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Ijtihad: Reinterpreting Islamic Principles for the Twenty-first Century

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SPECIAL REPORT

About the Report

On March 19, 2004, the United States Institute of Peace and the Center for the Study of Islam and Democracy cosponsored a workshop entitled "*Ijtihad:* Reinterpreting Islamic Principles for the Twenty-first Century." The discussion focused on how the sacred texts of the Qur'an and the sunna could be reinterpreted to take account of contemporary realities and to promote greater peace, justice, and progress within the Muslim world and in its relations with the non-Muslim world.

The four presenters, all experts on Islamic law and interpretation, were Muzammil H. Siddiqi, a member of the Fiqh (Islamic Law) Council of North America who teaches at California State University and Chapman University; Imam Hassan Qazwini, director of the Islamic Center of America, based in Detroit; Muneer Fareed, associate professor of Islamic studies at Wayne State University; and Ingrid Mattson, professor of Islamic studies and director of Islamic Chaplaincy at Hartford Seminary. The workshop was cochaired by Radwan Masmoudi, president of the Center for the Study of Islam and Democracy, and David Smock, director of the Religion and Peacemaking Initiative of the United States Institute of Peace. This report, which provides background on *ijtihad* and summarizes the panel discussion, was written by David Smock.

The views expressed in this report do not necessarily reflect views of the United States Institute of Peace, which does not advocate specific policy positions.

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Summary

- Many Muslims believe that they must choose between Islam and modernity or between Islam and democracy, but these are false choices. To reinterpret Islam for the twenty-first century, the practice of *ijtihad* (interpretation and reasoning based on the sacred texts) must be revived.

- Religious scholars effectively terminated the practice of *ijtihad* five hundred years ago. But the principles of interpretation are well established and the need for contemporary interpretation is compelling.

- New interpretations of the texts are particularly important in relation to the status of women, relations between Sunnis and Shiites, relations between Muslims and non-Muslims, the role of Muslims in non-Muslim societies, and Islamic economic theories.

- Most scholars would limit the practice of *ijtihad* to specialists who have not only knowledge of the Qur'an and the hadiths but also broad familiarity with a wide range of modern scholarship in Arabic grammar, logic, philosophy, economics, and sociology.

- Other scholars assert that interpretation of the texts should not be confined to legal scholars but should be open to those with creative imagination.

- Restrictions on the contemporary practice of *ijtihad* are imposed both by religious establishments and by repressive governments in Muslim countries. Democracy and freedom of inquiry and expression are essential to the practice of *ijtihad* and to the successful reconciliation of Islam and modernity. Reform of Muslim educational systems is also essential.

- Muslim scholars and leaders in the United States and other Western societies have particular opportunities as well as a responsibility to lead a revival of *ijtihad*. Muslim scholars in the West have the freedom to think creatively while still being faithful to the texts, and their new interpretations could stimulate new thinking among the more traditional religious establishments in Muslim countries.

Introduction

Muslims all over the world believe that the Qur'an is the literal word of God as revealed to Prophet Muhammad through the Angel Gabriel at the beginning of the seventh century. The Qur'an was revealed over the course of twenty-three years. Most of its verses

came in response to and as guidance for emerging situations or conditions faced by the Prophet and his community of believers. Because any verse, when taken out of context, could be misunderstood or misapplied, a science known as *asbab an-nouzoul* ("the causes for the revelation") was developed to understand the specific reasons for and conditions related to any particular verse, thus enabling interpreters to better determine its meaning.

According to Radwan Masmoudi, president of the Center for the Study of Islam and Democracy, while there has been no disagreement among Muslims that the Qur'an is the literal word of God, there has been and continues to be substantial disagreement about the meanings of certain verses and their application to different situations. That is why, following the death of Prophet Muhammad in 632 CE and for at least the first eight or nine centuries of Islam, there were a wide variety of opinions and schools of thought on almost every issue and question. Another science known as *ijtihad* (or reasoning and interpretation) was developed by Muslim scholars in order to understand and apply the message of the Qur'an to varying societal needs and conditions.

Sharia (Islamic law) is also subject to interpretation and to the ever-changing needs of society. Its guiding principles were designed to protect the individual and the society, but it was not established as a set of fixed rules. To respond to the changing needs of Muslim societies, Muslim jurists and scholars have relied on the well-established process of innovation, *ijtihad*. This process is based not only on the Qur'an and religious tradition (sunna), but also on reason, deduction, and prioritization.

The following examples illustrate the use of *ijtihad*. Fifteen years after the death of Prophet Muhammad, Caliph Omar ibn-al-Khattab stopped cutting off the hands of thieves because most of them were stealing out of necessity due to hunger, poverty, and drought. While this contradicted a verse from the Qur'an, he justified his decision by stating that the principles of justice and fairness were supreme. Similarly, in 2000, councils of Muslim ulamas (scholars) in Europe and the United States decreed that it was permissible for Muslims residing in the West to buy houses with mortgages and to pay interest on these loans. This contradicted a Qur'anic teaching against charging and paying interest, but respected Muslim scholars justified the ruling, arguing that such permission was necessary for Muslims to meet their financial and social needs in the West. Another example is a case in which Imam Muhammad Ibn Idris al-Shafi'i, one of the founders of Islamic jurisprudence, gave a certain legal opinion in Baghdad. One year later he moved to Cairo, and in response to the same question he gave a very different opinion. Someone questioned him, "Oh Imam, last year in Baghdad you gave a different answer," and he replied, "That was in Baghdad and this is in Cairo. That was last year and this is now." When employing *ijtihad,* scholars considered the time, place, norms, and prevailing conditions when they rendered their religious advice and opinions.

According to Masmoudi, the process of *ijtihad* has enabled Muslims to be flexible and to learn from other cultures and civilizations. Islam teaches that no one owns the truth and that the true believer is always in search of the truth and wisdom; wherever he finds them, he follows. This ongoing search for truth and for the overarching Islamic principle of justice has led Muslims and Muslim scholars to respect one another's opinions, making them willing to change their own opinions if proven wrong. Muslim religious scholars used to say, "This is my opinion and I could be wrong. And this is someone else's opinion and they could be right." No one had a monopoly on the truth.

Until about 1500 CE, this process allowed Muslims and Muslim societies to continually adapt in the face of changing societal conditions and new advances in knowledge. Unfortunately, as Muslim civilization began to weaken about four or five centuries ago in the face of Western advances, Muslims began to adopt a more conservative stance in an attempt to preserve traditional values and institutions. As a result, many scholars became inclined to view innovation and adaptation negatively.

According to Masmoudi, this was the beginning of the decline of Muslim civilization. Since then, Islamic law has become increasingly detached from reality and modernity.

Old interpretations no longer provide suitable answers to the difficult questions facing the Muslim world.

Many Muslims believe that they must choose between Islam and modernity, or Islam and democracy. According to Masmoudi, this is a false choice. When faced with this decision, most Muslims would choose Islam and reject anything that they regarded as alien or contrary to the principles of their faith. For this reason there is a crisis in the Muslim world today. There is no way out of this predicament without renewing the concept of *ijtihad* and using the process to develop modern interpretations of Islamic principles compatible with both the word of God and the situations, ideas, and values that have emerged over the past several centuries.

To explore these issues, the United States Institute of Peace and the Center for the Study of Islam and Democracy invited four highly respected scholars of Islam to discuss *ijtihad* and its role in addressing the contemporary needs of Muslims and Muslim societies. The panelists were asked to consider the following questions:

- How does *ijtihad* work, and how can it be used to address the needs of Muslim societies in the twenty-first century?

- Who has the right to perform *ijtihad,* and how can the door of *ijtihad* be reopened?

- What are the main problems, challenges, and handicaps facing the Muslim world today, and how can they be addressed?

- What is the role of American Muslim leaders and organizations in promoting a more tolerant, modern, and moderate interpretation of Islam?

- How should Islam adapt to changing societal conditions, needs, and priorities in its quest for social justice and equality?

The rest of this report summarizes the panel discussion.

How Does *Ijtihad* Work?

According to Muzammil H. Siddiqi, a member of the Fiqh (Islamic Law) Council of North America who teaches at California State University and Chapman University, Islam is a total way of life. Muslims are obliged to abide by the rules of Allah in every aspect of their lives, always and wherever they live. However, the actual rules of Allah as given in the Qur'an and the sunna are limited. The Qur'an contains only six hundred verses directly related to laws, and there are approximately two thousand hadiths (sayings of the Prophet that were not published in the Qur'an) that deal with laws. Muslims believe that the entire Qur'an is from God. The hadiths, however, contain some statements that definitely come directly from Prophet Muhammad and others that are of only probable or even questionable authenticity. Additionally, in both the Qur'an and hadiths, some statements have definite meanings, while others have probable meanings. Thus all statements in the Qur'an and hadiths can be divided into four categories, those with

- definite source, definite meaning;

- definite source, probable meaning;

- probable source, definite meaning; and

- probable source, probable meaning.

The work of the interpreter of the text (the *mujtahid*) is to ascertain the authenticity of the source(s) and then

- discover the laws through the interpretation of the sources;

- extend the laws to new cases that may be similar to the cases mentioned in the sources for which the laws cannot be discovered through literal interpretation (this is called the method of analogy, or *qiyas*); and

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- extend the laws to new cases that have not been covered by the previous two methods by looking at the general principles and objectives of the sharia (this method is known as *istihsan* or *istislah*—general interests of the community).

The basic role of the *mujtahid* is to explain and articulate the law of God in a particular situation. The *mujtahid* takes on the considerable responsibility of explaining the will of God to individuals and communities.

Who Can Perform *Ijtihad*?

The right to engage in *ijtihad,* according to Imam Hassan Qazwini, director of the Islamic Center of America, belongs to an individual who is a recognized expert in jurisprudence and who is qualified to derive Islamic law from original sources. This requires wide expertise and many years of studying jurisprudence, the fundamentals of jurisprudence, hadiths, the biographies of hadith narrators, commentary on the Qur'an, Arabic grammar and eloquence, and logic. Additionally, in this era, knowledge of philosophy, economics, and sociology is increasingly necessary. A *mujtahid* should also display qualities such as piety and moral integrity.

There are currently some roadblocks to increasing the numbers and power of the *mujtahids*. For instance, Siddiqi noted that while most Muslim jurists are well versed in the classical sources, many of them do not use the tools of linguistics, logic, and semantics in their interpretations. Moreover, Muslim societies tend to lack the freedom required for scholars to locate information resources and to freely debate issues, with constraints imposed not only by political authorities but also by religious establishments. In addition, Islamic educational systems are usually outdated and thus do not provide adequate preparation for the tasks that *mujtahids* must perform.

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How Might *Ijtihad* Be Revived?

One of the gravest mistakes Muslims have committed, according to Qazwini, is closing the doors of *ijtihad*. They have limited legal interpretation to only four prominent scholars: Malik Ibn Anas, Abu Hanifa al-No'man, Muhammad Ibn Idris al-Shafi'i, and Ahmad Ibn Hambal—the heads of the Maliki, Hanafi, Shafi'i, and Hambali schools of thought. The motivation for this was political. During the Abbasid Dynasty (750–1258 CE), the Abbasids decided to outlaw all other sects in order to strictly control religion and worship, as well as political matters.

Closing the doors of *ijtihad* has had extremely detrimental ramifications for the Muslim world. According to Qazwini, this decision has resulted in chronic intellectual stagnation, as thousands of potential *mujtahids* and scholars have been prohibited from offering workable solutions to newly emerging problems. Muslim thinkers have become captive to rules that were made long ago, leaving little scope for liberal or innovative thought.

Governments in Muslim countries today, many of which are corrupt, greatly benefit from the absence of *ijtihad*. Moreover, these governments help keep the doors of *ijtihad* closed in order to control the religious establishment. Since religious bodies in Muslim countries rely on government financing, this makes them captive to government policies. The domination of the religious establishments by secular governments has been so powerful that it has often made religious authorities look inept. The first step toward opening the door of *ijtihad,* according to Qazwini, should be the liberation of religious establishments from the influence of political regimes. Religious authorities should dissociate themselves from political regimes so that they can independently issue and interpret religious law.

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There cannot be true *ijtihad,* Siddiqi pointed out, unless scholars are free to express their opinions and other scholars are free to criticize them if they make errors. Freedom

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of expression is inherent in the concept and practice of *ijtihad*. This means that the democratization of Muslim societies and basic freedom for scholars is sine qua non for this process to work.

Reforming Muslim educational systems is also essential, including revising the curricula of religious schools and seminaries. Instead of learning about only a single school of interpretation, which is common practice, students should be exposed to all such schools. Instead of studying only the rulings and interpretations of the schools, students should also learn about the evidence used to arrive at these interpretations, as well as other methods of interpretation. Students should also study comparative religion, modern logic, philosophy, psychology, and history, as well as economics and political theory as background for improved interpretation. Islamic schools and seminaries should also pay more attention to the great Islamic literature on the objectives of sharia.

Siddiqi also asserted that *ijtihad* should be a collective endeavor. There are currently several national and international fiqh councils (councils of jurisprudence and interpretation of sharia), but they need to be better organized and they should work together collaboratively. Sharia experts, both men and women, should be members of these councils. Membership should not be limited to sharia scholars; experts from the fields of medicine, astronomy, economics, social and political sciences, and law should also be included as consultants and advisers. Even non-Muslim scholars who are sympathetic and objective should be invited to contribute. These councils should not only issue rulings but also provide the evidence and methodologies behind their rulings. They should also strive to build consensus as much as possible.

Ijtihad *should be a collective endeavor.*

As Masmoudi pointed out, all four panelists mentioned the lack of freedom and democracy as serious impediments to *ijtihad*. Without freedom and democracy, which are sharply limited in the Muslim world and particularly in Arab countries, *ijtihad* cannot be performed. Democracy is the key to opening up *ijtihad,* and *ijtihad* is the key to solving the principal problems confronting the Muslim world today.

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What Issues Should Be Subjected to *Ijtihad*?

Many issues facing Muslims today require *ijtihad,* and the following ones, according to Siddiqi, require urgent attention:

- *The role of women*. The role of women in Islam needs to be reviewed by carefully examining the original texts.

- *Sunnis and Shiites*. The gap in doctrine between various Islamic *madhahib* (schools and sectarian positions) should be narrowed.

- *The spirit of globalization*. Using modern *ijtihad,* Muslims should reinterpret the classical division of the world into *darul Islam* (the world of Islam) and *darul Harb* (the world of non-Muslims). Emphasis should be placed on a one-world view and responsible citizenship in our global village. *Ijtihad* should also be used to foster better relations between people of diverse faiths and cultures by promoting dialogue among various groups rather than encouraging the notion of a clash of cultures and civilizations.

- *Economics*. There is a need to radically rethink Islamic economic theories, in the process incorporating elements of modern economic theories. Why is the Muslim world impoverished and how can this be changed? What kind of collaboration is possible between Muslims and world economic bodies without compromising authentic Islamic values and principles of justice, equity, and fairness?

- *Unity among Muslim states*. Islamic political thinking and statecraft should also be reviewed. How can Muslim states be brought together to collaborate more closely, and what new structures are needed to promote unity among Muslim states? Ethical and moral standards of the Islamic state need to be examined, as does the promotion of individual freedom, especially that of religious minorities.

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- *Muslims in non-Muslim countries. Ijtihad* should be used to guide the almost one-third of the umma (the worldwide Muslim community) that is living as minorities in non-Muslim countries. What Islamic rules and guidelines should these Muslims follow to be good citizens of their native or adopted land? How can they become active and responsible participants in the life of these countries while not neglecting their Islamic beliefs and values?

According to Qazwini, other major obstacles facing Muslims and the practice of *ijtihad* today include prejudice, intellectual stagnation, political dictatorship, rejection of others, lack of democracy and freedom, factionalism, and extremism. Regrettably, these illnesses pervasive in Muslim societies are worsening, reaching a point where they may spiral out of control.

Noting that the panelists involved in the discussion on March 19, 2004, represented the entire Muslim spectrum—men and women, Shiites and Sunnis, religious scholars and academic scholars—Qazwini proposed that the panel could present the Muslim world with an ideal image of Islam's tolerance and openness. There is no doubt that living in the United States gives one a sense of appreciation for pluralism. Muslims in the United States also enjoy more freedom, even religious freedom, than exists in most Muslim countries. Muslim Americans could project this positive perspective, including their openness with one another, mutual tolerance, and participation in interfaith dialogue, to the greater Muslim world, becoming a model for millions of Muslims around the globe.

An Alternative Approach: Creative Impulse and Imagination

Muneer Fareed, associate professor of Islamic studies at Wayne State University, and Ingrid Mattson, professor of Islamic studies and director of Islamic Chaplaincy at Hartford Seminary, held a somewhat different view than the other panelists of the role of *ijtihad*. Fareed suggested that *ijtihad* can be viewed in three different ways: as a legal tool, as a form of legal reasoning, and as a creative impulse. Muslim scholars, however, remain unclear as to the precise nature of *ijtihad*. Generally when the term is used, it implies analogical reasoning, a legal tool.

The increasing attention paid to *ijtihad* by Muslim scholars can be attributed to the fact that it remains the only means of legitimate rational reasoning within the house of Islam. Islam is a religion of revelation, in which God spoke to the Prophet Muhammad, who, in turn, transmitted this speech of God, fleshing out its details and providing commentary on its application. In Islam, truth is both divine and divinely absolute, and so there is little room for rational inquiry.

Ijtihad flourished in two periods of Muslim history, the ninth and the nineteenth centuries. During the first period, *ijtihad* functioned as legal reasoning. During the second period, however, some scholars looked to *ijtihad* as the "creative impulse" necessary to unleash Muslim potential and create a new world, one that would allow Islamic civilization to thrive. But this movement was thwarted by the ulama. These custodians of the tradition were disinclined to accept *ijtihad* as creative impulse. In addition, the movement itself was a threat to their status and even to their livelihood.

In the twentieth century, Islam suffered humiliation on many fronts, because of colonialism, the dismemberment of the Caliphate, and the abolition of Islamic law by Mustafa Kemal Ataturk in Turkey. As a result, many enlightened, Western-educated Muslims began to search for something within Islam that would allow Muslims to think freely and to engage and embrace the positive elements of their civilization. *Ijtihad* thus presented itself, but this time as a creative impulse rather than as legal reasoning. When the Prophet spoke of *ijtihad* or when he approved of its application, he seemed to have done so in terms of *ijtihad* qua creative reasoning.

The challenge for Muslims going forward is to determine whether this creative reasoning should be complementary and therefore parallel to divine text, or whether it should remain as it has been in the past, subordinate to the text. That today is the great ques-

tion. It is also a challenge to all who consider Islam to be not just a religion, but also a civilization with much to offer the world at large.

Islamic legal expert Mattson remarked that although she is passionate about legal reasoning and the scholarly aspects of the law, she would not want to live in a land in which the law was simply created by scholars such as herself. As it turns out, Muslim civilization was not built by a set of scholars sitting in a room writing down rules about what was and was not permissible who then instructed people to follow the law. Islamic civilization was built by people with initiative, imagination, and creativity who were interested in constructing creative lives and forging good relationships with others. It was only when these leaders encountered difficulties that they consulted religious scholars.

So what was it that drove them? What created civilization? What allowed people to have an optimistic outlook? Creativity built on the belief that there were always new possibilities available and that God gave us this earth and this life with permission to use them creatively.

According to Mattson, "legal reasoning—even the best legal reasoning—is not the solution to our problems. Why are we Muslims still in the situation in which we find ourselves? Our problems are not going to be solved by having scholars think more deeply. If we limit change and innovation to only those who have qualifications to reason from the text, we are not going to get anywhere."

A verse in the Qur'an reads, "Perhaps your Lord will put love between you and those whom you now consider enemies." Mattson proposed that this verse calls us to imagine a different future, rather than reason our way out of things. "We must first have a vision of a different tomorrow and know that there is the possibility of the world being different. Even when we are so mired in our own emotions, our own day-to-day struggles, our own difficulties that we cannot imagine a way out, faith and creativity help us know it is possible for God to create a different future. It is possible for God to put love between you and your enemies." So imagination is key to a better future. It is the key to a good society. It must work hand in hand with but not be superseded by legal reasoning. Reason by itself, when misused, can lead to disastrous conclusions and actions. It can lead to the most terrible yet very rational projects. Without inputs from ethics and from imagination, reason can lead us seriously astray. Mattson argued that the frequently employed legal principle in *ijtihad* that "necessity dictates exception" is a valuable but limited tool. A Muslim might find himself or herself in a situation in which, because of the limits of his or her job, he or she cannot go to the Friday prayers. So necessity dictates exception. But scholars cannot keep making laws on the basis of exceptions for Muslims living in so-called non-Muslim countries. The world is pluralistic and is becoming increasingly so. More creative approaches to *ijtihad* must be developed and employed.

According to Mattson, one of the principal problems facing Muslims is that "because of our very narrow vision, our legalistic vision, and our authoritarian models of decision making, we are excluding those people who can offer us a different vision of the future." She suggested that comedians, poets, and musicians should come forward to articulate a different view of reality. "We will have arguments about the limits that should be imposed on these new visions. When have we gone too far and violated something fundamental to our being Muslim? We need to have that discussion, but we should not be afraid to allow creativity to flourish, because without it we won't have a promising future."

Another challenge: the Muslim world is often mired in nostalgia for past glories, and traditional approaches to *ijtihad* often lock Muslims into the past. An example of this is the difficulty that Muslim scholars had in the nineteenth century in condemning slavery and advocating its abolition. Traditional scholars at that time held the view that slavery had always existed and that their laws regulating it allowed for the good treatment of slaves. These scholars could not imagine a world without slavery, and this lack of imagination prevented them from moving forward.

"I am a scholar and I engage in scholarship all the time," said Mattson. "But to put everything in the hands of scholars will limit and cripple us and will mean that we will

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end up in a situation not much better than we are in today. I believe there is another door open, a theological door, which places more emphasis on the natural law tradition in Islam. Reason is not the only complement to revelation. In Islam there is something called *fitra,* an innate, God-given sense of right and wrong. It can be squelched or cultivated. With the right support it can make us moral people."

Conclusion

One of the principal reasons for the failure of Muslims to reconcile Islam and modernity is that the process of *ijtihad* was closed several centuries ago. However, the sacred texts of Islam need to be interpreted in the light of contemporary realities and modern knowledge. For *ijtihad* to be performed successfully in a society, democracy and freedom of expression must prevail. While scholars of Islamic law clearly have very important roles to play in the revived practice of *ijtihad,* they should not have exclusive responsibility over this practice. Faithfulness to the text needs to be combined with creative imagination to produce the most enlightened reinterpretations, suitable for the twenty-first century. Muslim scholars and leaders in the United States and other Western societies have particular opportunities as well as a responsibility to lead a revival of ijtihad. Muslim scholars in the West have the freedom to think creatively while still being faithful to the texts, and their new interpretations could stimulate new thinking among the more traditional religious establishments in Muslim countries.

Muslim scholars and leaders in the United States and other Western societies have particular opportunities as well as a responsibility to lead a revival of ijtihad.

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