IJMĀ' (Consensus of Opinion) in the Shaping of Islamic Law: A Comparative View of Classical Jurists

Labeeb Bsoul

Department of Arabic and Islamic Studies, Khalifa University, Abu Dhabi, United Arab Emirates

Abstract: Despite the fact that ijmā' or consensus is considered as one of the four most authoritative sources of Islamic law/Sharī'a according to the Islamic legal orthodoxy, it is still surrounded with the extensive amount of scholarly interpretations and disagreements. Historically however, there has been serious disagreement among scholars regarding the functional use of ijmā'. Today, the issue of Ijmā' still presents a controversial topic among Muslim scholars. As early as the formative period of Islamic thought and law (third-ninth century), however, the earnest ambition of Muslim jurists was to systematically develop a dynamic function and use of ijmā' to issue legal opinions on matters and issues concerning the evolving life of the Muslim community. This paper discusses the scholarly views and interpretations of Muslim jurists on ijmā', the understanding of which helps researchers to acquire a better insight into the later developments and ramifications not only of ijmā', but also of many other aspects and extensions of the legal apparatus.

Key words: Qur'ān · sunnah · ijmā '· qiyās · jurist · law

INTRODUCTION

The second and third centuries in the central Islamic lands saw an unprecedented proliferation of juridical opinions and the emergence of schools (madhhab (pl. madhāhib), or school of legal doctrine); however, there was no mechanism in place to deal with the varying opinions until the emergence of ijmā' (consensus of mujtahids (one who exercises ijtihād) on a point of law) as the third source of Islamic law [i]. Nevertheless, these schools did not agree on what constituted ijmā' [1, 3-6]. Muslim scholars from different schools of thought, such as Ibn al-Mundhir (d. 319/931) [7], Ibn Hazm (d. 456/1064) [9, 10], AbūḤāmid al-Ghazālī (d. 505/1111) [5], Ibn Taymiyya (d. 728/1328) [11] and others were at the heart of this debate. In reading their treatises, we can extrapolate their opinions on both ikhtilāf al-'ulamā' (disagreement of scholars) and ijmā' al-'ulamā' (consensus of scholars), thanks to their diligence in recording the various opinions of previous jurists. While addressing a specific issue that demanded ijmā', they indicated both opinions, i.e., the one in favor and the one against and then concluded with their own summation. What is unique about their treatises is that they used the same methodology and style as that of ḥadīth narrator/muḥaddith [3]. By collecting and examining the āḥādīth (traditions) and reflecting on the authority of their users and reporters, they performed the tasks of both muḥaddith and faqīh [(pl. fuqahā') (a scholar versed in fiqh) [12-15].

BACKGROUND OF IJMĀ'

Ijmā' is the third source of Islamic law (Sharī'a) or Islamic jurisprudence. The Qur'ān is the original (aṣl) and foremost source of Islamic law, while the Sunnah (prophetic traditions) is the second source [4], followed by ijmā' (consensus of community), which relies on the Qur'ān and the Sunnah as the ultimate sources of fiqh (jurisprudence). These sources of Islamic jurisprudence vary in terms of their authoritative ranking, according to which the ruling (aḥkām) is derived or is based upon. Any rule derived outside these or not consulted from these sources is not accepted [3, 16].

Any rulings derived from or based on these sources are considered sacrosanct and none, whether an ordinary person, jurist or ruler, may dispute them. Any disagreement with such rulings would be null because an affirmed or authoritative case[s] does not require ijtihād [6, 17, 18]. An opinion circulated among jurists holds that whoever contravenes ijmā' is a kāfir (infidel or the person who commits a major sin) [19]. This particular attribute prompts closer examination of ijmā' in order to reach a better understanding. Indeed, there is

Corresponding Author: Labeeb Bsoul, Department of Arabic and Islamic Studies, Khalifa University, Abu Dhabi, United Arab Emirates.

a disagreement (ikhtilāf) among jurists as to the principles and sources of ijmā', especially regarding its conditions and authoritative content, with regards to its chain of evidence or opinions. The prime concern is whether ijmā' can be abrogated or not when confronted with Islamic legal opinion, which sometimes seeks to overturn rulings to the benefit of today's Muslims [20].

METHODOLOGY

This study's methodological approach consists of a review of the available classical literature as its primary source, making reference to modern scholars' works and critically analyzing specific scholars' works on ijmā'. Furthermore, this study will focus not on any single school of thought, but rather on delivering a comparative analysis of prominent schools of opinion. Preference will be shown for the opinions of schools or jurists on the basis of the integrity of evidence. Modern scholars have dealt with similar subjects in the field of Islamic law; however, they have not addressed the specific issue of ijmā' in shaping of the Islamic law, neither has anyone done an independent study of this kind, let alone those jurists who have predominantly focused on ijmā' in different schools of thought. Thus, this study will bridge the works of classical and modern scholars. In approaching the literature, both original sources and secondary sources by Western and non-Western scholars will be cited [6, 20].

This study will be divided into two main parts. The first will examine the juristic and lexical meanings of ijmā' according to different schools and selected opinions, along with references, evidence and the conditions of ijmā'. In the second part, ijmā' will be considered according to those who favor it or disagree with it, looking at the opinions offered by each side.

IJMĀ' ACCORDING TO MUSLIM SCHOOLS OF LAW

The technical definition of ijmā' is not connected to its lexical definition, because the original source was revealed in the Arabic language. Therefore, ijmā' is a mutual expression denoting agreement and determination [21-26]. For example, in the Qur'ān, ijmā' is used to signify agreement, as shown in the following verses:

So, when they took him away, they all agreed to throw him down to the bottom of the well. (Q. 12:15); This is of the news of the unseen which We reveal by Inspiration to you. You were not (present) with them when they agreed on their course of action. (Q. 12:102).

According to Ibn Kathīr's commentary (tafsīr), they (Joseph's brothers) agreed to throw Joseph into a

well [27]. In another passage of the Qur'ān the term is used to denote determination. The verse reads:

So devise your plot, you and your partners and let not your plot be in doubt for you. (Q. 10: 71).

In Ibn Su'ūd's Tafsīr the term "ajmi'ū amrakum" can be determined or conceived as meaning "your plot" [28]. In the Prophetic traditions, the Prophet used the term ijmā' in a number of ḥadīths/traditions. In the tradition "lā ṣiyām li man lam yajma' al-ṣyām mina al-layl" (no fasting for one who did not determine his intention at night) [29], the term "yajma'" means determine. According to al-Qāḍī Abū Bakr al-Bāqillānī (d. 403/1012), determination refers to the concurrence and harmony of agreement because, when someone makes a determination about something, that person is willing to act in the intended manner [29].

Ijmā' can also be general or specific. General ijmā' occurs when there is no association to a specific group. For example, whenever a case refers to zakāt (legal almsgiving), a concept mentioned in the Qur'ān and the Prophetic teachings, ijmā' here covers issues that are applicable and agreed upon by all scholars and Muslims. Another example is the ijmā' of the Muslim community on the acceptance and performance of the basic five daily prayers, plus the consensus of all Muslims to agree on obedience to the Prophet [5]. Specific ijmā' on the other hand refers to a specific group or individual stating the same opinion in regard to a subject. An example of this is the ijmā' of the ahl al-Madīna (the people of Medina or the scholars of Medina), or the ijmā' of the Ahl al-Ḥaramayn (the people of both Mecca and Medina), or the ijmā' of the rightly Guided Caliphs.

Additionally, five schools of thought, namely the Ḥanafī, Mālikī, Shāfi'ī, Ḥanbalī and Abādhī address the issue of specific ijmā'. Other schools of opinion, such as the Shī'i, Zaydī, Zahirī and Mu'tazilī Schools (in the latter case, especially that of Naẓẓām, d. 221/835) developed different terminology attached to the meaning ijmā'. The task will be to illustrate the legal terminological definition of ijmā' by each of the above mentioned schools [7, 21].

According to the Shāfi'ī School, ijmā' constitutes the agreement of the Ummah (community) [30], i.e., the entirety of the scholars and ordinary people since the time of the Prophet and theoretically until the Day of Resurrection [3]. Subsequently, in his Risāla, Shāfi'ī defined ijmā' as the obligation of the Muslim community to reach a decision on cases that deal directly with the permissions and prohibitions that emerged after the Prophet's death [3]. Concomitantly, Shāfi'ī's opinion is that ijmā' represents the consensus of the Muslim community forming the basis of religious obligation. In all other instances, whenever

a case requires a legal opinion, the opinion of the learned scholars will be chosen [3]. Shāfi'ī's view had an impact on later jurists from the Shāfi'ī School, such as al-Māwardī (d. 450/1058) who defined ijmā' as the elaboration by scholars of evident rulings and the process of arriving at a decision, verdict or ruling on a case on the basis of consensus [4].

Al-Juwaynī, likewise a Shāfi'ī jurist, defines ijmā' as an agreement among scholars, in their era, on the ruling or verdict on a legal case [29]. Other Shāfi'ī jurists' opinions, such as that of al-Ghazālī in his Mustasfā, defined ijmā' as the agreement of Prophet Muḥammad's community on an issue of religious importance [5]. Al-Āmidī (d. 631/1233), another Shāfi'ī jurist, defined ijmā' as the agreement of the ahl al-ḥal wa al-'aqd (the qualified and authorized elite) on matters affecting the Prophetic community at any given time on an existing verdict or ruling from previous events [1, 20]. Afterwards, the opinion of al-Āmidī was confirmed within the Shāfi'ī School [31-34].

Jurists from the Māliki and Ḥanbalī Schools are in agreement with al-Āmidī`s definition of ijmā', such as al-Nasafī (d. 710/1310) [35], al-Qarāfī (d. 684/1285), Ibn Qudāma (d. 630/1232), Ibn Taymiyya (d. 728/1327) and the Abādhī jurist al-Sālmī (b. 1871), who defined ijmā' as adherence to the congregation of the jurists. However, in cases where scholars had disagreed, the average Muslim could in turn disagree, with or without knowing the case and issues. Therefore, this will not lead to a consensus [3]. However, if there was a case approved by scholars and jurists that did not lead to a disagreement, then that was ijmā'.

One of the schools most given to discussing their jurists' opinions was the Ẓāhirī School. The latter generally defines ijmā' as the consensus of the Muslim community in general and in particular on whatever is considered the necessary knowledge of the religion, following the agreement of the Companions. A leading Ẓāhirī jurist, Ibn Ḥazm, defines ijmā' as what is known and said by the Prophet's Companions without a single disagreement. This is because the Companions learned from and witnessed the entire conduct of the Prophet and followed his example since anyone who disapproved of his conduct could not have counted himself among the ranks of true believers. And since the Prophet's Companions were all believers and followed the Prophet's example, their agreement was fully accepted. Whoever claimed that their agreement was not valid ijmā', would have to provide proof of his objection and this was considered impossible [3, 38].

The Shī'ite School defines ijmā' as all agreements that contain a statement by an infallible Imām, whether the agreement includes all or a few jurists. Even if

hundreds of jurists agree on one issue, but the text of their agreement lacks the statement of the infallible Imām, it will not be considered as ijmā'. Rather, it will only be considered as a proof of the issue's existence. According to Shī'ite thought, the words of the infallible Imām reveal the truth and proof of the hidden Imām, not that of the revealer. Therefore, ijmā' belongs to the Qur'ān and Sunnah and does not stand independent of the two; it is derived from consensus on many evident cases [39, 40]. The Zaydī School differs from the Shī'ite School with respect to the definition of ijmā': thus they see the agreement of mujtahidīn/jurists as being divided into phases. The first phase is the agreement of jurists from the Muslim community in a specific period of time on an issue that included the lineage of the Prophet and others. This particular definition is in line with Sunni Schools of opinion.

The second phase is the agreement of jurists about the lineage of the Prophet, specifically in his particular era and on his verdicts on issues. The lineage of the Prophet refers to 'Alī, Fāṭimā, al-Ḥasan and al-Ḥusayn and whoever is related (by marriage) to both al-Ḥasan and al-Ḥusayn in all periods from their father's side. If the ijmā' occurred among the lineage of the Prophet, regardless of others who disagreed, it is considered true [41].

The Mu'tazilite followers of al-Naẓẓām (d. 221/835) defined ijmā' as a statement of all opinions that contain evidence and proof [5]. Al-Juwaynī (d. 478/1085) indicated that al-Niẓām was the first one who permitted the rejection of ijmā', which led to the emergence of other groups of scholars who rejected ijmā'. Of particular importance is the opinion of the pre-eminent Imām of the time, who is engaged with and even one of the people. If the ijmā' becomes abiding, his sayings are regarded as evidence itself and they should be followed and agreed upon [19].

Ibn Qudamah's reflection on al-Niẓām's opinion is that he accepts certain instances of ijmā' as applicable, but rejects others. This is so because the ijmā' of the qualified and authorized elite in such matters is taken as evidence among their supporters. This is furthermore proven by the disagreement amongst scholars over forbidden ijmā' [1, 42].

Finally, the most selective definition of ijmā' from the above, whether put forward by an independent jurist or by a school, is that of the Sunni schools; it can be summarized as the agreement of all the jurists from the Muslim community at a given period of time, after the death of the Prophet, on a practical legal ruling [43, 44, 20].

Scholars have identified five aspects/conditions of ijmā': Ahl al-Ijmā' (people of consensus), inqirāḍ

al-ʿaṣr (cessation of era or age), Mustanad al-Ijmāʿ (authority for consensus), ʿadam mukhālafat al-ijmāʿ (non-violation of consensus), ijmāʿ ʿalā ḥukum sharʿī ʿamalī (the consensus should be on a practical legal ruling) [45, 46, 29, 1]. It is important to state that the abovementioned conditions are subject to some disagreement within the Sunni schools.

Ahl al-Ijmāʿ, or the people of consensus, are acknowledged by the Muslim scholars as the qualified and authorized elite jurists for such affairs because they are the ones who possess the tools of ijtihād, such as maturity and ability. For example, if a boy reaches the level of ijtihād, his opinion will not be taken into consideration because only the opinion of mature individuals can be taken seriously [19, 17]. Mature individuals should have six characteristics in order to have their opinion taken into consideration. These characteristics are as follows: master of the Arabic language, knowledge of the Qurʾānic ruling verses and ruling traditions, knowledge of the methodology of qiyās (legal decision making and argumentation by means of "analogy." One of the four sources of Sunnī fiqh), basing decisions on substantiating evidence, fiqh al-nafs/the ability to understand the reality of issues, submissions of concrete evidence that reaches justice and the interest in the welfare of the Muslim community when deriving Islamic rulings [47, 19]. It is obvious the jurist should be a devout Muslim, have a sound mind, be pious, healthy and a first rate scholar [5, 19, 47, 29].

From these particular characteristics one can reach an understanding that ijmāʿ is limited to the jurists and scholars who specialize in jurisprudence and no one can exercise ijmāʿ without being a mujtahid. Although scholars from different fields such as medicine, pharmacy, engineering, mathematics, etcetera, might occasionally be needed for some religious interpretation of cases that are directly related to religious rulings, yet they are not in a position to practice ijmāʿ without consulting a specialized jurist [42, 19, 48].

The second category of a firm ijmāʿ is the inqirāḍ al-ʿaṣr (cessation of era or age), which means that an era of the age of scholars has ceased. This is a condition of acceptable ijmāʿ, for example, if scholars of advanced age agreed on an issue without a single disagreement, it will be known to the later jurists or generations as a firm ijmāʿ and it should be followed [1, 4]. The opinions of Shāfiʿī, Abū Ḥanīfa, Ashʿarite, Muʿtazilite, Mālikī, Zayddī and Abādhī jurists, do not consider that the cessation of an age as a condition, because if they agreed on that condition the gate of ijmāʿ will be closed for modern/later jurists [50].

The third category of a firm ijmāʿ is the Mustanad al-Ijmāʿ (the authority for consensus). The majority of

the scholars or the people of consensus agreed that for ijmāʿ to be acknowledged as firm, it must have a reference to an authoritative source [s] or verdict on a previous case. Without any reference to an authoritative source, the ijmāʿ would be considered void. For example, to innovate an attestation to prove a case of any kind after the death of the Prophet would be null [19, 29]. The Ḥanafī jurists refer to the authority of ijmāʿ as a decision on the case for ijmāʿ, as Sarakhsī indicated the cause for ijmāʿ should be attesting with the Qurʾān and Sunnah. For example, the issue of forbidden marriage as implicitly stated in the Qurʾān:

Forbidden to you (for marriage) are: your mothers, your sisters, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your foster mother who gave you suck, your foster milk suckling sisters, your wives' mothers, your step-daughters under your guardianship, born of your wives to whom you have gone in—but there is no sin on you if you have not gone in them (to marry their daughters), --the wives of your sons who (spring) from your own loins and two sisters in wedlock at the same time, except for what has already passed; verily, Allāh is Oft-Forgiving, Most Merciful. (Q. 4: 23)

An example from the Sunnah is that it is forbidden to sell food to a buyer before paying for it. Additionally, what was derived through ijtihād from the Qurʾān and Sunnah was the decision to divide kharāj (the land tax levied on lands deemed to be owned by the state but left in the possession of the individuals) to Ahl al-Sawād (the people of a city in northern Iraq (al-Mūṣal) [50, 51], by ʿUmar Ibn al-Khaṭṭāb, the second Caliph, based on consensus. When ʿUmar was about to divide the kharāj (taxes) among Ahl al-Sawād, Bilāl b. Rabāḥ and a group of Companions opposed Caliph ʿUmar's decision, so ʿUmar recited the verse from the Qurʾān,

And those who came after them say: "Our Lord! Forgive us and our brethren who have preceded us in Faith. And put not in our hearts any hatred against those who have believed. Our Lord! You are indeed full of kindness, Most Merciful. (Q. 59:10) and said, "I can see that the people who are after you should have a share of that booty and if I divided it among you there will be none left for people after you". Then Bilāl and the group of Companions agreed with him and this was an example of a firm authoritative ijmāʿ. This ijmāʿ emerged through deriving from an authoritative source, the Qurʾān [50, 52-55].

(And there is also a share in this booty) for the poor emigrants, who were expelled from their homes and their property, seeking Bounties from Allāh and to

please Him and helping Allāh and His Messenger. Such are indeed the truthful. (Q. 59:8)

When these verses were recited by Caliph 'Umar, the people who opposed him were convinced and they accepted the ijmā' because it was not 'Umar's own opinion, rather it was derived from the Qur'ān. This particular incident became a case of reference when the later generations encountered similar situations. They could rely on this incident without a disagreement or confrontation. All schools, i.e., Shāfi'ī [34], Mālikī [34], Ḥanbālī [42], Zaydī [56], Abādhī [57], Ḥanāfī [50, 29, 17], are in favor of that case and do not agree on a firm authoritative ijmā'[50, 29, 17, 43]. Difference of opinions emerged between Ḥanifī and Shāfi'ī jurists on whether to take a single opinion (al-ra'y) as evidence to prove ijmā' or not. The Shāfi'ī jurists argued that it is not possible for ijmā' to be firm on the basis of a single opinion or qiyās (analogy). Such a case lacks evidence and hinders the possibility of deriving ijmā' from it.

The Ḥanafī jurists however, replied to that discussion by declaring that the consensus of the Muslim community is based on legal & religious evidence because it is not an evident matter. Furthermore, the reply of the Ḥanafī to the Shāfi'ī School states that the authority of ijmā' should be proved to be derived from circumstantial evidence such as 'ilm or knowledge. Thus circumstantial evidence should be used to reach a firm authoritative ijmā' on the plea of qiyās [50, 29].

The fourth category or condition of a firm ijmā' is 'adam mukhālafat al-ijmā'(non-violation of consensus). The majority of the scholars agree that a firm ijmā' should not contradict the Qur'ān and Sunnah, if in case ijmā' occurred without the reference of the primary sources, i.e., Qur'ān and Sunnah, the majority of scholars, in particular the jurists, will immediately oppose and condemn this [38, 5, 17]. Ijmā' should always be derived from the firm evidence in accordance with the Qur'ān and Sunnah.

When the jurist is asked to look into a case demanding ijmā', he should first look into a previous, similar case to determine if ijmā' existed earlier and if it did exist, then he should not look for another reference. The previous ijmā' is considered firm because it was agreed upon by earlier scholars as it did not violate the Qur'ān or Sunnah, even if it is a known abrogation or interpretation. This is so because an ijmā' is a firm evidence itself and does not accept further abrogation or interpretation. This has two interpretations by scholars [49]. One interpretation is to leave it as it is without addressing any concerns and the second interpretation is to question whether the consensus is directly connected with the interpretation of the Qur'ān in accordance with the Text. For example, the ijmā' of the

right of the mother, in which the Qur'ān grants her the inheritance between the third to the sixth with two brothers as the Qur'ān reads:

…If the man or women whose inheritance is in question has left neither ascendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they shared in a third. (Q. 4:11)

It appears to be that this particular case of ijmā' is not in accordance with the Text, because the Text does not mention what happens to the remaining inheritance after the distribution occurs. Hence here the ijmā' is given two interpretations of either taking the lexical meaning of the Text or leaving it open for interpretation [17]. However, one cannot assume that ijmā' bases its authority on opposing evidence, because scholars cannot have consensus without authoritative evidence. Perhaps because the opposing evidence is weak, or a false report or an abrogated ruling. Therefore, ijmā' cannot occur if it is in disagreement with the Text, because Muslim jurists believe that the Qur'ān is infallible. Furthermore, the scholars cannot agree or favor a case contradicting the Text because they cannot agree on anything that is inherently wrong. They must always choose the Text as the primary source and refer to it in any given situation [42]. Even some scholars within the Ḥanafī and Mu'tazilī jurists have differing opinions in reference to the Qur'ānic verse chapter 4: 11. However, the jurists should distinguish between a firm authoritative reference that cannot be violated and references based on assumption, till they are proven with certainty [33, 56].

The last category of a firm ijmā' is the Ijmā' 'alā ḥukm al-shar'ī 'amalī (the consensus should be on legal practical ruling). Because different definitions of this have emerged from scholars, the leading scholars who have direct connection with this matter must be selected, such as al-Ghazālī and al-Juwaynī. For instance, al-Ghazālī defines ijmā' to be a case in religious affairs. Al-Juwaynī too, indicated in his definition of ijmā' that it is a ruling on a religious incident [5, 19]. Ijmā' should be limited to religious affairs; however, jurists sometimes go beyond this limit and reflect upon a given issue by incorporating the lexical, logical and customary practices [1, 17].

Ijmā' should be based on practical religious rulings in order to support the articles of faith, such as the Oneness of God, the duty of the Prophet to convey the message of God, the news about the Judgment day and if all of the fore mentioned faith related issues do not appear in the field of jurisprudence it would not be among the legal terminology [43, 44]. Thus, all religious cases in particular believe in the Oneness of God and could not omit the basic article because the

reference directly relates to the primary sources, Qur'ān and Sunnah which is common for the Muslim community [52, 58, 32].

In conclusion, the selected opinion of the above mentioned jurists reflects the historical approach of jurists that teaches how to evaluate the concept of ijmā' in Islamic jurisprudence and to set the proper position that might benefit the contemporary world. It is obvious that during the Prophetic era, ijmā' did not exist because the Prophet was alive and all religious matters were revealed to him, as attributed by the Text and the full sense of the word which is not negotiable in Islam i.e. the Qur'ān. With respect to the Sunnah, it covers the attributes and practices of the Prophet, as well as the Prophet's Companions, the first generation after the Prophet's death in 13/622, when the revelation ended. After the Prophet's death, the first ijmā' took place among the Companions to decide on a successor or Caliph of the Prophet to lead the Muslim community [52, 59, 32]. Differences of opinions also emerged with the Anṣār [10] claiming they were the proper people to succeed the Prophet because the Islamic statehood was established on their territory. They were the ones who protected it and defended it from external aggression. However, a loud voice from the crowd quoted the ḥadīth which pleas for the successors of the Prophet should be a "Meccan from the tribe or clan of Quraysh" [60, 61, 59, 32].

'Umar was the one who said this and stood firm on that matter and he indicated that's what God has chosen for us because the Prophet assigned Abu Bakr to lead the prayer during his last illness. Many people agreed with 'Umar and his ijtihād opinion [61]. This claim regarding the successors of the Prophet should be from Quraysh led to controversy among Muslims. Some sects emerged as a result of that decision (caliph's appointment) such as the Khārijites and Mu'tazilites, who did not believe that the successor should be from Quraysh as a condition to be a sound Caliph or khilāfa. Since 'Alī b. Abū Ṭālib (the fourth caliph) was at the Prophet's funeral service, as it was the customary practice of that time for the closest kinship to arrange these matters, so he could not attend the pledge of allegiance to Abū Bakr. Even so, the exercise of ijmā' was enforced despite of Alī's absence and the majority of the people, scholars and ordinary folk, agreed on Abū Bakr's succession. This is an example of ijmā', which technically lacks the authority from the Qur'ān and Sunnah, yet has consensus of the majority on a legal matter, forming a firm ijmā' after the death of the Prophet. Unfortunately the caliphate system remains a disputed issue among common Muslims and Muslim scholars in spite of the past history and its regrettable outcomes [62, 63].

IJMĀ': BETWEEN SUPPORT AND DENIAL

In order to better understand whether ijmā' can be a firm authority in a legal matter or not, we need to look at three different opinions that need to be examined. The first opinion opposes ijmā' and does not consider it as an authority or evidence on legal matters. The second opinion is in favor of ijmā' and considers it as an authority on legal matters. The third is the most feasible as it considers the previous opinions and presents a new point of view.

The first opinion: Deniers of Ijmā': Al-Niẓām and some of the Shī'ite scholars agree on the principle of deriving the ruling from a single source that is not recognized; yet, it is impossible for it to be considered a firm ijmā' because to agree on a specific timeline is impossible [50, 29]. According to al-Juwaynī, the first scholar to pronounce the denying of ijmā' was al-Naẓẓām, who was followed by other groups of rejecters [34, 41]. However al- Niẓām considered ijmā' when it is a consensus of the scholars as evidence. This is obscure because he considered evidence as the saying of the Imām at that time, while he was engaged with the people's affairs. Consequently ijmā' became the accepted sayings of the Imām that the people should follow and consider sufficient [19].

There are the cases where ijmā' is not considered as evidence: the first is when a single case is addressed and presented to the whole community, scholars or jurists from all over the Muslim world and Muslims residing in non-Muslim countries are asked to pass a ruling. Such an action is clearly impossible because Muslims would not be able to communicate to overcome any disagreements that may take place and applying the rulings to their own environment would be difficult.

The second issue is that reaching an agreement might be difficult and might introduce a weak ruling, especially if the agreement is based on partitioning of opinions or on misconceptions, because the partitions of opinions do not reach the majority. People become selective in using opinions that serve their interest alone. However, if an opinion manages to reach the majority then it might reach another unexpected outcome. Consequently, it is questionable how an ijmā' may be considered firm when there is a chance of opinions failing to reach an agreement due to misunderstandings.

And the third case is the excuse of considering the view point of other schools and considering them authoritative. These cases are used to summarize the third set of weak ijmā'. For example, if a scholar adopts a school's opinion, what guarantee

can be made that the opinion remains within that school [19, 29]?

The deniers of ijmā' derive support for their position from evidence taken from Qur'ān, quoting verses that justify their opinion. For example the Qur'ān reads:

…And we have sent down to you the Book [Qur'ān] as an exposition of everything, a guidance, a mercy and glad tidings for those who have submitted themselves (to Allāh as Muslims). (Q. 16:89)

They use this particular verse to indicate that there is no need of ijmā' because there is no reference to derive the ruling from sources other than the Text [64]. Another verse that has been used by the deniers of ijmā' when a disputes take place and it reads:

O You believe! Obey Allāh and obey the Messenger (Muḥammad) and those of you (Muslims) who are in authority. (And) if you differ in anything amongst yourselves, refer it to Allāh and His Messenger, if you believe in Allāh and in the Last Day. That is better and more suitable for final determination. (Q. 4: 59)

They argue that there is another alternative to resolve a dispute or conflict besides consulting the Qur'ān and the Sunnah. Moreover, they use these Qur'ānic verses to justify their position:

And eat up not one another's property unjustly (in any illegal way e.g. stealing, robbing, deceiving), nor give bribery to the rulers (judges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully. (Q. 2: 188)

Do not kill anyone whose killing Allāh has forbidden, except for a just cause. And whoever is killed wrongfully (mazlūman intentionally with hostility and oppression and not by mistake), We have given his heir the authority [to demand Qiṣāṣ, - Law of Equality in punishment- or to forgive, or to take *diyah* (blood-money)]. But let him not exceed limits in the matter of taking life (i.e. he should not kill except the killer). Verily, he is helped (by the Islamic law). (Q. 17: 33)

Say (O Muḥammad): "(But) the things that my Lord has indeed forbidden are *al-Fawāḥish* (great evil sins, every kind of unlawful sexual intercourse) whether committed openly or secretly, sins, (of all kinds), unrighteous oppression, joining partner (in worship) with Allāh for which He has given no authority and saying things about Allāh which you have no knowledge." (Q. 7: 33)

The group denying ijmā' says that the above mentioned verses contain prohibition for the Muslim community to say anything wrong and to display improper conduct. Also the latter indicates that whoever intends to do such wrong things should imagine the sin

and guilt associated with that and the speech and conduct of such people should not be taken into consideration. Furthermore, their opinion should not be considered solid [1]. The second source they derive their evidence from to support their position is the Sunnah. The ḥadīth/tradition which the deniers use to justify their view, is the tradition that took place during the Prophetic era when the Prophet asked one of his Companions, Mu'āḍ b. Jabal, that how he should carry on the responsibility as envoy to Yemen. They claim that the Prophet had directed him through the path of how to conduct his duty if he should be confronted with questions [65].

The second opinion: Supporters of Ijmā' based on legal matters: Supporters of ijmā' have a different interpretation of ijmā' and they were among the recognizable schools in that. They decided that ijmā' is a legal evidence. Āmidī indicated that as long as the majority of Muslims agreed on ijmā' as conclusive proof, each Muslim should act upon it [1]. Furthermore, Saraksī indicated that the ijmā' of the Muslim community is obligatory because it is an honor to their religion [50, 19, 32]. These schools derived their conclusive evidence from primary sources of the Qur'ān and Sunnah and rā'y/rationale [6, 20]. Among them they focused only on the primary sources and left the rational opinion aside.

Regarding the Qur'ān, Shāfi'ī derived his evidence in favor of ijmā' from the Qu'rānic verses that read:

And whoever contradict and opposes the Messenger (Muḥammad) after the right path has been shown clearly to him and follows other than the believers' way. We shall keep him on the path he has chosen and burn him in Hell – what an evil destination. (Q. 4: 115)

In his Aḥkām al-Qur'ān, Shāfi'ī indicated that the one who contradicts and opposes the Prophet will not be burnt because they are in disagreement with the believers, unless it expresses explicit disagreement [30, 33]. This verse refers to individuals who follow paths other than the believers. Accordingly, it's forbidden. If following a path other than the believers is not forbidden, Allāh would not have associated forbidden conducts or deeds with the threat of hardship. Moreover, those individuals who oppose and follow a path other than that of the believers tend to change their conduct in order not to be among the people who are threatened to be punished in the Hereafter. Rather, they should follow the path that provides conclusive evidence of ijmā' [34, 1, 29, 50, 17]. The second Qur'ānic verse utilized to support the case of ijmā' as a conclusive proof reads:

Thus We have made you [true Muslims-real believers of Islāmic Monotheism, true followers of Prophet Muḥammad and his Sunnah (legal ways)], a just (and the best) nation, that you be witnesses over mankind and the Messenger (Muḥammad) be witness over you…(Q. 2: 143).

This verse refers to the nation that was given the role of being just and was raised to be the best among nations. This distinction was given on the basis of being true followers, as well as those ones who are responsible for saying the truth and being a witness over mankind. The witness should be trustworthy and reliable to make statements accountable as conclusive proof. Therefore, it is an indication of agreement on ijmā' and it is obligatory for Muslims to take it into consideration as a conclusive evidence [50, 1, 34, 17].

The third Qur'ānic verse used to support the pro ijmā' group reads:

You [true believer of Islamic Monotheism and real followers of Prophet Muḥammad and his Sunnah (legal ways)] are the best of people ever raised up for mankind; enjoin al-Ma'rūf (i.e. Islamic Monotheism and all that Islam has ordained) and forbid al-Munkar (polytheism, disbelief and all that Islam has forbidden) and you believe in Allāh. And had the people of the Scripture (Jews and Christians) believed, it would have been better for them; among them are some who have faith, but most of them are rebellious against Allāh's Command. (Q. 3: 110).

The attribute of the adjective al-ma'rūf, the definite article here refers to the noun and indicates the obligation to enjoin what the Islam ordained. If they had a consensus on a single wrong issue then it would be known to be wrong. Therefore, the verse implicitly reads that the Muslims are ordained to enjoin good and forbidden to commit wrong deeds, as it is the Muslims' philanthropic mandate to reach consensus on right issues [50, 17].

The fourth verse reads:

O You believe! Obey Allāh and obey the Messenger (Muḥammad) and those of you (Muslims) who are in authority. (And) if you differ in anything amongst yourselves, refer it to Allāh and His Messenger, if you believe in Allāh and in the Last Day. That is better and more suitable for final determination. Q. 4: 59.

The reason behind using this particular verse is that it is conditional. In the case of disputes, it's obligatory to refer to the Qur'ān and Sunnah. If it was not conditional then Muslims would be flexible in using any evidence other than the Qur'an and Sunnah and there would be no obligation to rely on the primary sources [1].

The fifth verse that is utilized by the ijmā' supporters reads:

And hold fast, all of you together, to the Rope of Allāh (i.e. this Qur'ān) and be not divided among yourselves and remember Allāh's Favor on you, for you were enemies one to another but He joined your hearts together, so by His Grace, you became brethren (in Islamic Faith) and you were on the brink of a pit of Fire and He saved you from it> Thus Allāh makes His Ayāt (proofs, evidences, verses, lessons, signs, revelations, etc.,) clear to you, that may be guided. (Q. 3: 103)

Again in this verse, the Muslims are ordained not to be divided, therefore, the violation of ijmā' is a sort of division. And it is forbidden to violate the use of ijmā' as a conclusive evidence for Muslims [1].

The second source that is utilized to support the conclusive use of ijmā' is the Sunnah and the case of Mu'ādh b. Jabal is employed for that purpose. And another reference to the Sunnah is the tradition that reads "Whatever Muslims see as good is good to Allāh." [29]. As these traditions indicate in general, any claims of deviation from what is right is refuted and belief in the Faith and all branches of Islamic law is established. They also reflect the resistance of the Muslim community against the practice of wrong deeds, their persistence to follow the traditions that were narrated from the Prophet and to employ them in their worldly affairs and practice caution in case they are not certain about the legal issues. It is highly recommended to use these verses as a reference and guidance [5, 1, 50].

THE SELECTED OPINION

The disagreement of scholars over ijmā' is divided into two groups; one in the favor of who believe that it is conclusive and derived from the Qur'ān and Sunnah and the other group who believe it is inconclusive. However, the emergence of scholars who express their opinion about ijmā' occurred right after the Rightly Guided Caliphs' era, both groups derived their opinions from the consensus of the rightly Guided Caliphs and the leading scholars such as Mālik, Abū Ḥanīfa, Shāfi'ī and Aḥmad b. Ḥanbal. Although, the latter mentioned scholars agreed that they did not encourage scholars to take their opinion into consideration and that they should not be imitated. They said, if you have heard and seen an opinion derived and substantiated from the Qur'ān and the Sunnah, the people/scholars should not take from their derived opinion then and discard the former [66, 67].

Ijmā' is an important issue that needs to be taken into consideration by the Muslim scholars of our time

and exercised to overcome difficulties and misunderstandings of current day problems. As for the concerns of early Muslim scholars, the exercise of ijmā' was an acceptable case when it was derived over specific issues that confronted the Muslim world of that time. After fourteen centuries of Islamic teachings, Muslims should realize the valuable right that was granted to them by the Noble Qur'ān and the Prophetic traditions which allowed Muslims to conduct their own affairs under the guidance of Islam for the well-being of the Muslim community.

Although ijmā' was and still is a debatable matter among early and modern scholars, it should be utilized by modern scholars because many issues have arisen in the modern period that need to be addressed by specialized modern scholars in order to protect the Muslim world from further division. Ijmā' is not a prohibited matter as long as it does not go beyond any article of Faith. Therefore, it should be exercised and enforced by modern scholars. As noticed in the above pages, some jurists realized ijmā' was in demand and needed to be utilized in the third/ninth century, they devoted works on that matter. It is important to consider the rarely mentioned work of a jurist who devoted work on ijmā', such as Ibn al-Mundhir al-Naysabūrī (242/856-319/931), Imam al-Ḥaram, a jurist of Mecca, a mujtahid, a muḥaddith and a mufassir [68-72], was one of the leading scholars on issues of ikhtilāf [disagreement during the third century A.H.) [73-79]. However, in the modern Islamic world he has not gained much attention or recognition despite that fact that he was highly regarded by his contemporaries and biographers [77, 80, 14, 74, 75, 12]. Although we know he wrote abundantly, all that remains available to us are but a few treatises namely: al-Iqnā', al-Ijmā', al-Awṣaṭ and al-Ishrāf [81-84].

Although Ibn al-Mundhir was an important mujtahid, there is nothing in the available literature that deals with him specifically as an independent mujtahid, aside from the occasional references by his contemporary biographers. He was claimed by the Shāfi'ī and Ḥanbalī Schools as one of their own, even though he was not affiliated with them in his life time [77, 74]. The other Sunni schools such as the Shafi'ī and Ḥanbalī Schools made extensive references to his work [74, 75, 14]. In his treatises, Ibn al-Mundhir cited the opinions of many prominent jurists without partisan loyalty to any school of thought. His independence and ability to evaluate the opinions of scholars relative to their proximity to the primary texts made him one of the leading scholars of ikhtilāf of his time [75, 17].

Ibn al-Mundhir was not the only scholar of ikhtilāf in the third century. There were others jurists from

different schools who wrote on the topic, such as al-Ṭabarī (d. 310 H.), al-Ṭaḥāwī (d. 321 H.) [85-88] and Ibn Naṣr al-Marwazī (d. 294 H.) [89]. Their respective works all bear the same title Ikhtilāf al-Fuqahā'. According to the available literature, the above mentioned jurists received more attention than Ibn al-Mundhir, largely due to their affiliations with madhhabs who spread their works. Many questions remain with regards to the spreading of the teachings of prominent jurists and schools and the extinction of others. The issue at hand is much more than just a matter of recognition or fame. It concerns the specific reasons for which a prominent jurist, such as Ibn al-Mundhir, escaped the attention of a great number of jurists in the classical and modern periods. Therefore, the above mentioned pages attempted to highlight the importance of ijmā', along with the role of some jurists, such as Ibn al-Mundhir's works from the third century A.H. onwards. This fact adds to the importance in understanding the structure of authority among Muslim jurists throughout the evolution of Islamic law. It is imperative to mention that most of the well-known scholars in Ikhtilāf al-'ulamā', mainly the later jurists, have relied heavily on the works of Ibn al-Mundhir [37].

CONCLUSION

Interestingly, there has been no previous study or research focusing primarily on ijmā' as a case for debate, not necessarily a case of agreement or disagreement, but rather whether debate on ijmā' is prohibited or it is an issue that needs to be addressed in all given times by Muslims wherever they are. This study of the debate over ijmā' was well known to scholars in the field of Islamic law during the third century/ninth century, highlighting that there are serious problems in functional use of ijmā'. Also, as was exposed above, that there is no agreed upon textual basis for ijmā' per se. However, there are some lessons that can be extracted from ijmā' for modern scholars, such as the legal support that encourages Muslim scholars to enforce and practice ijmā' as a consultative participatory of scholars and experts. This is an important contribution to the field of Islamic law, as it provides a comprehensive account of the different views and teachings that have impacted the field of ijmā'. This will surely shed light on the need for scholarly debate among Muslim scholars, who should be engaged in building a political system that might produce a workable and acceptable ijmā' between the real and ideal.

REFERENCES

1. Al-Āmidī, 1958. al-Aḥkām fī Uṣūl al-Aḥkām. Cairo: Mu'assasat al-Ḥalibī, 1: 127, 129, 281, 20, 366, 302, 300, 286, 268, 311, 309-310, 313.

2. Fayrūzabādī, M.S., 1985. Al-Lumaʻ fī Uṣūl al-Fiqh, Beirut: Dār al-Kutub al-'Ilmiyya., pp: 89.

3. Al-Shāfiʻī, M., 1979. al-Risāla, ed. Aḥmad Shākir, Cairo: Dār al-Turāth, pp: 472, 474. 472, 371.

4. Al-Mawārdī, A.H., 1972. Adab al-Qāḍī, ed. Muḥyī Hilāl al-Sarḥān, Baghdād: Iḥyā' al-Turāth al-Islāmī, pp: 450.

5. Ghazālī, A.H., 1992. Mustaṣfāmin 'ilm al-Uṣūl, defines ijmāʻ, ed. Ḥamza ibn Zuhīr Ḥafiẓ, Madina: Sharikat al-Madina al-Munawara lil-Ṭibāʻa wa al-Nashr, 1: 191, 173, 338.

6. Ahmad, H., 1967. Ijmāʻ in Early Schools. Islamic Studies Journal of the Islamic Research Institute Pakistan, 5(1): 121-139, 121-123.

7. Ibn al-Mundhir, M., 1980. ijmāʻ, ed. Abū Ḥamād Ḥanīf, al-Riyāḍ: Dār ṬībÉʻah.

8. Al-Khuḍari, M., 1998. Uṣūl al-Fiqh, Beirut: Dār al-Fikr, pp: 271-288.

9. Ibn Ḥazm, ʻA.S., 1970. Marātib al-Ijmāʻ fī al-'Ibādāt wa al-Muʻāmalāt wa al-'Itiqadāt. wa-Naqd Marātib al-Ijmā' of Ibn Taymiyya. Beirut: Dār al-Kutub al-'Ilmiyya, pp: 35, 54.

10. Ibn Ḥazm, ʻA.S., 1984. al-Uṣūl wa al-Furūʻ. Beirut: Dār al-Kutub al-'Ilmiyyah, Vol: 1 and 2.

11. Ibn Taymiyya, A.H., 1986. al-Siyāsa al-Sharʻiyya fī IṣlÉḥ al-Raʻī wa al-Raʻiyya. Kuwait: Dār al-Arqam, pp: 64, 144.

12. Al-Subkī, T.A., 1964. Ṭabaqāt al-Shafiʻyya al-Kubrā, Cairo: Maṭbaʻat ʻIssa al-Bābī al-Ḥalibī, 3: 102-108.

13. Ibn Qudāma, M., 1996. Ṭabaqāt ʻUlamaʼ al-Ḥadīth, Beirut: Mu'assasat al-Risālah, 2: 494.

14. Fayrūzabādī, M.S., 1981.Tabaqāt al-Fuqahāʼ, Beirut: Dār al-Rāʼid al-'Arabī, pp: 89.

15. Al-Nawawī, M.Y., 1970. Tahdhīb al-Asmaʼ wa-Lughāt, Beirut: Dār al-Kutub al-'Ilmiyya, 2: 196.

16. Ahmad, H., 1967. Ijmāʻ, An Integrating Force of in Muslim Community. Islamic Studies Journal of the Islamic Research Institute Pakistan, 6 (3): 389-406.

17. Al-Bukhārī, ʻA., 1974. Khashf al-Asrār Sharḥ Uṣūl Fakhr al-Islām, Beirut: Dār al-Kitāb al-'Arabī, 3: 19, 227, 255, 249 and 2: 264.

18. Khallāf,. A.W., 1967. Tafsīr al-Nuṣūṣ al-Qānūniya wa Ta'wilaha, Lahore: Nawan Kut, pp: 53-127.

19. Juwaynī, M.A., 1980. al-Burhān fī Uṣūl al-Fiqh. Cairo: Dār al-Anṣār, 1: 725, 66-76, 366, 676, 675, 671-672 and 2: 1320, 1330-1332, 1333.

20. George, F.H., 1995. The Basis of Authority of Consensus in Sunnite Islam. Studia Islamica, 21: 13-60, 27, 13-15, 20-22.

21. Khalāf, ʻA.W., 2003. 'Ilm Uṣūl al-Fiqh, Beirut: Dār al-Ḥadīth, pp: 55-56.

22. Zamakhsharī, M., 1982. Asās al-Balāgha, Beirut: Dār al-Maʻrifah, 1: 720.

23. Rāzī, M.A., 1978. Mukhtār al-Ṣiḥāḥ, Beirut: Mu'asassat ʻUlūm al-Qur'ān, 3: 1198.

24. Fayrūzabādī, M.S., 1987. al-Qāmūs al-Muḥīṭ, Beirut: Mu'assasat al-Risāla, pp: 917.

25. Fayūmī, A.M., 1985. al-Miṣbāḥ al-Munīr, Beirut: Maktabat Libnān; Rāghib al-Iṣfahānī.

26. Aṣfahānī, R., 1999. al-Mufradāt fī Gharīb al-Qur'ān, Beirut: Dār al-Maʻrifah, pp: 103, 104.

27. Ibn Kathīr, I., 1996. Tafsīr al Qurān al-Aẓim, ed. Gunīm, ʻA.ʻA., A. A. Muḥammad and B. Ibrahīm, Beirut: al-Maktabah al-'Aṣriyya, 2: 428-429.

28. Abu Suʻūd, M.A., 1978. Tafsīr Abī Suʻūd: Irshād al- ʻUqul al-Salīm ʻilā Mazāya al-Qurān al-Karīm, Beirut: Dār al-Fikr, 4: 164.

29. Shawkānī. M.ʻA., 1937. Irshād al-Fuḥūl Taḥqīq la-Ḥaqaʼiq min ʻIlm al-Uṣūl, Cairo: Maṭbaʻat Muṣṭafā al-Ḥalabī, pp: 70, 71, 165, 83, 79, 29, 72, 7, 78.

30. Shāfiʻī, M.I., 1980. Aḥkām al-Qur'ān, Beirut: Dar al-Kutub al-'Ilmiyyah, 1: 39-40.

31. Shāfiʻī, M.I., 1978. Risalah, Beirut: Dār al-Turāth, pp: 475.

32. Māwardī, ʻA.H., 1973. Al-Aḥkam al-Sulṭāniyya, Cairo: Maṭbaʻat Muṣṭafā al-Bābī al-Ḥalibī, pp: 15-17, 450.

33. Baydawī, N.ʻA., 1935. Minhāj al-Wuṣul ilā ʻAlm al-Uṣūl, Edited by Muhammad Muhyi al-Din ʻAbd al-Majid. Cairo: al-Maṭbaʻa al-Salafiyya:, pp: 85, 82.

34. Al-Isnawī, J.M., 1984. Tamhīd fī Takhrīj al-Furūʻ ʻalā ʻIlm al-Uṣūl, Ed. Hytu, M. Ḥ., Beirut: Mu'assasat al-Risalah, 1: 440, 366 and 3: 923, 860-862, 873-874.

35. Nasafi, ʻA., 1990. Sharḥ al-Nasafi ʻalā al-Manār., Karachi: al-Ṣadaf Publisher, 2: 103.

36. Salmī. ʻA.H., 1981. Sharḥ Ṭalʼat al-Shams ʻalā Alfiyyat al-Uṣūl, Musqat: Wizarat al-Turāth al-Qawmī wal-Thaqāfah, 2: 65.

37. Ibn Ḥazm, A., 1972. Al-Muḥalā, Beirut: Dār al-Turāth, 1: 54.

38. Ibn Ḥazm, A., 1978. al-Aḥkām fi Uṣul al-Aḥkām, Cairo: Maṭbaʿat ʿĀṭif, 4: 149.

39. Yūsuf, A.B., 2009. Al-Ḥadāʾiq al-Naḍira fi Aḥkām al-Fatra al-Ṭāhirah, pp: 30.

40. Murtaḍā, A., 1976. Fawāʾid al-Uṣūl, Qum: Maktabat Bṣirti, pp: 35.

41. Al-Ḥusayn, M.Q., 1979. Hidāyat al-ʿAqūl elā Ghāyat al-Sūl fi ʿilm al-Uṣūl, 2nd Edn., Ṣanʿāʾ: al-Maṭbaʿah al-Mutawakiliyya, 1: 490, 497.

42. Ibn Qudāma, M.ʿA., 1976. Rawḍat al-Naḍr, Cairo: al-Maṭbaʿah al-Salafiyya wa Maktabatuha, 1: 335, 385, 350-351, 229-230, 331.

43. Abu Zahra, M., 1958. Uṣul al-Fiqh, Cairo: Dār al-Fikr al-ʿArabi, pp: 189, 6.

44. Al-Bardisi, Z., 1983. Uṣul al-Fiqh, Cairo: Dār al-Taqāfah, p. 53.

45. ʿAbd al-Rāzaq, ʿA., 1947. Al-Ijmāʿ fi al-Sharīʿa al-Islāmiyya, Cairo: Dār al-Fikr al-ʿArabi, pp: 7.

46. Subki, A.W.T.D., 1999. Jamʿ al-Jawāmiʿ, Cairo: Muṣṭafa al-Bābi al-Ḥalabi, 2: 176.

47. Al-Juwayni, ʿA.A., 1979. Ghiyyāth al-Umma, Doḥa: al-Shuʾūn al-Diniyya, pp: 290, 179.

48. Marāghi, M.M., 1981. Buḥth fi al-Qurʾān al-Karīm wa Aḥkamih, Beirut: Dār al-Kitāb al-Jadīd, pp: 2.

49. Qarāfi, A., 1994. Ḍakhirah, Beirut: Dār al-Gharb al-Islāmi, 1: 109.

50. Sarakhsi, A.B.M., 1952. Uṣūl, Karachi : Lajnat Iḥyāʾ al-Maʿārif al-Nuʿmāniyya, 1: 317, 302, 295, 249, 296, 229.

51. Abu ʿUbayd, Q.S., 1987. al-Amwāl, Doḥa : Al-Shaykh ʿAbdallah al-AnṣÉri, pp: 77.

52. Yāqūt, S.A., 1956. Muʿjam al-Buldān, Beirut : Dār Ṣādir, 3: 85-88.

53. Abū Yūsuf, Y.I., 1972. al-Kharāj, Medina: al-Maṭbaʿā al-Salafiyya, pp: 35.

54. Bulādhuri, A.J., 1977. Futūḥ al-Buldān, Beirut : Dār al-Kutub al-ʿIlmiyya, pp: 370.

55. Yahyā, A.S., 1964. Kitāb al-Kharāj, Medina : al-Maṭbaʿā al-Salafiyya, pp: 28.

56. Badkhashi, M.H., 1969. Hidāyat al-ʿAqūl, Cairo: Ṭabʿat Muḥammad ʿAli Ṣbiḥ, 1: 574.

57. ʿAbdallah, H.S., 2008. Ṭalʿat al-Shams, Bidya: Maktabat al-Imām al-Sālmi, 2: 84.

58. Ibn Manẓur, J.A., 1992. Lisān al-ʿArab, Beirut: Dār Ṣādir, 1: 430-470.

59. Ibn Khaldun, ʿA.R., 1989. al-Muqadimma, trans. Rosenthal, F., Princeton: Princeton University Press, pp: 249.

60. Ṭabari, J.M.J., 1979. Tārikh al-Umam wa al-Mulūk, Beirut: Dār al-Maʿārif, 3: 205-206.

61. Suyūṭi, J.R.B., 1969. Tārikh al-Khulafā'. Beirut: Dār al-Turāth, 10.

62. Khalāf, ʿA.W., 1960. Uṣul al-Fiqh, Cairo: Maktab al-Daʿwah al-Islāmiyya, pp: 53.

63. Maḥmūd, S., 1980. al-Islām ʿAqidā wa Shari ʿa, Beirut: Dār al-Shurūq, pp: 565.

64. Aṣfahāni, S.A., 1985. Bayān al-Mukhtaṣar Sharḥ Mukhtaṣar ibn al-Ḥajib, Mecca: Markaz al-Baḥth al-ʿIlmi bi Jami ʿat Umm al-Qurā, 2: 32.

65. Zaylaʿi, A.Y., 1980. Naṣb al-Rāyah li-Aḥādith al-Hidāyya, Cairo: Dār al-Ḥadith, 4: 63.

66. Shāfiʿi, 1980. Aḥkām al-Qurʾān, Beirut: Dār al-Kutub al-ʿIlmiyya, 1: 40.

67. Ibn Taymiyyah, A.H., 1995. Majmūʿ Fatāwā, Riyad: Wizārat al-Shuʾūn al-Islāmiya, 20: 10.

68. Al-Suyūṭi, J.R., 1983. Tafsir al-Durr al-Manthūr, Beirut: Dār al-Fikr.

69. Al-Suyūṭi, J.R., 1975. Ṭabaqāt al-Mufassirin, ed. ʿUmar, ʿA.M., Cairo: Maktabat Wahba, pp: 9.

70. Dāwūdi, M., 1970. Tabaqāt al-Mufasirin, ed. ʿUmar, ʿA.M., Cairo: Maktabat Wahba, 2: 50-52.

71. Al-Dhahabi, 1979. Siyar Aʿlām al-Nubalā', Beirut: Muassasat al-Risāla, 14: 493.

72. Ibn Qudāma, M., Ṭabaqāt ʿUlamā' al-Ḥadith, 2: 493-494.

73. Ibn al-Nadim, M.I., al-Fihrist, Beirut: Dār al-Maʿārif, p. 215.

74. Al-Nawawi, M.Y., Tahdhib al-Asmā', Beirut: Dār al-Kutub al-ʿIlmiyya, 2: 196-19.

75. Al-Nawawi, M.Y., al-Majmūʿ, Beirut: Dār al-Fikr, 1: 119.

76. Ibn Khallikān, A.R., 1948. Wafayāt al-Aʿyān, Cairo: Maktab al-Nahḍa al-Maṣriyya, 4: 207.

77. Al-Dhahabi S. ʿU., 1981. Siyar Aʿlām al-Nubāla'. Beirut: Muʾasasat al-Risāla, 14: 490-492.

78. Al-Subki ʿA.K., 1964. Tabaqāt al-Shāfiʿiyya al-Kubrā, Cairo: Maṭbaʿat ʿIssā al-Bābi al-Ḥalibi, 3: 102-108.

79. Ibn Ḥajjar, A., 2002. Lisān al-Mizān, Beirut: Maktab al-Maṭbūʿāt al-Islāmiyya, 5: 27-28.

80. Brockelman, C., 1993. Tārikh al-Adab al-ʿArabi, Cairo: al-Hayʾa al-Maṣriyya al-ʿĀmma, 3: 300-301.

81. Sezgin, F., 1977. Tārikh al-Turāth al-ʿArabi, Cairo: al-Hayʾa al-Maṣriyya al-ʿĀmma lil-Kitāb, 2: 184-185.

82. Ibn al-Nadim, 1996. al-Fihrist, Beirut: Matbaʾat al-Khayāṭ, 1: 215.

83. Al-Dhahabi, M.A., 1970. Tadhkirat al-Ḥuffāẓ, Beirut: Dār Iḥyāʾ al-Turāth, 3: 782.

84. Fayrūzabād, S., 1981. Ṭabaqāt al-Shāfiʿiyya, Beirut: Dār al-Rāʾid al-ʿArabi, pp: 89.

85. Ibn Qāḍī Shuhba, Ṭabaqāt al-Shāfiʻiyya of Ibn Shuhba, Hydarabd: Maṭbaʻat Majlis Dāʼirat al-Ma ʻārif al-Othmāniyya, 9: 2.

86. al-Suyūṭī, J.D., 1976. Ṭabaqāt al-Mufassirīn, Cairo: Maktabat Wahbih, 1: 91.

87. Ibn Khallikān, S.M., 1969.Wafayāt al-Aʻyān, Beirut: Dār Ṣādir, 4: 207.

88. Al-Ṭahāwī, A.M., 1968. Ikhtilāf al-Fuqahāʼ. Islamabad: Maʻhad al-Buḥūth al-Islāmiyya.

89. Al-Marwazī, N., 1983. Ikhtilāf al-ʻUlamāʼ, edited by Ṣubḥi al-Sāmrāʼi, Beirut: ʻAlam al-Kutub.

90. Ibn Qudāma, 1983. al-Mughnī, Beirut: Dār al-Fikr.