

Did The Prophet Practice Ijtihad? An Inquiry Into The Prophet's Personal Opinion-Based Juridical And Judicial Ruling

Jibril Swalleh Mawejje¹

Doi: 10.55918/islammedeniyetidergisi.1495927

Araştırma Makalesi | Geliş Tarihi: 05.06.2024 | Kabul Tarihi: 14.09.2024

Summary

This research paper delves into the intriguing question of whether the Prophet Muhammad practiced Ijtihad, issuing personal opinion-based juridical or judicial rulings without explicit divine revelation. It explores the varying perspectives of jurists and Muslim scholars on this matter, with some permitting the Prophet's reliance on his intellect and understanding for issues related to worldly affairs, such as politics, war, agriculture, and judicial cases but not religious matters. The distinction between purely religious and public affairs is supported by numerous texts and narrations. The paper discusses the controversy arising from conflicting interpretations of Quranic and Hadith texts regarding the Prophet's reliance on divine revelation versus his judgment. While some argue that all the Prophet's statements are revelations from God, others point to instances where his opinions were not based on revelation but on Ijtihad. Furthermore, this study underscores the narrower application of Ijtihad in strictly religious matters compared to its broader use in non-theological affairs, adapting to changing situations and times. This controversy prompts a reevaluation of the rigid adherence to the Prophet's tradition in all aspects of Muslim life. It raises questions about the adaptability of these traditions to contemporary situations influenced by politics, technology, culture, and social values. The paper concludes by advocating for a thoughtful categorization of the Prophet's traditions, such as Fatwahs, judicial, theology, politics, personal matters, social, and cultural issues, to determine their relevance and obligatory status for the Muslim community. This categorization, the paper argues, would provide a solid framework for applying the Prophet's tradition, considering the dynamic nature of public affairs.

Keywords: Ijtihad Of the Prophet, Prophet's Err, Worldly and Religious Affairs

Hz. Peygamber İctihat Etti Mi? Hz. Peygamber'in Kişisel Görüş Temelli Hukuki ve Yargılama Kararlarına Dair Bir İnceleme

Öz

Bu araştırma, Hz. Peygamber'in açıkça ilahi vahiy olmaksızın kişisel görüşlere dayanarak hukuki veya yargısal hükümler verip vermediğini, içtihat olarak incelemektedir. Bu konuda farklı fakihlerin bakışın açılarını keşfeder; bazıları Peygamber'in siyaset, savaş, tarım ve yargı davaları gibi dünya işleriyle ilgili konularda kendi akıl ve anlayışına dayanmasına mümkün olduğunu izah ederken, dini meselelerde bu tür bir uygulamayı reddeder. Yalnız dini ve toplumsal işler arasındaki ayrım, birçok delillerin tarafından desteklenmektedir. Bazı fakihler, Hz. Peygamber'in tüm açıklamalarının yalnızca Allah'tan gelen vahiylerle dayandığını öne sürerken, diğerleri ise bu görüşlerin vahiyden değil, içtihattan

¹ Doktorant, İbn Haldun Üniversitesi, jibril.mawejje@stu.ihu.edu.tr, ORCID: 0000-0003-4376-2622

kaynaklandığını savunmakta ve bu iddialarını çeşitli örnekler sunmaktadır. Ayrıca, bu çalışma temel dini meselelere kıyasla, dini olmayan konularda İctihadın daha dar uygulanmasını vurgulamakta ve değişen durum ve zamanlara uyum sağlamaktadır. Bu tartışma, Müslüman yaşamının her yönünde Hz. Peygamber'in a.s. geleneğine sıkı bir bağlılığın yeniden değerlendirilmesine yol açarak geleneklerin (hadislerin) siyaset, teknoloji, kültür ve toplumsal değerlerden etkilenen çağdaş durumlara uyum sağlama yeteneği hakkında soruları gündeme getirir. Makale, Hz. Peygamber'in hadislerinin dikkatli bir şekilde kategorize edilmesinin önemini savunur. Hadisler, Fetvalar, Kaza, teoloji, siyaset, kişisel meseleler, toplumsal ve kültürel konular gibi başlıklarla ayrılmalıdır. Bu ayrım, geleneklerin Müslüman toplumu için ne kadar uygun ve gerekli olduğunu belirlemek için sağlam bir çerçeve sunar. Ayrıca, hadislerin sınıflandırılması, toplumsal işlerin dinamik doğasını göz önüne alarak Hz. Peygamber'in hadislerinin uygulanması için güçlü bir temel sağlar.

Anahtar Kelimeler: Dünyevi ve Dini İşler, Peygamberin İctihadı, Peygamberin Yanılgısı

Introduction

The concept of Ijtihad, or independent reasoning, in Islamic jurisprudence represents a critical and often debated component of legal interpretation and religious practice. This paper ventures into the nuanced discussion surrounding the Prophet Muhammad's *-PbuH-* engagement with Ijtihad, exploring whether his decisions were solely based on divine revelation or if there were instances where he employed personal judgment in matters religion. Legally the Prophet Muhammad is seen as the ultimate exemplar for Muslims, with his actions and sayings (Sunnah) recorded in Hadith, serving as a secondary source of Islamic law after the Quran. However, the extent to which the Prophet practiced Ijtihad in his lifetime has sparked diverse scholarly arguments. Some jurists argue that while the Prophet's religious pronouncements were guided by revelation, his decisions in worldly affairs like governance, warfare, agriculture, and judicial rulings were products of his own reasoning, tailored to the context of his time. This research paper aims to precisely dissect these perspectives by examining both scriptural evidence and logical narratives. It delves into the contention between those who believe that every word from the Prophet was divinely inspired and others who recognize a more pragmatic approach where prophet Muhammad's human insight played a role. This distinction becomes particularly significant when considering the adaptability of Islamic law to modern contexts, where issues like technology, globalization, and evolving social norms challenge traditional interpretations.

The discussion is not merely academic; it has profound implications for how Islamic law can or should evolve. By categorizing the Prophet's traditions into different domains -such as theology, politics, personal matters, and social issues- this paper proposes that there should a framework for understanding which aspects of the Sunnah might be context-specific and which carry universal significance. This categorization could facilitate a more dynamic application of Islamic principles, allowing for flexibility in areas where the Prophet himself might have exercised Ijtihad. Furthermore, this exploration is conducted in English, a language in which such discussions are relatively scarce compared to Arabic or Turkish, thereby

contributing to the global academic discourse on Islamic jurisprudence. By analysing seminal works like that of Murat Şimşek on the juridical and judicial bindingness of prophet's actions, this paper not only bridges a linguistic gap but also enriches the understanding of how Islamic legal thought has developed from its nascent stages.

In conclusion, this paper advocates for a thoughtful reevaluation of the Prophet's traditions through the lens of İjtihad, encouraging a balanced approach that respects the divine guidance while acknowledging the Prophet's human judgment in navigating the complexities of his time. Such an approach could offer valuable insights into the ongoing evolution of Islamic law, ensuring its relevance in the contemporary world.

Literature Review

This literature review aims to provide an overview of the existing literature on the prophet's ijihad, highlighting the varying perspectives and implications of his personal reasoning.

Classical Works

Classical works such as Al-Jassas's *Al-Fuṣūl fī al-Uṣūl* (370 AH), Al-Juwayni's *Al-İjtihād* (478 AH), and Aḥmad ibn Ḥanbal's *Al-Jāmi' li-'Ulūm al-İmām Aḥmad: Uṣūl al-Fiqh* (241 AH) address the core precepts of the concept of the Prophet's ijihad, contributing foundational perspectives to the debate. These early texts integrate discussions of the Prophet's ijihad with other juridical topics within broader treatises on Islamic jurisprudence. In contrast, contemporary scholarship often delves more deeply into the specifics of the Prophet's ijihad, with dedicated works that examine this issue in greater detail. Subsequent discussions and literature have expanded on these classical foundations, presenting diverse opinions and arguments that shape current debates on the subject.

Contemporary Works

Hashmi's "*Islamic Jurisprudence in Early Islam*" (1989) provides valuable insights into the development of Islamic law during the prophet's lifetime, arguing that the prophet's ijihad was a crucial source of Islamic law, alongside Arabian customary law and divine revelation. However, the work does not explicitly address the implications of the prophet's ijihad

Kıyıcı's "*Peygamber (S.A.V.)'in İctihatları*" (1994) provides an in-depth exploration of the debate surrounding the concept of prophet's ijihad, highlighting the varying arguments and evidence presented by Muslim jurists. However, the work concludes that the prophet's ijihad is decisive only with God's approval, leaving open the question of cases where the prophet's ijihad was not approved by God.

Abdulcelil's "*İctihâdu'r-Rasûl*" (1950) presents a similar analysis, arguing that the prophet's ijtihad was possible, but not necessarily infallible. Both Kiyıcı and Abdulcelil's works emphasize the need for further inquiry and clarification on the implications of the prophet's ijtihad in Islamic jurisprudence.

Murat's "*İslam Hukukunda Bağlayıcılık Bakımından Hz. Peygamber'in Tasarrufları*" (2008) one of the most important piece of literature inline with the current article provides a comprehensive analysis of the prophet's actions, including his ijtihad. The author argues that even though, the prophet's ijtihad becomes definitive and authoritative after his death, many of his judgments were specific to the immediate and temporary needs of his time. This implies that they may not possess universal or permanent legislative value.

Unal's "*Hanefi Usullülere Göre Hz. Peygamber'in Fiilleri*" (2008) emphasizes the importance of understanding the context and intention behind the prophet's actions to determine their legal implications. The author highlights the possibility of the prophet's ijtihad and acknowledges the potential for error.

Tarihi Süreçteki Gelişimi Açısından Hz. Peygamber'in Tasarruflarının Tasnifi (2010) by Murat Şimşek discusses the prophet's capacity for ijtihad in matters where divine revelation was not present. The author emphasizes the importance of distinguishing between the prophet's personal opinions and his authoritative teachings as a messenger of God.

Ismail Acar's *Fıkıh Usulünün Temelleri: Hz. Peygamber Devrinde Deliller* (2015) explores the Islamic jurisprudential sources during the prophet's lifetime, asserting the practice of ijtihad during that period. However, the work focuses on the general sources of jurisprudential proofs used by the prophet, rather than the specific implications of his ijtihad.

Pre-conclusion

The literature on the Prophet's ijtihad is both diverse and multifaceted, reflecting a range of perspectives and arguments from various Muslim scholars. Classical texts often integrate discussions of ijtihad with other juridical topics within broader works on Islamic jurisprudence. In contrast, contemporary studies have provided a more focused analysis of the Prophet's ijtihad, its polemics, and its implications. Scholars such as Kiyıcı, Abdulcelil İsa, Mehmet Unal, Murat şimşek, and Ismail Acar, among others, offer valuable insights into the concept of ijtihad and its significance within Islamic jurisprudence. Nonetheless, there is a pressing need for more specific, monographic studies to elucidate the implications of the Prophet's ijtihad and its role in shaping modern Islamic law. This suggests the necessity of a flexible approach to Islamic jurisprudence that accommodates both traditional principles and contemporary realities. This article seeks to contribute to this ongoing discourse by advocating for a nuanced categorization of the Prophet's traditions

to enhance their relevance in the modern context. By examining the polemics surrounding *ijtihād*, the article underscores the importance of such categorization and its implications. However, it should be noted that this research is intended to provide an introductory foundation for further exploration of these issues rather than offering a comprehensive treatment. The author recommends further studies that conduct a comprehensive analysis of the Prophet's *ijtihād*, focusing on its implications, limitations, and its binding nature in relation to contemporary issues in Islamic jurisprudence.

1.1. The Essence of *Ijtihād*.

Ijtihād comes from the Arabic word *Juhd* which means according to Muḥammad ibn Aḥmad al-Azharī Abū Maṣṣūr (282–370 AH) in his book *Tahdhīb al-Lughah*, something that exhausts someone, for example, sickness, or difficulty situation. It also means basic food for the sustenance of life. Also, it can refer to reaching an objective or a goal (al-Fīrūzābādī, 2005, p. 275). Some scholars argue that it refers to capacity or ability (al-Zubaydī, 1997, Vol. 3, p. 308). For example, when Mu'ādh was sent to Yemen he said he would use *ijtihād* in the absence of texts. Meaning he will use his intellectual capacity to induce a legal ruling. They explained also that *ijtihād* refers to the juristic exertion of efforts to reach a legal ruling in legal cases where divine texts are absent (Ibn al-Athīr, 1979, Vol. 1, p. 320). Such is an approach where the jurists compare the case at hand with the text through the application of analogy (*Qiyas*).

It's un-ambiguous from the literal meaning posited above that despite several definitions of what *ijtihād* is, all descriptions of it were similar and closer to each other. Such is true in the sense that the *Mujtahid* (person who performs *Ijtihād*) put in efforts to reach the objective of inducing legal ruling. And in doing so, there is possible exposure to difficulty during the reading, contemplation, and research.

The indications of the linguists concerning the essence of *ijtihād* are not divergent from what the jurists contended. According to the latter, Imam al-Shāṭibī (1997) for example, explains concerning *ijtihād* that it is an exertion of efforts and utilization of intellectual capacity for either understanding the juridical ruling or understanding the correct approach for the application of such ruling (Vol. 5, p. 11). He continues that *ijtihād*, which comprises of application of ruling, is avital *ijtihād* that is incumbent upon all groups of people. Such is a type of *ijtihād* which is argued to be continuous according to the consensus of scholars. The *ijtihād* of understanding the ruling isn't incumbent upon every group of Muslims. Rather it is upon the jurists. Different other articulations concerning the academic interpretation and meaning of *ijtihād* were put forward by various scholars. Among them is the definition presented by Imam al-Rāzī (544 AH) in his famous seminal material *al-Maḥṣūl* where he maintains that *ijtihād* is the exertion of efforts in something where such exertion is not reprimanded (al-Rāzī, 1997, Vol. 6, pp. 6). al-Āmidī (712 AH) presented a similar definition in his book *Al'Iḥkām fī aṣūl al'Aḥkām* and al-Qarāfī

(1973) in *Sharḥ Tanqīḥ al-Fuṣūl*, where it elaborates ijtiḥād as when a jurist to the best of his/her intellectual capability exerts efforts to extract revocable juridical ruling (al-Āmidī, 1981, Vol. 4, p. 162 & al-Qarāfī, 1973, p. 429).

1.2. Did the Prophet Practice Ijtiḥād?

First and foremost, scholars agree that the prophet is not allowed to make Ijtiḥād in cases where divine texts are present. It is not permissible for him to do so because as much as his followers are commanded to follow God's commands, he is also obliged to do so. Allah says in the holy Quran: "We order you to judge between them according to what Allah has sent down. Do not follow their desires, and beware of them, lest they should turn you away from some of what Allah has sent down to you. If they turn away, be assured that Allah intends to make them suffer for some" 5:49.

Scholars like 'Aḍud al-Dīn al'Ijy (2004) were of the view that according to the above text, Ijtiḥād is illicit with the presence of text, except when Ijtiḥād is to be applied to the interpretation of the text itself (Hashmi, 1989, p. 133). The above was also the stance of Ibn Qudāmah (2002) in *al-Rawḍah*, where he mentions that the prophet can make ijtiḥād in cases where texts are non-existent (Ibn Qudāmah, 2002, Vol. 2, p. 342).

However, scholars have differed concerning the nature of the text or evidence extracted from the text that would or would not give a leeway to the ijtiḥād of the prophet. A group of them believe that the prophet is obliged not to make ijtiḥād in the mere presence of text, without considering the text's nature. Meaning that ijtiḥād is impermissible with the presence of irrevocable or doubtful text. Another group maintained that such ijtiḥād is only illicit in the presence of texts that yield concrete evidence (Ibn Amīr Ḥājj, 1983, Vol. 3, pp. 391-305).

Nonetheless, Imam al-Zarkashī (1998) among many scholars, has contended with the legality of the prophet's ijtiḥād concerning the issues of war (al-Zarkashī 1998, Vol. 4, pp. 550-570 & Aḥmad ibn Ḥanbal, 2009, Vol. 5, p. 122). al-Wāḥidī (468 AH) mentions in *al-Basīṭ* that the above was the view of Imam al-Shāfi'ī (204 AH), arguing that all prophets carried out this type of ijtiḥād (al-Wāḥidī, 2008, Vo. 5, p. 429). One of the pieces of evidence for those who were opposed to the ijtiḥād of the prophet even concerning public affairs is a verse in the holy Quran where Allah says: "I only follow what is revealed to me" 6:50.

In refutation of the implication from the above verse, the proponents of the prophet's ijtiḥād argued that no evidence in such verse prohibits the prophet's utilization of personal intellect to give a ruling. They based their argument on the fact that the application of analogy to derive a ruling is also part and partial of following the revealed text because the revealed condones the use of analogy and natural intellect to interpret and understand the texts.

Moreover, the proponents of the prophet's *ijtihad* in public affairs presented more evidence to strengthen their stance among them is the verse from the holy Quran where Allah says: "So learn a lesson, O ye who have eyes!" 59:2. They continue that the command to learn from the above verse calls for contemplation, analogy, application of intellect, critical thinking, comparison, and so on. All the above elements of learning from the very essence of *ijtihad*. Therefore, the above verse is implicitly supportive of the concept of *ijtihad*.

They also cited another verse where Allah commands the prophet: "Surely, we have revealed to you the Book with the truth, so that you may judge between people according to what Allah has shown you. Do not be an advocate for those who breach trust" 04:105. They elaborated that judging people by following what Allah has revealed consists of two categories. Explicit or implicit revelation. The ruling that cannot be explicitly derived from the holy Quran, can be implicitly derived. The implicit induction of ruling from what Allah has revealed calls for the application of *ijtihad* they stressed.

From the prophetic traditions, their argument was based on evidence from different narrations. In one such narration, during the Battle of Badr, the Messenger of Allah, peace be upon him, set out with his companions. When they reached the nearest water source to Badr, the Prophet, peace be upon him, descended there. Hubab ibn al-Mundhir inquired from him whether this place was where Allah had commanded to halt, so they should not go beyond it, or if it was simply a strategic choice for planning and warfare. The Messenger of Allah, peace be upon him, responded that it was indeed a strategic choice for planning and warfare. Hubab then proposed that they should move until all water sources were behind them, shield all of them except one, and dig a water trench for that source. This way, they could engage the enemy while having access to the water, unlike their opponents. The Prophet accepted this approach and praised Hubab's opinion (Al-Bayhaqi, 1988, Vol. 3, p. 3).

Another instance also cited as evidence for the legality, possibility, and occurrence of the prophet's *ijtihad* in public affairs is the incident during the war with descendants of Ghaṭfān during the famous War of the Trench. In his efforts to curb the war, the prophet had proposed a truce between him and the enemy. Among the provisions of the truce was giving a third of all the dates produced in Medina to the enemy such that they give up the war. However, the prophets' companions were against this approach. They proposed otherwise than what the prophet had proposed. He then followed their advice, and they fought the war (Ibn Ḥazm, n.d, Vol. 2, p. 130). They also cited the incident of the war prisoners after the battle of Badr, where the prophet changed his opinion about them to concur with what some of his Sahabas were suggesting (Al-Armawī al-Hindī, 1996, Vol. 8, p. 3802).

In another notable incident, the Prophet provided advice to some farmers regarding the pollination of their plants. He expressed his belief that such pollination

had no impact on crop yields. However, these farmers experienced significant losses the following year as their crops were severely affected. Upon reporting their situation to the Prophet, he acknowledged their farming expertise and advised them to continue their usual practices (Muslim, 1836, 15/ 96/ 2363 & Al-Ghazālī, 1993, Vol. 2, p. 356).

Scholars also argue for the permissibility of a prophet's *ijtihad* in cases involving judicial rulings. They base their argument on the premise that judicial matters do not require divine revelation. A narration supports this perspective during a judicial case in which the Prophet conveyed that he, too, is a human being. People would present their disputes before him, and he might rule in favor of one party based on the arguments presented. However, if he were to make a judgment that assigns something to a party, and they are aware it does not rightfully belong to them, he advised them not to accept it. Doing so would be equivalent to taking a portion of hellfire (al-Bukhārī, 2001, 8/ 143/ 7169).

Scholars explain the occurrence of a prophet's *ijtihad* in judicial cases. They suggest that the urgency of resolving such disputes is crucial, as delays could lead to social chaos or even conflicts. Waiting for divine revelations for each case would not be a practical approach to establishing an orderly and peaceful society. Moreover, conflicts among people are a common occurrence, and if the Prophet had to wait for a divine revelation for every case, the Quran would have contained an overwhelming number of verses that would be challenging for Muslims to memorize, and the dissemination of the Quran would have been quite challenging. Considering these considerations, Imam al-Qarāfī (1995), in "*Nafā'is al-uṣūl fī sharḥ al-Maḥṣūl*," explains that matters conveyed by the Prophet regarding judicial issues and dispute resolution, while considered juridically binding by consensus among scholars, do not necessarily require divine revelation (Vol. 9, pp. 3806-3807).

Imam al-Shāṭibī (1997) also comments on the above by categorizing the prophet's tradition into two. Traditions that are from God's revelation, and traditions whose source is the prophet's intellectual analysis, conviction, contemplation, and assessment of the matter. According to the former, it is licit for the Muslim fraternity to benefit from such efforts. He continues that the fact that the prophet induced a ruling from his contemplation of the matter shouldn't be problematic because his contemplation is liable for divine correction in case it was wrong. Therefore, the prophet cannot come up with a ruling that was a product of his *ijtihad* that opposes the teaching of the holy Quran without being corrected by divine revelation. The former stresses that we should not differentiate between the two rulings. The ruling that is the product of the prophet's *ijtihad* and the ruling that is the product of revelation. The reason for such a stance is that Muslims are obliged to follow the Quran and prophet's tradition. Even though the prophet's *ijtihad* is not a revelation from God, it is still binding because the prophet is infallible, even when he errs, his errors are liable for divine correction and they can't stay uncorrected (al-Jaṣṣāṣ, 1994, Vol. 3, p. 284). However, the prophet's *ijtihad* is not binding in itself because

it's not revelation. Its binding strength before Muslims is only attained on the ground that the prophet is infallible and because such *ijtihad* stands the test of correction or approval from God (al-Shāṭibī, 1997, Vol. 4, pp. 134, 293, 379, 387, 402, 470).

However, some scholars would argue that al-Shāṭibī's argument that the prophet is infallible does not correctly correlate with his argument in the same paragraph that if the prophet makes an error he will be corrected. It's either of the two, either the prophet is an infallible person who doesn't make mistakes, or he is fallible, but his mistakes stand to be divinely corrected. But another scholar would argue that being infallible and making mistakes at the same time seems problematic.

Nonetheless the former continues that much evidence that can confirm that the prophet's *ijtihad* is liable for either divine correction if there is an error in it or divine approval. Among them is the verse in the holy Quran where Allah says: "(O Prophet,) Allah has forgiven you; why did you permit them (to stay in Madinah) before the truthful ones could become distinct to you, and you could be sure of the liars". 09:43. And in another verse he says: "Had there not been a decree from Allah that came earlier, a great punishment would have overtaken you because of what you have taken". 08:68. And in another he says: "He (the Prophet) frowned and turned his face" 80:01.

They also rely on a tradition narrated by Imam al-Bukhārī (2012) in his book *Ṣaḥīḥ al-Bukhārī*, where the Messenger of Allah (peace be upon him) expressed his contemplation about ordering the collection of firewood, the call to Salat (Adhan), appointing an Imam to lead Salat, and going to the houses of those who did not participate in congregational Salat to set fire to their houses. However, he did not carry out this action. From the tradition above, it can be inferred that the Prophet's intention to set fire to those houses was an act of *ijtihad* on his part. This is because if it had been a revelation from God, it would have been obligatory for him to act. This suggests that his consideration of such a course of action was based on his judgment rather than divine guidance.

This is akin to another tradition narrated by Abu Hurayrah. In this tradition, he stated that Allah's Messenger (peace be upon him) sent them on a military expedition and instructed them to burn specific individuals, naming two men from the Quraish. However, as they were preparing to depart, the Prophet informed them that he had previously ordered them to burn the specified individuals with fire, however, he had reconsidered, noting that the punishment of burning with fire is a prerogative held solely by Allah. Consequently, he directed them to kill the individuals if captured (Ibn Hibbān, 2013, Vol. 3, p. 451).

We can conclude from the above expositions that there is almost a consensus among jurists that the prophet practices *ijtihad* on issues concerning public affairs including politics, wars, and judicial matters. Moreover, some jurists cite undoubtable consensus on the matter. Imam al-Shawkānī (1999) stressed that *ijtihad* in matters

of politics and public administration is a matter of no varying opinions among jurists (p. 426). However, concerning religious, including jurisprudential and theological matters, there are two famous varying opinions. The opposing and endorsing views.

1.2.1. Opponents' view toward Prophet's Ijtihad

The opposing view towards the ijihad of the prophet on theological matters stresses that it isn't befitting for the prophet who attains revelation from God to make judgments based on his intellect on purely spiritual matters. Moreover, the Quran stated as mentioned earlier that: 'He does not speak out of (his own) desire., It is but a revelation revealed (to him). 53:3-4. Therefore, he does not need to make Ijtihad with the possibility of acquiring a revelation. In addition, if the prophet spoke based on his intellect, he would be contradicting his statements since he had mentioned that whatever he says comes from God.

Some scholars like ibn Hazm (456 AH) who were critical of applying jurisprudential analogy (Qiyas) in Islamic jurisprudence also expressed opposition to using Qiyas in the case of the Prophet (Al-Zarkashī, 1994, Vol. 8, p. 248). Their argument was rooted in the belief that if Qiyas was considered an inappropriate source for Islamic jurisprudence, it should be deemed incorrect for both jurists and the Prophet (al-Juwaynī, 1987, p. 78).

Their stance was that just as a scholar is not permitted to issue a ruling without textual evidence, the Prophet should also not be allowed to provide opinions that lack a foundation in revelation. They contended that rulings are attributes exclusive to Allah, the sole authority in Islamic Sharia. Any judgment or ruling made by anyone else is not valid. Therefore, without textual guidance from God, there can be no valid ruling, as all rulings must emanate from the text. Consequently, because analogy is an integral part of ijihad, they opposed its use in this context. Moreover, those who held the above view argued that the Prophet could wait for the arrival of revelations from heaven before making decisions. In this scenario, he would not be permitted to engage in ijihad. Notable proponents of this perspective included Abū Ya'lá and al-Jubā'ī ('Alá' al-Dīn, 1890, Vol. 3, p. 205 & Isa, 1950, p. 21).

1.2.2. The proponents of the prophet's ijihad.

Some scholars argued that it is licit for the prophet to make ijihad on religious issues. They based their arguments on various evidence from the Quran and Sunnah. More specifically they based their argument on an argument like the possibility of prophets' ijihad on worldly matters. Namely, the generalities of many verses in the holy Quran call for contemplation, thinking, interpretation, analysis, contrast and comparison, and so on. These verses call for the use of natural intellect and endorse its application. Since ijihad comprises the use of intellect, it is therefore endorsed, they maintained (Şimşek, ۲۰۰۸, pp. ۸۷-۸۸; Şimşek, 2010, p. 12).

In reply to the verse that has been raised by the opponent of prophet's ijtihad on theology issues, which says: 'He does not speak out of (his own) desire., It is but a revelation revealed (to him)'. 53:3-4. They stressed that the verses above concern the Quran only. Therefore, the complete meaning of the verse would be, 'the prophet does not speak concerning Quran except what has been revealed to him by God' but not the rest of all his speeches. They elaborated that the verse should be interpreted to mean that whatever is in the Quran was revealed from God but not that whatever the prophet says in his daily life outside the spectrum of the Quran is a revelation from God. They strengthened their argument and interpretation of the verse by such an approach by invoking the circumstances that were at hand when the above verses were revealed. It was a time when polytheists claimed that the prophet was receiving the Quran from someone else, not God in the verse which says: 'We know well that they say, "There is a man who teaches him." The language of the one they refer to is non-Arabic while this is clear Arabic language' 16:103. As a reply, God revealed that the prophet was not receiving the Quran from anyone except him.

Another piece of evidence they invoked for their stance is using analogy. They elaborated that since Muslim jurists are allowed to apply analogy in theological matters, the analogy's application in the case of the prophet should also be permissible. More especially the jurists have a lower level of knowledge than the prophets. In addition, the prophet is infallible and protected by divine correction and guidance (Kıyıcı, 1994, p. 27).

They further reinforced their argument by pointing to various instances in which the Prophet applied analogy and ijtihad without waiting for divine revelation. One such scenario involved a woman named Al-Khath'amīyatu who inquired about performing the Hajj ritual on behalf of her deceased father. She asked the Prophet if it was permissible, and he promptly responded by asking her if she would settle her father's debts if he had died in debt. When she affirmed that she would, the Prophet replied that she could indeed perform the Hajj on behalf of her father (al-Shawkānī, 1999, p. 428).

In another tradition, during the prophet's farewell pilgrimage, he cautioned the Sahabas about the sacredness of Mecca. He stressed that the trees and natural environment of the place should not be tampered with. At this time, Abbas the uncle of the prophets raised some concerns about the tree of *al'Idhkhira* used for funeral services at that time. The prophet then instantly gives an exception to the tree mentioned (Abū Ja'far al-Ṭaḥāwī, 1494, Vol. 8, p. 167). The fact that the prophet gave a ruling without waiting for revelation is clear evidence that the prophet applied ijtihad even in theological matters, they maintained.

It is noteworthy that jurists have expressed diverse views regarding the Prophet's ijtihad concerning religious matters. Scholars such as al-Ghazali acknowledged the theoretical possibility of the Prophet's ijtihad, emphasizing his rational capabilities.

However, they were sceptical about its practical application, arguing that there is no definitive evidence to confirm its occurrence. Conversely, other scholars like al-Sarakhsi (d. 483 A.H.) posited that the Prophet could engage in *ijtihad* but only after awaiting divine revelation. If no revelation was forthcoming, he would then employ *ijtihad*. Their argument rested on the premise that the Prophet's *ijtihad* held an authority akin to revelation, safeguarded by divine protection against error. Nonetheless, many scholars maintain that both from a rational and legal standpoint, the Prophet's *ijtihad* was not only permissible but also occurred in practice. From this viewpoint, the Prophet's *ijtihad* is regarded as a form of analogical reasoning (*qiyas*), a method widely accepted in Islamic jurisprudence (Kıyıcı, 1994, pp. 17-27).

Conclusion

The issuance of judicial or juridical rulings based on the personal intellect of the prophet, as discussed in the preceding paragraphs, remains a subject of intricate controversy. This controversy gives rise to conflicting explicit and implicit implications within Islamic scholarship and the broader Muslim community. As described, there are diverse opinions on this matter, ranging from those who oppose it to those who endorse it, with various scholars providing detailed arguments on both sides. Some jurists advocate for its endorsement only in matters of war and similar situations, while others reject it in theology. Meanwhile, another group supports such *ijtihad* without restrictions.

Nonetheless, one of the most significant questions, which also merits further research, pertains to the criteria for differentiating between what the prophet said as a revelation and what he expressed as his personal opinions. Establishing such a criterion is vital because historical accounts indicate that some decisions, he made based on his intellect later turned out to be incorrect. On this basis, questions concerning whether everything the prophet said should be followed without question and inquiry gain relevance and become subjects of further research.

Nevertheless, regardless of the varying perspectives, most scholars who support the prophet's *ijtihad* maintain that his independent reasoning is subject to divine correction or endorsement. They argue that if any of his statements are religiously incorrect, divine revelation will intervene to rectify them. This argument is based on numerous instances where the prophet made errors and was subsequently corrected by God.

The argument supporting the notion that divine correction will invariably follow every instance of the prophet's error may face challenges when providing irrefutable evidence. This is because historical examples show that he was indeed corrected in specific errors, but it is not irrevocable evidence on whether this correction will occur in all past and future errors. Moreover, there are instances where the

prophet's errors were not corrected by divine intervention. One such example is related to the issue of pollination, where farmers faced substantial losses when they relied on the prophet's advice, which proved incorrect at the time of harvesting. In this case, the correction of the prophet's error was driven by experience and real-world circumstances, rather than divine intervention. These are questions that could be explored in further research.

Further elaborations can support the view that divine correction of the prophet's errors primarily pertained to theological matters. However, this argument would require a clear distinction between theology and non-religious matters within the body of the prophet's traditions, which often appear intricately intertwined. Such a task would demand a high level of expertise due to the complexity and controversy involved in making such differentiations.

Nonetheless, some scholars may argue that the belief in divine correction of the prophet's errors in theological matters is primarily based on analogy. In this context, the analogy would suggest that the absence of divine correction for a prophet's errors in Islamic theology would imply incompetence, inaccuracies, and potential falsifications within the religion. This line of reasoning could lead to the falsification of the religion itself or, at the very least, to skepticism and disrespect toward the traditions of the prophet, which would be a significant challenge for the religion. However, it should be noted that if this argument relies on analogy, its strength will depend on the strength of that analogy. This means that opponents of analogy within Islamic jurisprudence could still present counterarguments to challenge its validity.

References

- Abū Ja'far Al-Ṭaḥāwī. (1994). *Sharḥ Mushkil Al-Āthār*, Mu'assasat Al-Risālah
- Acar, İ. (2015). Fıkıh Usulünün Temelleri: Hz. Peygamber Devrinde Deliller. *Yıl*, 41, 43-81.
- Aḥmad Ibn Ḥanbal, A. B. (2009). *Al-Jāmi' Li-'Ulūm Al-Imām Aḥmad: Uṣūl Al-Fiqh* (K. Al-Rabbāt & S. I. 'Aid, Eds.). Dar Al-Falāḥ Li-L-Baḥṭh Al-'Ilmī Wa Taḥqīq Al-Turāth. (Original Work Published 1430 AH)
- 'Alā' Al-Dīn, A. (1890). *Uṣūl Al-Bazdawī*, Sharikat Al-Şihāfah Al-'Uthmāniyah, Iştānbūl
- Al-Āmidī, Ab. (N.D). *Al-Iḥkām Fī Uṣūl Al-Aḥkām Lil'āmdy*, Al-Maktab Al-Islāmī,
- Al-Armawī Al-Hindī, S. Dīn M. Ibn 'Abd Al-Raḥīm. (1996). *Nihāyat Al-Şu'ūd Fī Dirāyat Al-Uṣūl* (S. Ibn Sulaymān Al-Yūsuf & S. Ibn Sālim Al-Suwaḥ, Eds.). Al-Maktabah Al-Tijāriyah Bi Makkah Al-Mukarramah.
- Al-Azharī, M. (2001). *Tahdhib Al-Lughah*, Dār Ihyā' Al-Turāth Al-'Arabī-Bayrūt
- Al-Bayhaqī, A. Ibn Al-Husayn Ibn Ali Ibn Musa Al-Khusrawajirdi Al-Khurasani, A. B. (1988). *Dalā'il Al-Nubuwwah Wa Ma'rifah Aḥwāl Şāhib Al-Sharī'ah* (D. A. Qal'ajī, Ed.; 1st Ed.). Dār Al-Kutub Al-'Ilmiyyah, Dār Al-Riyān Lil-Turāth.
- Al-Bukhārī, M. (2012), *Şaḥīḥ Al-Bukhārī*, Dār Al-Salām Lil-Nashr
- Al-Firūzābādī (2005), *Al-Qāmūs Al-Muḥīṭ*, Mu'assasat Al-Risālah Lil-Ṭibā'ah Wa-Al-Nashr Wa-Al-Tawzī'
- Al-Ghazālī, A. H. M. Ibn M. Al-Ṭūsī. (1993). *Al-Mustaşfā* (M. 'Abd Al-Salām 'Abd Al-Shāfi, Ed.). Dār Al-Kutub Al-'Ilmiyyah.
- Al'ijy, A. (2004). *Sharḥ Al'aḍdi 'alā Mukhtaṣar Al-Muntahā Al-Uṣūlī Wa-Ma'ahu Ḥāshiyat Al-Sa'd Wa-Al-Jurjānī*, Dār Al-Kutub Al-'Ilmiyyah
- Al-Jaşşās, A. B. A. A. (1994). *Al-Fuṣūl Fī Al-Uṣūl* (2nd Ed., Vols. 1-4). Wizārat Al-Awqāf Al-Kuwaitiyya. (Original Work Published 370 AH)
- Al-Juwaynī, 'Abd Al-Malik B. 'Abd Allāh B. Yūsuf B. Muḥammad, Abū Al-Ma'ālī, Rukn Al-Dīn, Al-Mulqab Bi-'Imām Al-Ḥaramayn. (1987). *Al-Ijtihād* (From *Al-Talkhīş Li'imām Al-Ḥaramayn*). Dār Al-Qalam, Dārat Al-'Ulūm Al-Thaqāfiyya.
- Al-Qarāfi, (1973). *Sharḥ Tanqīḥ Al-Fuṣūl*, Sharikat Al-Ṭibā'ah Al-Fanniyah Al-

Muttaḥidah

- Al-Qarāfī, (1995), *Nafā'is Al-Uşul Fī Sharḥ Al-Maḥşul*, Maktabat Nizār Muşţafā Al-Bāz.
- Al-Rāzī, A. (1997). *Al-Maḥşul* (3rd Ed.; T. J. F. Al-'Allāwī, Ed.). Maktabat Al-Risālah. (Original Work Published 606 AH)
- Al-Shāṭibī, I. (1997). *Al-Muwāfaqāt*, Dār Ibn 'Affān.
- Al-Shawkānī, M. (1999). *Irshād Al-Fuḥūl Ilá Taḥqīq Al-Ḥaqq Min 'ilm Al-Uşul*, Dār Al-Kitāb Al-'Arabi
- Al-Zarkashī, B. (1994). *Al-Baḥr Al-Muḥīt Fī Uşul Al-Fiqh* (1st Ed.). Dār Al-Kutbī. (Original Work Published 794 AH)
- Al-Zarkashī, B. (1998). *Tashnīf Al-Masāmi' Bi-Jam' Al-Jawāmi'*, Maktabat Qurṭubah Lil-Baḥth Al-'Ilmī Wa-Iḥyā' Al-Turāth-Tawzī' Al-Maktabah Al-Makkīyah.
- Al-Zubiydī, M. (N.D) *Tāj Al-'arūs*, Dār Al-Hidāyah
- Hājj, I. (1983). *Al-Taqrīr Wa-Al-Taḥbīr 'Ala Taḥrīr Al-Kamāl Ibn Al-Humām*, Dār Al-Kutub Al-'Ilmīyah.
- Hashmi, H.-U.-D. (1989). *Islamic Jurisprudence In Early Islam: A Study Of The Source Of Islamic Law During The Lifetime Of The Prophet Muhammad (Peace Be Upon Him)* [Unpublished Doctoral Dissertation]. University Of California At Los Angeles.
- Ibn Al-Athīr, M. (1979). *Al-Nihāyah Fī Gharīb Al-Ḥadīth Wa-Al-Athar*, Al-Maktabah Al-'Ilmīyah-Bayrūt
- Ibn Ḥazm, *Al-Iḥkām Fī Uşul Al-Aḥkām Li-Ibn Ḥazm*, Dār Al-Āfāq Al-Jadīdah, Bayrūt
- Ibn Ḥibbān, (2013). *Şaḥīḥ Ibn Ḥibbān*, Dār Ibn Ḥazm.
- Ibn Qudāmah, A. (2002). *Rawḍat Al-Nāzīr Wa-Jannat Al-Munāzīr*, Mu'assasat Al-Rayyān Lil-Ṭibā'ah Wa-Al-Nashr Wa-Al-Tawzī'.
- İsa, E. (1950). *İctihādu'r-Rasūl*. Dârul-Beyan.
- Kıyıcı, S. (1994). Peygamber (S.A.V.)'Nin İctihadları. *Yüzüncü Yıl Üniversitesi İlahiyat Fakültesi Dergisi*, 1(1), 1-42.
- Muslim, Ḥ. (1836). *Şaḥīḥ Muslim*, Dār Iḥyā' Al-Turāth Al-'Arabī-Bayrūt

Şimşek, M. (2008). *İslam Hukukun Da Bağlayıcılık Bakımından Hz. Peygamber'in Tasarrufları* [Unpublished Doctoral Dissertation]. Selçuk Üniversitesi Sosyal Bilimler Enstitüsü.

Şimşek, M. (2010). Tarihi Süreçteki Gelişimi Açısından Hz. Peygamber'in Tasarruflarının Tasnifi. *İslam Hukuku Araştırmaları Dergisi*, 15, 303-344.

Şuhayb, 'A. (N.D). *Al-Jāmi' Al-Şaḥīḥ Lil-Sunan Wa-Al-Masānīd*

Ünal, İ. H. (N.D.). Hanefi Usulcülere Göre Hz. Peygamber'in Fiilleri. *A.Ü. İlahiyat Fakültesi Dergisi*, 37, 191-199.