

What is Ijtihad? What are Qualifications of a Mujtahid? Compare Ijtihad with Istihsan.

## Introduction

The system of Islamic laws or Shariah is majority based on five objectives, commonly known as Ma'arid - al - Shariah. These include the protection of life, religion, wealth, lineage and intellect. These objectives are gained achieved by implementing laws from Quran and Sunnah. However, in certain cases, Quran or Sunnah may not provide explicit laws. Therefore, reliance on secondary sources is made in such cases. These sources include Ijma (consensus), Qiyas (Analogy) and Ijtihad. These sources help in resolving modern issues through inferences made from Quran and Sunnah.

# Meaning and Concept of Ijtihad

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## Literal Meaning

The word 'Ijtihad' is derived from an Arabic word 'Jahada' which means "to strive or to effort".

## Meaning in Fiqh

In Islamic law, Ijtihad refers to the exercise of human effort and reason to derive legal rulings, not explicitly covered in Quran and Sunnah.

## Understanding Ijtihad

In simple words,

Ijtihad is a human attempt to derive legal rulings in matters where Quran and Sunnah do not provide explicit rulings. However, it may be noted that Ijtihad can only be done by a qualified Muftahid (Jurist) having deep

understanding of Quran, Sunnah and Islamic jurisprudence (usul al-Fiqh).

Ijtihad is a well-recognized secondary source of Islamic law. Numerous scholars and classical jurists have relied on it to derive legal injunctions.

Jurists quote verses from Holy Quran, and Hadith to justify Ijtihad as a source of law.

### Legal Basis for Ijtihad

Though Quran does not explicitly provide for Ijtihad as a secondary source of law; however, few verses support the use of intellect to resolve matters and consult those who know. Holy Quran states, *كُنْتُمْ إِنْ كُنْتُمْ مُّكْرِنِينَ فَلَمَّا جَاءَكُمْ مُّهَاجِرُوا إِلَيْكُمْ وَلَمْ يَجِدُوا لِنَفْسٍ مَّا سَعَوا* ...

(الجِلْدُ وَالْمُهَاجِرُونَ) "وَمَا تَرَى لَهُمْ 8

"So, ask the people (having knowledge) of the Menege, if you do not know"

Furthermore, Holy Prophet (PBUH) said

that if a Mujtahid (jurist), striving to apply his reasoning is correct, he will get two rewards. If he is mistaken, he will get one reward.

This hadith explicitly justifies the use of reasoning to derive legal rulings; however, this may only be done by a well-qualified Mujtahid who meets the strict criteria set by the jurists.

## Qualifications of a Mujtahid

Classical jurists like Al-Shaibani and Imam Ghazali, and modern jurists like Imam Ahsan Khan Niyazee have outlined the qualifications that must be met by an adult Muslim of sound mind to become a Mujtahid and perform Ijtihad on legal issues.

Following are few major qualifications that must be met to become a

Mujtahid.

01) Comprehensive Knowledge of

Primary Sources of Islamic Law

Qur'an and Sunnah are the primary and supreme sources of Islamic law.

All the laws and legal rulings are to be inferred from the text of Qur'an and Sunnah (Nan). A Mujtahid must understand and interpret Qur'an and Sunnah. He should have deep understanding of Na'ikh (abrogation) and figurative and literal meaning of the text.

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02) Expertise in Usul al-Fiqh

A qualified Mujtahid must understand Usul al-Fiqh (principles of Islamic Jurisprudence) and its theory. He must have proficiency in Ijmah (consensus) and Qiyas (analogy).

03) Logical and Analytical Ability

A qualified Mujtahid must have analytical ability to infer rulings from the text (matn). He must be

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able to identify and analyze the I'laha (cause).

## 04) Awareness of Maqasid al-Shariah

In order to infer legal rulings, a Mujtahid must have a deep understanding of Maqasid al-Shariah (Objectives of Shariah). His legal rulings must not contradict these objectives rather they should directly or indirectly serve these objectives.

## 05) Recognition of Methodological Spheres

A Mujtahid must have an understanding of fixed spheres which is a binding ruling from a clear text, and flexible spheres which refers to discretionary matters left to state or legislature. This understanding is crucial to determine as to which matters are open to interpretation.

## Meaning and Concept of Istihsan

### Literal Meaning

'Istihsan' is derived from an Arabic word "HSN" which means "to consider something good or preferable"

### The Concept of Istihsan

#### Islamic Law

Istihsan, also known

as 'Juristic Equity', refers to abandoning a strict legal analogy (Qiyas) in favor of a stronger evidence that serves equity, public interest or necessity. It is actually a juristic preference over an analogy (Qiyas) for greater justice or public benefit.

Istihsan is allowed

by Hanafi jurist. Imam Sarakhsī considers it to be a method of seeking facility; however, it has been criticized by Imam Ghazālī and Imam Shāfi'ī.

# Comparison of Ijtihad with Istihsan

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Elaborate the comparison part to one more side

Aspect	Ijtihad	Istihsan
Elaborate this part		

i) Meaning	Independent reasoning to derive rulings	Juristic Preferences
ii) Scope	Any legal issue (Broad)	override Qiyas (specific)
iii) Flexibility	Comprehensive	More discretionary
iv) Acceptance	Universally accepted	Accepted by Hanafi Criticized by Shafai

## Conclusion

In a nutshell, Ijtihad, being a secondary source of Islamic law, is a modern need of the modern Islamic world. This must be performed by Mujahids of Ummah, meeting the criteria. Furthermore, the juristic preference (Istihsan) may also be used to derive legal rulings in favor of public interests. These principles will greatly help in resolution of modern-day legal issues.