evolving legal framework that accommodates changing circumstances. Contrary to the rigid interpretations promoted by *taqlid*, the Qur'anic and Prophetic traditions encourage reason, consultation, and public interest as guiding principles for legal development. These foundational sources promote *ijtihad* and legal dynamism as intrinsic to the spirit of Shari'ah.

1. Qur'anic Principles of Legal Flexibility

The Qur'an repeatedly emphasizes the importance of justice (*'adl*), compassion (*rahmah*), and public welfare (*maslahah*). For example, the verse: "Allah intends for you ease and does not intend for you hardship" (*Qur'an* 2:185) is often cited to support legal reforms that alleviate societal burdens (Kamali, 2008). Similarly, *Qur'an* 5:6, which grants dispensations for ablution during hardship, exemplifies the principle of *legal elasticity* in Islamic jurisprudence (Rahman, 1982).

The Qur'anic promotion of *shura* (consultation), seen in *Qur'an* 42:38, lays the foundation for participatory decision-making, a principle at the heart of *ijtihad* (Sachedina, 2001). The Qur'an also permits analogy and reasoning. For example, the prohibition of intoxicants (*Qur'an* 5:90) was gradually revealed, showing sensitivity to social readiness and providing a model for incremental legal development (Abou El Fadl, 2001).

2. Prophetic Practice and Legal Adaptability

The Prophet Muhammad (peace be upon him) consistently demonstrated legal adaptability in his rulings. One famous hadith relates the Prophet's appointment of Mu'adh ibn Jabal as governor to Yemen. When asked how he would judge, Mu'adh replied, "By the Book of Allah. If I find nothing therein, then by the Sunnah. If I find nothing therein, I will exert my opinion (*ijtihad*)."

The Prophet approved this method, affirming its legitimacy (*Abu Dawud, Hadith* 3592; Hallaq, 2009).

In another instance, the Prophet altered his rulings based on changing contexts. For example, during times of famine, he suspended the punishment for theft, prioritizing compassion and necessity over literal application (Kamali, 2003). Such examples underline that *ijtihad* is not only permissible but necessary when conditions evolve.

3. Encouragement of Ijtihad

The Qur'an uses terms like *tadabbur* (deep reflection) and *tafakkur* (critical thinking), indicating that believers are expected to think and analyze: "Do they not reflect upon the Qur'an?" (*Qur'an* 4:82). This reflective approach is central to *ijtihad* and legal reasoning (Esposito, 2005). Prophetic traditions also commend the exercise of reason. The Prophet said: "When a judge uses his judgment and is correct, he has two rewards; if he is mistaken, he still has one reward" (*Bukhari & Muslim*). This hadith validates the effort to seek solutions even at the risk of error, promoting legal initiative rather than imitation.

4. Ethical and Maqasid-Oriented Framework

Modern scholars emphasize that Qur'anic legal dynamism is best understood through the lens of *maqasid al-shari'ah*—the higher objectives of Islamic law: protection of religion, life, intellect, lineage, and property (Shatibi, 1997). This framework provides a moral compass that encourages innovation and contextual judgment (Auda, 2008). The Qur'an and Sunnah together provide a framework that favors legal creativity, contextual application, and justice over literalism and rigidity. Far from advocating blind adherence to the past, Islam's primary sources empower scholars and communities to engage with the law dynamically, ensuring its continued relevance across time and space.

9. TOWARDS A BALANCED SYNTHESIS BETWEEN TAQLID AND IJTIHAD

The tension between *taqlid* (imitation) and *ijtihad* (independent reasoning) has long shaped the evolution of Islamic jurisprudence. While *taqlid* played a crucial historical role in preserving the legal schools and ensuring consistency in rulings, its prolonged dominance led to legal stagnation and resistance to contextual reform. In contrast, *ijtihad* represents the intellectual dynamism of

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Islam, offering a framework to address new challenges in changing socio-political and cultural environments (Kamali, 2003). To meet the needs of contemporary Muslim societies, a balanced synthesis of these two approaches is essential.

A total rejection of *taqlid* may lead to legal anarchy, as not all individuals possess the qualifications to engage in *ijtihad* responsibly. Classical scholars defined strict criteria for *mujtahids*, including mastery of Arabic, the Qur'an, Hadith, legal maxims, and jurisprudential principles (Hallaq, 1984). Therefore, *taqlid* retains its utility when exercised by non-specialists under the guidance of qualified jurists. At the same time, *ijtihad* must be revived to allow scholars to interpret Islamic law in light of current realities, guided by *maqasid al-shari'ah* (higher objectives of Shari'ah) such as justice, welfare, and dignity (Auda, 2008).

The Qur'anic directive: "And consult with them in affairs. Then when you have taken a decision, put your trust in Allah" (*Qur'an* 3:159), supports a participatory, consultative, and reasoned approach to governance and legal formulation. Similarly, the hadith about Mu'adh ibn Jabal employing *ijtihad* in Yemen reinforces the Prophetic endorsement of adaptive reasoning (Abou El Fadl, 2001). These sources encourage a jurisprudence that is neither bound by rigid precedent nor open to arbitrary innovation.

Recent scholarship has underscored the importance of developing institutions and methodologies that can harmonize traditional jurisprudence with modern legal systems (Sardar, 2014). Reformist thinkers like Muhammad Iqbal, Rashid Rida, and Fazlur Rahman have emphasized the need to return to the ethical spirit of the Qur'an rather than its literalist applications (Rahman, 1982; Rida, 2005). They argued for an interpretive renewal that serves the evolving needs of society while remaining rooted in the Shari'ah's principles.

Several modern examples, such as the reformation of family law in Morocco and the *maqasid*-based constitutional frameworks in Malaysia and Indonesia, demonstrate the possibility of combining classical jurisprudence with contemporary human rights and social justice paradigms (Hefner, 2011; Mir-Hosseini, 2006).

In conclusion, a balanced synthesis of *taqlid* and *ijtihad* provides a pragmatic and faithful pathway for Islamic legal development. It respects the legacy of traditional jurisprudence while revitalizing the capacity for reform, ensuring Islamic law remains a living, just, and relevant legal system for the contemporary world.

10. CONCLUSION AND RECOMMENDATIONS

The doctrine of *taqlid*, once instrumental in preserving legal continuity in the formative periods of Islamic jurisprudence, has gradually evolved into a rigid framework that often resists adaptation to contemporary realities. This paper has critically examined how blind adherence to past legal opinions, in the absence of contextual interpretation, has contributed to legal stagnation in many Muslim societies (Hallaq, 2001). It further traced the historical justifications and institutionalization of *taqlid*, and explored how it displaced *ijtihad*—the intellectual engine of early Islamic law.

Modern Islamic reformers, including Muhammad Abduh, Jamal al-Din al-Afghani, and Fazlur Rahman, have argued that the Qur'an and Sunnah were never meant to be interpreted in isolation from the evolving conditions of human society (Rahman, 1982; Abduh, 1966). They emphasized the revival of *ijtihad* as both a religious duty and a moral necessity. The call to renew Islamic jurisprudence is not a call to secularize it but to reawaken its capacity for justice, adaptability, and relevance (Kamali, 2003).

The impact of excessive *taqlid* has been particularly severe in areas of family law, gender rights, economic policy, and governance. In numerous Muslim-majority countries, reforms aimed at alleviating human suffering have been obstructed by a narrow reading of classical texts, often detached from the higher objectives of Shari'ah (*maqasid al-shari'ah*) (Auda, 2008). This disconnect has led to legal systems that fail to address the pressing needs of modern Muslim populations, especially in pluralistic and globalized contexts (Soroush, 2000).

To reclaim Islamic legal dynamism, a multi-tiered reform agenda is essential. First, legal institutions must foster a culture of *ijtihad* by training scholars not only in classical jurisprudence but also in contemporary disciplines like sociology, economics, and human rights law (Esposito & Voll, 2001). This interdisciplinary approach would enable jurists to make decisions that resonate with both religious integrity and social justice.

Second, the gatekeeping mechanisms that control access to *ijtihad* must be reviewed. While it is necessary to guard against unqualified interpretations, the historical notion that the "gates of *ijtihad*" were closed is largely a myth and should no longer be used to stifle intellectual effort (Hallaq, 1984). Qualified scholars should be encouraged to interpret Islamic sources with contextual sensitivity, guided by ethical principles rather than rigid precedent (El Fadl, 2001).

Third, state and religious institutions in Muslim societies should work collaboratively to reform outdated legal codes through consultative and participatory mechanisms. Public reason, community welfare, and ethical interpretation should inform this process (Ramadan, 2009). Reform should also consider the contributions of women scholars and jurists, whose voices have historically been marginalized in legal discourse (Mir-Hosseini, 2006).

Finally, the broader Muslim ummah must be educated about the distinction between immutable core values of Islam and historically contingent interpretations. This distinction is critical for breaking the cycle of fatalistic *taqlid* and promoting a theology that is both Allah-conscious and life-affirming (Saeed, 2006). Religious education must emphasize critical thinking, ethical inquiry, and spiritual accountability over rote imitation.

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In conclusion, a meaningful revival of *ijtihad*, anchored in the Qur'an, Sunnah, and Islamic ethical rationality, is imperative for the progressive development of Muslim law. Rather than abandoning tradition, the objective should be to reengage it thoughtfully. By doing so, *ijtihad* can regain its relevance and offer robust responses to the legal and moral challenges of the 21st century. Nevertheless, the Muslim leaders and politicians must make sure that their *ijtihad*s do not become inconsistent with the fundamental Islamic law principles rooted to the holy Quran and *Sunnah*.

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