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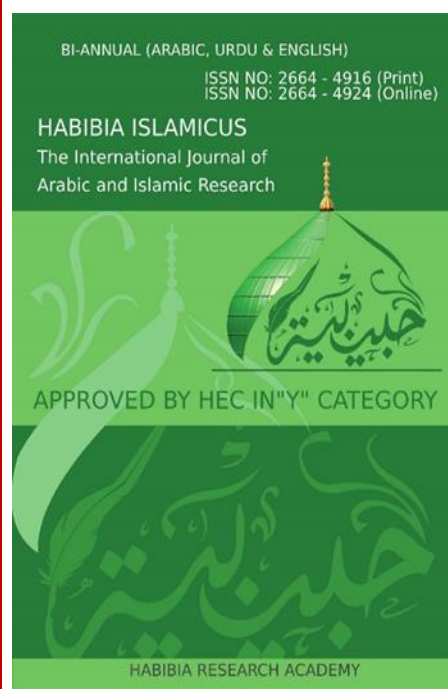
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TOPIC:

AN ANALYSIS OF THE DIFFERENCE BETWEEN MUJTAHID AND MUFTI

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AN ANALYSIS OF THE DIFFERENCE BETWEEN MUJTAHID AND MUFTĪ

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ABSTRACT:

Ijtihād and Iftā' are two prime activities in Islamic Shari'ah. Deriving the rules and commandments from Qur'an and Sunnah in the light of Shari'ah is a continuous process. Human life requires rulings as per changing needs of each era. Shari'ah has introduced the principle of Ijtihād to make Islamic Shari'ah dynamic and cope the needs of any era of human life. But confusion arises normally between the difference of Ijtihād and Iftā'. Both have different limits and scope, which must be maintained, otherwise a higher institution will lose its worth and status. This paper will highlight this difference in context of their qualifications and responsibilities in a critical way.

KEYWORDS: *Mujtahid, Mufti, Muqallid, Qualifications, Conditions, Ijtihad, Ifta'.*

INTRODUCTION: A Mujtahid is someone who can perform Ijtihād where as a Muftī is someone who can provide rulings that a Mujtahid has done and may well understand the detail of the rulings.

Muftī in the opinion of Uṣūlīyīn is used synonymously with mujtahid. For instance, in "Fatḥal-Qadīr" (famous book of fiqh), the writer, Imām Shawkānī has mentioned the same conditions for Qādī (Judge) as well as Muftī and explained that no one can issue a fatwā unless he/she is a Mujtahid. The writer further added that it is the opinion of Uṣūlīyīn that Muftī is being Mujtahid. So far as non Mujtahid is concerned, which only memorizes the quotations of Mujtahid, is not Muftī. It is therefore, compulsory that if someone seeks fatwā from him, he should quote the quotation of a Mujtahid. It clears that in our current day and age, the fatwā of 'Ulamā' (Scholars) is not the fatwā, rather a copy of the sayings of Muftī, so that a fatwā rendering can act upon it (1).

It means in our present era, Muftī is referred to Muqallid, who is well versed with an opinion of his school of thoughts and can expound on them.

Qualification for Iftā'

The singular form of Iftā', al-fatwā or al-fatawī is fatwā. It is also used as futwā or futyā, which means any ruling issued from a faqīh (jurist). It is purely an Arabic word which according to some scholars of grammar is derived from al-futuwatū which means generosity, courtesy and powerfulness. Fatwā is also called fatwā because a Muftī issuing fatwā, presents the solution of any legal problem utilizing his generosity, courtesy and intellectual power (2).

'Allāmah Rāghib al-Aṣḥānī (3) says; "the response given to complicated commandment is called fatwā and futyā, so it is said that I asked him a fatwā and he gave me a fatwā" (4).

The word *fatwā* has been used many times in the Qur'ān and in the narrations of the Prophet (ṢAWS) with its parallel words. For instance, Qur'ān says; "They consult (ask *fatwā*) thee concerning women. Say; Allah givth you decree (*fatwā*) concerning them. (5).

And in the words of Ḥadīth; "the sin is which perplex in your heart, whether people issue a *fatwā* (legal ruling) of its approval" (6).

According to the scholars of jurisprudence, the terminological meaning of *fatwā* is: To elaborate the order of Allah al-Mighty as per the requirement of legal arguments. According to 'Allāmah Shāṭibī (7);

"Muftī performs deputyship of Nabī (Prophet) in ummah as the 'Ulamā' are the heirs of Prophets, as it is apparent from the Ḥadīth in which the Prophet (ṢAWS) said; "The 'Ulamā' are the heirs of the Prophets and the Prophets did not set them the heirs of Dirham or Dīnār, rather of knowledge" (8).

As a matter of Shari'ah is being of acute importance, so Allah al-Mighty declared it *ḥarām* (Prohibited) to say anything about Dīn without knowledge. Qur'ān says; " Say: My Lord forbiddeth only indecencies, such of them as are apparent and such as are within, and sin and wrongful oppression, and that ye associate with Allah that for which no warrant hath been revealed, and that ye tell concerning Allah that which ye know not" (9).

In this verse Allah al-Mighty has divided the prohibited things into four categories and foremost amongst them are mentioned the unlawful things of lower grade which are: explicit and hidden immodest things, after these, things are mentioned with a higher grade of illegality, that are sin and unlawful violence, then more worst forbidden are mentioned i.e. to set an equal to Allah al-Mighty and lastly the most worst unlawful is mentioned that is to say something about Allah al-Mighty without knowledge, whether it is about the names of Allah, characteristic and activities or about his Dīn and Shari'ah. At another place, it is said; "And speak not, concerning that which your own tongues qualify (as clean or unlearned), the falsehood: "this is lawful, and this is forbidden," so that ye invent a lie against Allah. Lo! Those who invent a lie against Allah will not succeed. A brief enjoyment (will be theirs); and theirs a painful doom" (10).

This verse clearly explains that it is illegal to say something without knowledge about names characteristics, activities and commandments of Allah al-Mighty. As muftī guides about Allah or His Dīn, therefore if he says anything against the Shari'ah it means he says something about Allah without knowledge.

However, if he performed Ijtihād and strived utmost to achieve the truth, even then he has a mistake, this threat will not be proved to him, and his mistake will be pardoned; rather he will be given reward for performing Ijtihād. But he must be careful enough while presenting something on the basis of his Ijtihād and not finding any text of the Qur’ān and Sunnah regarding that matter, he should not use such words: Allah has considered it ḥalāl (lawful), or Allah has considered it ḥarām (unlawful), or wājib (compulsory) or mubāḥ (Accepted) or it is the ḥukam (order) of Allah.

The former scholars were much careful in this regard. It can be judged that whenever ImāmMālik presents something on the base of his Ijtihād and opinion, recites this verse of the Qur’ān; “We deem it naught but a conjecture, and we are by no means convinced”(11).

ImāmNawawī (12) said: “Iftā’ is a most prestigious and a very noble activity, as muftī actually is a heir of the Prophets and fulfills a farḍ-e-kifāyah but it is also acceptable that mistake can be happened by him” (13).

‘Allāmah Ibn-e-‘Ābidīn (14) says: “Fāsiq (non-obedient) cannot be a muftī, as fatwā is one of the matters of Dīn, and in matters of Dīn saying of a fāsiq is not acceptable”(15).

In the same way ‘AllāmahQarāfī (16) quotes ImāmMālik; he says: “Any ‘Ālim (Scholar) should not issue any fatwā until people considered him, and he considered himself capable of issuing a fatwā.” This denotes that until the scholarly status of a person is not clear and proved to ‘ulamā’, he should not consider himself capable of Iftā’. This concept has been discussed in the various books of jurisprudence of different schools of thought and purpose of all of them is that people should not show quickness for issuing a fatwā. Our former scholars also were very conscious in this regard. Ibn-e-Qayyim (17) says; Righteous formers, the Ṣaḥābah and Ṭābi‘īn dislike quickness in issuing fatwā. Each of them wished that someone else of his brothers issue that fatwā instead of him, but whenever someone feels that it is now obligatory for him to issue a fatwā, he consults the Book, Sunnah or the sayings of the RāshidūnKhulafā’ and issues a fatwā with the help of his Ijtihād (18).

‘Abd Allah b. Mubārak (19) quotes ‘Abd al-Raḥmān b. Abīya‘lā; he says; “I have the honor to visit one hundred and twenty companions (RA) in masjid-e-Nabavī, and I noted their consciousness that each of them wished that someone else of his brothers should perform the duty of Iftā’ instead of him (20).

In the same way, ImāmAḥmad b. Ḥanbal endorse the saying of Ibn Abīya‘lā. It explains that the former virtuous people were much careful to issue a fatwā. But

it is also agreed upon by all fuqahā' that to educate the learners and issue a fatwā to someone requiring it, at the time, when some problem or incident happens, and there is only one person present who can response, then it is fard-e-'Ayn (obligatory) for him to response. And someone else capable to this post is also present there then it is fard-e Kifāyah for both of them (21).

Qualification of a Muftī

The essential qualifications for a person to be a Muftī are generally: Islām, Maturity (Puberty), Sound Mindedness, Justice ('Adālah) and knowledge of the Sharī'ah. The last one among these five requires a more detail. The following is a small explanation of what the scholars mentioned is necessary for the individual to have Knowledge of the Sharī'ah in order for him to be permitted to issue a fatwā.

1. Knowledge of the Sharī'ah (Islāmic Legislation)

The scholars have mentioned five categories of knowledge beneath this issue. The first is; knowledge of the Qur'ān and its sciences. The second is knowledge of the Ḥadīth and its sciences. The third is knowledge of the consensus and issues of difference (of opinions). The fourth is knowledge of the Arabic language. And the fifth is knowledge of the fundamentals of fiqh (jurisprudence). Imām al-Shāfi'ī says:

“It is not allowed for anyone to issue a fatwā in the religion of Allah, except for a man who knows the Book of Allah through its nāsikh (abrogating texts) and its mansūkh (abrogated texts), it's muḥkamāt (clear) and its mutashābihāt (ambiguous), its interpretation and (the details of its) revelation and (whether it was revealed) in Makkah or in Al-Madīnah, and what was intended by it and why it was revealed. Then after that he should be sure sighted regarding the Ḥadīth of the Messenger of Allah, concerning the abrogating (texts) and the abrogated (texts). He should know from the Ḥadīth what he knows from the Qur'ān (i.e. the same details). He should be sure sighted in the language; sure sighted in the poetry, and that which he requires for the knowledge of the Qur'ān. He should use justice with this and speak sparingly. And after this, he should be commanding (in knowledge) upon the disagreements amongst the people of the regions (i.e. the scholars of the different parts of the world). Having these qualifications, it is (allowed) for him to speak and issue fatāwā regarding what is permissible and what is not. If he laves these qualifications, then it is (allowed) for him to speak concerning knowledge and not to issue fatāwā” (22).

Imām Aḥmad b. Ḥanbal says:

“If a man puts himself forward to issue a fatwā, he should be knowledgeable of the Sunnahs; knowledgeable about the matters of the Qur'ān; knowledgeable about

the authentic chains of narration. The disputes of those who disagreed only due to their lack of knowledge concerning which the Prophet (ﷺ) came with from the Sunnahs and their lack of knowledge concerning what is authentic from them versus the deficient” (23).

These are general explanations of what the muftī requires in order to give a fatwā. Other scholars have also mentioned in detail what is necessary in their opinion, for the muftī to have, in order to be fit for giving a fatwā. One of those was Imām al-Shawkānī. He says; “The first, that he be knowledgeable concerning the Texts of the Book (i.e. the Qur’ān) and the Sunnah. But if he is lacking in any one of the two, then he is not a Mujtahid [one qualified to perform deductive reasoning (Ijtihād)], and it is not allowed for him to perform Ijtihād (deductive reasoning). And it is not a condition for him to know all of the Book and the Sunnah, rather that which has to do with the rulings from them. Al-Ghazālī and Ibn-e-‘Arabī (24) said that the amount of that in the Noble Book is five hundred Āyāt. And the claim of a specific number restricted to this is only when considering the outward appearance (of the Āyt), as the Āyāt in the Noble Book which legal rulings can be extracted from are many multiple times that. Rather, anyone who has a sound and full understanding can extract rulings from the Āyāt that were narrated in the stories and the similitudes” (25).

The Imām then continues, “And it is said that all that they meant by that was the Āyāt that indicated rulings firstly and specifically, not those which were from the path of inclusion and necessitating. And al-Māwardī (26) mentioned from some of the People of Knowledge that the restriction of those who restricted it to the specific number was only due to the fact that they saw that Muqātil b. Sulaymān (27) specifically mentioned the Āyāt of rulings in a compilation and he made them five hundred Āyāt (28). He continues, “Ustādh Abū Maṣṣūr said that it is a condition that he knows that which has to do with the ruling of the Sharī‘ah, and it is not a condition that he knows what is in it from the stories and the admonitions” (29). What this means is that the people of knowledge mentioned that in order for someone to give a fatwā, it isn’t necessarily a condition that he has the whole Qur’ān memorized. Rather, he only needs to have memorized the verses of the Qur’ān that relate to fiqh, as that is where the fatāwā would relate to. He continues, “And they differed concerning the amount that is sufficient for the Mujtahid (to know) from the Sunnah. As it was said, five hundred aḥādīth, and this is from the strangest of what is said, because the aḥādīth which the Shar‘ī rulings are taken from are thousands upon thousands. Ibn-e-‘Arabī said in Al-Maḥṣūl that it is three

thousand. Abū‘Alī al-Dharīr said: I asked to Aḥmad b. Ḥanbal: How many aḥādīth are sufficient for a man to give a fatwā? Is one hundred thousand sufficient for him? He said: No. I said: three hundred thousand? He said: No. I said: four hundred thousand? He said: No. I said: Five hundred thousand? He said: I hope so. Some of his companions said that this is to be understood upon carefulness and severity in giving fatāwā, or that he meant to describe the perfect of the jurists. As for that which is must to have, then Aḥmad said that the fundamentals of the knowledge about the Prophet (ṢAWS) revolve around should be one thousand two hundred” (30).

It means that when the scholars mention large numbers like this, they are discussing the conditions for someone to be from the highest levels of scholars, or they are giving higher conditions in order to show that giving a fatwā is not an issue to be taken lightly. One thing to keep in mind though is that many of those who place themselves in a position to give fatwā on world issues have never even read ten thousand aḥādīth, let alone memorized five hundred thousand. Many of them have not read the six main books of Ḥadīth, but instead take their aḥādīth from books such as “Faḍā’il al-A‘māl” or “Ṭḥyā’Ulūm al-Dīn” and “Fiqh al-Sīrah”, which are known to have weak and even fabricated aḥādīth in them. So these people have not met the standards in Ḥadīth to issue fatāwā. The Imām continues, “AbūBakr al-Rāzī (31) said: It is not a condition for him to be able to bring to mind all of what was narrated on that topic, as it is not able to encompass it. And if it was possible, then all of what was narrated would not be present in his mind at the time of Ijtihād” (32). This means that it isn’t necessary for him to have all of those aḥādīth in his mind all the time, as that is something that isn’t possible, or not possible except for a very few number of people, from those whom Allah blessed with the strongest of memories.

He continues, “And al-Ghazālī and a group of the scholars of the fundamentals said that it is sufficient for him to have a source which gathers the aḥādīth concerning the rulings, like “Sunan-e-AbīDāwūd”, and to know “Al-Sunan” by al-Bayhaqī, or a source in which attention was paid to gathering the aḥādīth of the rulings. And it is sufficient for him to know the places of each chapter so that he can review it at the time of need, and al-Rāfi‘ followed him in that. And al-Nawawī disputed with him and said: It is not correct to use the example of “Sunan-e-AbīDāwūd”, as it has not included the authentic aḥādīth about the rulings, nor most of them. And how many are there in Ṣaḥīḥ al-Bukhārī and Muslim from the aḥādīth of the rulings that are not in “Sunan-e-AbīDāwūd”. And likewise was stated by Ibn Daqīq al-‘Eīd

(33) in “Sharah al-‘Unwān”: The example of “Sunan-e-AbīDāwūd” is not good in our opinion for two reasons: The first, because it does not include the Sunan that are needed. The second, because in it there are some of that which are not used as evidence in the rulings”(34).

It means that some scholars stated that after the scholar becomes well acquainted with the books of Ḥadīth and knows them very well, it isn’t a condition that he has them all memorized. Rather, it is enough for him to have the books accessible to him and to know where to look in them in order to extract what he needs from that which he forgot. Then the example of “Sunan-e-AbīDāwūd” was given. The Imām mentioned some scholars who disagreed with that example due to the fact that “Sunan-e-AbīDāwūd” doesn’t have all of the necessary aḥādīth in order to make a fatwā, as well as the fact that many of the aḥādīth in this book are unacceptable due to their chains of narrations. Some points to keep in mind here are that “Sunan-e-AbīDāwūd” is from the most important books of Ḥadīth, as it is one of the Six Source books that the scholars mentioned. Another point is that this book has over 4500 aḥādīth. Despite these two points, the scholars didn’t consider it sufficient for a person to rely on this book alone. So what can be said about those who have not read it, nor have it in their possession?

The Imām then said, “And there is no difference of opinion that the words of the ‘ulamā’ in this issue are from the category of exaggeration, and some of it is from the category of understating. And the truth in which there is no doubt and no misunderstanding is that it is must for the Mujtahid to be a scholar concerning that which the encompassing books of the Sunnah include, which the people of that science authored, like the Six sources, and those which are included in the same category. Also, he must have a commanding grasp of that which is included in the Musnads and the Mustakhrajāt and the books whose authors took care in confirming their authenticity” (35).

Al-Shawkānī then continues, “And it is not a condition that they are memorized and easily referenced in his mind. Rather, he should be from those who are able to extract them from their places by searching them, whenever needed. And he should be from those who are able to differentiate between the Ṣaḥīḥ of them, as well as the Ḥasan (i.e. good chain) and the Ḍa‘īf (i.e. weak chain). In a way that he can know the condition of the men in the chains of transmission, with a level of knowledge through which he is able to judge upon the Ḥadīth with one of the aforementioned descriptions. And it is not a condition for him to have memorized the condition of the men by heart, rather what is taken into account is that he has

the ability to research the condition of the men in the books of al-Jarḥwa al-Ta'dīl. While he has a full understanding of that which necessitates a Jarḥ and that which does not necessitate it, from the causes, and that which is accepted from them and that which is rejected, and that which is defaming from the defects and that which is not defaming" (36). He goes on, "The second condition, is that he is knowledgeable concerning the matters of Ijmā', so that he does not issue a fatwācontrary to that which the Ijmā' has took place upon, if he is from those who state the proof of Ijmā' and sees that it is a Shar'ī evidence. And it is rare that someone who reaches the level of Ijtihād will be unaware of that which the Ijmā'took place upon from the matters" (37).

The Imām continues mentioning the conditions, "The third condition, is that he must have competence in Arabic language, as much as to explain that which has come in the Book and the Sunnah from the unclear phrases and the likes of that. And it is not a condition for him to have that memorized by heart rather, what is taken into consideration is that he is able to extract them from the books of the Imāms who worked in that, as they have made it clear with extreme clarity, and they have scrutinized it with extreme scrutiny. They organized them according to the letters of the alphabet, in an organization that is not hard to understand and not hard to research in. Rather, the only ones who are able to know their meanings and the specifics of how they are assembled and that which they include from the slight distinctions is he who is a scholar in grammar, morphology, vocabulary and expression"(38).

The Imām mentions the final condition of Shar'ī knowledge, "The fourth condition, is that he is a scholar in the science of Uṣūl al-Fiqh (the fundamental rules of Fiqh), due to it including that which is needed. It is upon him to extend his determining in them and to research in its condensed and its full length (books), as much as his ability will take him. As this knowledge is the pillar of the canopy of Ijtihād and its basis, upon which the pillars of its building stand. It is upon him to look into every issue from its issues to the extent that he will reach to what is the truth in it. Because if he does that, then he will be able to refer the branches to their origins with the least of actions. And if he lacks in this science, then the referring becomes hard for him and he will become confused in it and make mistakes. ImāmFakharal-DīnRāzī says in "Al-Maḥṣūl" and how great what he said is, "Verily, the most important science for the Mujtahid is the science of Uṣūl al-Fiqh." Al-Ghazālī says, "Verily, the greatest of the sciences of Ijtihād are based upon three sciences: The Ḥadīth, the language and the Uṣūl al-Fiqh" (39).

ii) **Knowledge of the Current State of Affairs**

Ibn al-Qayyim said, “As for his (Imām Aḥmad’s) saying, ‘The fifth knowledge required for mujtahid is; knowledge of the People, this is a great fundamental, which both the Muftī and the ruler require, because if he is not a technical jurist (i.e. fully comprehending) in awāmīr wanawāhī (an expert of the ordering and the forbidding) and then he implements one upon the other (i.e. knowledge of the Sharī‘ah without knowledge of the people or vice versa), (nothing happens) except that what is corrupted is greater than what is rectified. So if he is not a jurist in the ordering and he has knowledge of the people, then the oppressor will appear to him like the wronged person, and vice versa, and the truthful one in the appearance of the liar, and vice versa. The plotting, deceiving and trickery will surround him. The zindīq (40) will look like a Ṣiddīq to him and the liar in the appearance of the truthful one. Every liar will wear false clothing, underneath which are sins, lies and immorality. He, due to his ignorance of the people and their conditions, their customs and their traditions, cannot differentiate this one from that one. Rather, he must be adept in knowing the plots of the people, their deceptions, their trickery, their customs and their traditions. Because the fatwā changes due to the changing of the era, the place, the customs and the conditions. And all of that is from the religion of Allah, as its clarification has passed, and with Allāh is the Granting of Success” (41).

Ibn-e-Ṣalāḥ (42) said: “It is not allowed for him to issue fatāwā regarding the oaths and the testimonies and the likes of that from what relates to the terminology unless he is from the people of the country from where he is speaking or if he is at their level in experience concerning the intent of their speech and the usage of it. Because if he is not like that, then his mistakes will be many against them in that regard, as has been seen from experience and Allah knows best” (43).

This is the last issue that a person must possess in order to issue a fatwā. The reason for this is as Ibn al-Qayyim stated, “Because the fatwā changes due to the changing of the era, the place, the customs and the conditions.” This is because many things may be offensive to one people, and not to another. Many phrasings may be considered swearing to one people and not to another. Also, there may be some phrasings which are considered agreements and promises according to the customs of one people, while another people do not consider them to be promises nor agreements. Likewise also with the issues of divorce, as has been lengthily discussed in the books of fiqh. Another issue that is affected by this and that has been witnessed is in the case of ā’mah. Many times, ā’mah are brought from other parts

of the world in order to lead a Masjid. Once they are here, they are put in the place of Muftī or a judge amongst the people. You will often see them saying things like, “It is obligatory upon all the Muslims in this community to do such and such act.” Often, these things that they are discussing are issues that aren’t clear cut in the Sharī‘ah, but rather are subject to the Ijtihād of the people of knowledge who know the situation in that area. Other times, you will see them issuing fatāwā about issues that are clear cut in the Sharī‘ah, and claiming that it is in the benefit of the people to do the opposite, so they not only contradict the Sharī‘ah, but they do so claiming that it is due to the condition of the people, while they are ignorant of that also, as they have only come to that area lately.

Ibn al-Qayyim said: Abū‘Abd-Allah b. Baṭṭāh (44) mentioned in his book al-Khala’ that Imām Aḥmad said: No man should set himself up to issue fatwā until he has attained five qualities:

1. He should have a good intention, for if he does not have a good intention, he will not be blessed and there will be no blessings in his words.
2. He should be knowledgeable, forbearing, dignified and calm.
3. He should have a strong grasp of knowledge.
4. He should have a strong personality and not be affected by people’s criticism.
5. He should know what people are like.

This is what Imām Aḥmad said, and this is indicative of his status and knowledge. These five qualities are the foundation for issuing of a fatwā. If any of them are lacking, there will be a commensurate defect in the muftī (45).

Qualification of a Mujtahid

Discussing the qualifications of a Mujtahid, Ṣadral-Sharī‘at following Fakhar al-Islām says that a jurist should have knowledge of the Qur’ān together with its meaning, dictionary and legal, and its various divisions, of the traditions including the texts and the authorities thereof, and of the rules relating to analogical deduction (46).

The author of Jām‘al-Jawāmi‘, enumerates the qualifications of a jurist with power of independent exposition (al-Mujtahid al-Mustaḥsil) as follows; he must be major, possessed of understanding and of sufficient intellectual acuteness to be able to grasp the drift of a speech; he must have average knowledge, of the Arabic language, grammar and rhetoric’s, the principles of jurisprudence and of the source of law, that is, the Qur’ān and the traditions; he must be well versed in the main principles of the Sharī‘ah, the legal code so as to be able to ascertain the intention of the law giver; he

must know the repealing and the repealed texts, the circumstances in which the texts of the Qur'ān were revealed, and the rules able to discriminate between authentic traditions and traditions of weak authority, and he must know the history of the narrators of traditions, but in this connexion it would be one of the ā'mah of tradition such as Aḥmad, Bukhārī and Muslim. It is not necessary that a jurist should know the science of divinity, or all the rules of law in the different sciences of divinity, or all the rules of law in the different branches of the code. A woman may be a jurist and so also slave. Nor is it necessary that a jurist should be a man of piety (47).

It will be observed that this statement of what are the necessary and what are not necessary qualifications for a jurist is more detailed than what is given by Fakharal-Islām and Ṣadr al-Sharī'at, but the rules on point are in substance the same in all the four Sunnī Schools.

Regarding conditions of a mujtahid, Ibn Qudāmah al-Maqdisī (48) states in Al-Mughnī: "And they include in his opinion knowing six sciences of the Qur'ān, knowing Aḥādīth very extensively, Ijmā', the science of varied opinions, analogy and the Arabic language in depth, and furthermore ten essential topics to master with regards to the Qur'ān, specific injunctions general injunctions. All those sciences, which are essential for the understanding of the Qur'ān, are also essential for the understanding of the traditions of the Prophet (ṢAWS), it is also essential to understand the various categories of Aḥādīth as well as those issues upon which the 'Ulamā' have agreed or disagreed in the past. With regards to the science of analogy, all its pre-requisites and its various methods have to be understood fully, and proficiency has to be gained to such an extent in the Arabic language which facilitates the understanding of the above mentioned science (49).

It is a most comprehensive criteria described by Ibn-e-Qudamah for mujtahid. Fulfilling all these requirements and conditions, actually develop the competency of the most sensitive activity of Ijtihad.

Conclusion: The above discussion cleared that Ijtihād and Iftā' are two different activities. In early Islamic era, both were treated same with same qualification of Mujtahid or Mufti. But gradually, when Interpretation of Shariah developed into various Schools of thought, and ruling for Ijtihād was determined, a margin line started to be drawn showing difference of ijtiḥād and Iftā'. Ijtihād became the most esteemed and prestigious activity with a high profile of Conditions and qualifications, limits and scope. Whereas, Iftā', on the other hand was recognized as minor activity. Mufti just has to interpret and apply the Fatwa actually generated by the Mujtahid. To some extent, Mufti, also performs the duty of a lower cadre mujtahid i.e. Ashab al-Tarjih or Ashab al-Tamyiz etc. But Normally,

Mufti has to interpret and convey the relevant fatwa, whereas Muftahd is one, who actually generates thefatwā and rulling as per the spirit of the Sharī'ah.

References:

1. Al-Shawkānī, Muḥammad b. 'Alī, Fath-ul-Qadīr, Kitāb: Ādāb al-Qādī (Egypt: Al-Maktabahal-Tijāriyyah al-Kubrā, n.d) p. 279.
2. Ibn Manzūr, Li sāl al-'Arab, vol. 2, p. 338.
3. Abūal-Qāsim al-Ḥusayn b. Mufaddal b. Muḥammad (d 502 A.H) better known as RāghibAṣḥānī, was an eleventh-century Muslim scholar of Qur'anic exegesis and the Arabic language.
4. Al-Rāghibal-Aṣḥānī, Mufradāt al-Alfāḥal-Qur'ān, Research: NadīmMar'shīlī (Al-Maktabahal-Murtaḍawīyyah li Aḥyā' al-Āthār al-Ja'firiyyah, n.d) p. 386.
5. Al-Qur'ān, 4:127.
6. Ibn Ḥanbal, Aḥmad, Musnad al-Imām Aḥmad b. Ḥanbal (Beirut: Al-Maktabahal-Islāmī, n.d.) vol. 3, p. 310.
7. Imām Abū Ishāq al-Shāṭibī was an Andalusian Sunnī Islamic legal scholar following the Mālikīmadh'hab. He died on 1388 A.D (790 A.H) in Granada. Imam Shāṭibī's full name was "Ibrāhīm b. Mūsā b. Muḥammad al-Shāṭibī al-Gharnāṭī". The date and place of his birth are unknown. However, one of his surnames, "Al- Shāṭibī", points to the city Xativa, which indicates that he was a descendant of the migrants from that town.
8. Al-Shāṭibī, Al-Muwāfaqāt, vol. 4, p. 244.
9. Al-Qur'ān, 7:33.
10. Ibid.16:116-117.
11. Ibid. 45:32.
12. AbūZakariyyāMuḥyā-DīnYaḥyā b. Sharaf al-Nawawī popularly known as al-Nawawī, or Imām Nawawī (631-676 A.H./1234-1277 A.D), was a Sunnī Muslim author on Fiqh and ḥadīth.
13. Al-Majmū'Sharah al-Muhazzib (Idārah al-Ṭabā'at al-Munīriyyah, 1344 A.H) p. 40.
14. Muḥammad Amīn Ibn 'Ābidīn (1198-1252 A.H / 1783-1836 A.D) also known as Imām Ibn 'Ābidīnal-Shāmī was a prominent Islamic scholar and Jurist who lived in the city of Damascus in Syria during the Ottoman era. He was the authority of the fiqh (Islamic jurisprudence) of the Ḥanafīmadh'hab (school of law). He was a state employee with the title of Amīn al-fatwā. This meant that he was the mufti that people would go to when they had legal questions in Damascus. He composed over 50 works consisting of a major fatwa (legal statement) collection, many treatises, poems, and several commentaries on the works of others. His most famous work was the Raddal-Muhtār'alā Al-Durral-Mukhtār. This is still considered the authoritative text of Ḥanafī fiqh today.
15. Ibn 'Ābidīn, Muḥammad AmīnĀfandī, Raddal-Mukhtār'Alā al-Durral-Mukhtārāl-Ma'rūf bi Ḥāshiyah Ibn 'Ābidīn (Egypt: MaktabahwaMaṭba'ah Muṣṭafāal-Bābī al-ḤalbīwaAwlāduhu, 2nd Edition: 1386 A.H /1966 A.D) vol. 4, p.418.

16. Shahāb al-Dīn al-Qarāfi or in full Shahāb al-Dīn Abū al-‘Abbās Aḥmad b. Idrīs al-Qarāfi (1228–1285 A.D), was a Mālikī jurist of Berber (Sanhaja) origin who lived in Ayyubid and Mamluk Egypt. He was born in the Bahnasa district of Upper Egypt reportedly sometime around 1228.

17. Muhammad b. Abū Bakr known as Ibn al-Qayyim or Ibn al-Qayyim al-Jawziyyah ("Son of the principal of the (school of) Jawziyah") (691–751 A.H / 1292–1350 A.D) was an Arab Sunnī Islamic jurist, commentator on the Qur’ān and theologian. Although he is sometimes referred to as "the scholar of the heart", given his extensive works pertaining to human behavior and ethics, Ibn al-Qayyim’s scholarship was focused on the sciences of Ḥadīth and Fiqh.

18. Ibn al-Qayyim, I’lām al-Muwaqqi’in, pp. 41-42.

19. Abd Allah Ibn al-Mubārak (726-797 A.H) was born during the reign of Hishām b. ‘Abd al-Mālik. ‘Abdu Allah b. Mubārak was an early, pious Muslim known for his memory and zeal for knowledge, Muḥaddīth and was remembered for his asceticism. He earned the title Amīr al-Mū'minīn fī al-Ḥadīth.

20. Ibid. p. 42.

21. Al-Qarāfi, Aḥmad b. Idrīs Al-Furūq (Egypt: Maktabah wa Matba‘ah Muṣṭafā al-Bābī al-Ḥalabī wa Awlāduhu, 1360 A.H/ 1941 A.D) vol. 4, p. 89.

- Al-Majmū‘ Sharḥ al-Muhazzib, vol. 1, p. 45.

22. Al-Khaṭīb al-Baghdādī, Kitāb al-Faḥḥ al-Mutafaqqih (n.p, n.d) vol. 2, p. 157.

- Ibn al-Qayyim, I’lām al-Muwaqqi’in, p. 49.

23. Ibn al-Qayyim, I’lām al-Muwaqqi’in, p. 48.

24. Abū ‘Abd Allah Muḥammad b. ‘Alī b. Muḥammad b. ‘Arabī (1165-1240) known as Inb-e-‘Arabī, was an Andalusian Ṣūfī mystic, poet, and philosopher. He is renowned by some practitioners of Ṣūfīsm as "the greatest master" and also as a genuine saint.

25. Al-Shawkānī, Irshād al-Fuḥūl, pp. 233-235.

26. Abū al-Ḥasan ‘Alī b. Muḥammad b. Ḥabīb al-Māwardī (972-1058 A.H), was a Kurdish Islamic jurist of the Shāfi‘ī school most remembered for his works on religion, government, the caliphate, public and constitutional law during a time of political turmoil. Appointed as the chief judge over several Khurāsānī districts near Nishāpūr, and Baghdad itself, al-Māwardī also served as a diplomat for the Abbasid caliphs al-Qā‘im and al-Qādir in negotiations with the Buyid emirs. A symbol of his contributions here, he is well remembered for his treatise on "The Ordinances of Government." The Ordinances, Al-Aḥkām al-Sultāniyyah w'al-Wilāyatal-Dāniyyah, provide a detailed definition of the functions of caliphate government which, under the Buyids appeared to be rather indefinite and ambiguous.

27. Muqātil b. Sulaymān al-Balkhī (d. 767) was an 8th century Sunnī mufassir of the Qur’ān. Imām al-Shāfi‘ī declared that "People are all the children of Abū Ḥanīfah in fiqh, of Ibn Ishāq in history, of Imām Mālik in ḥadīth, and of Muqātil in tafsīr".

28. Al-Shawkānī, *Irshādal-Fuḥūl*, pp. 233-235.
29. Ibid.
30. Ibid.
 - Ibn al-Qayyim, *I'lāmal-Muwaqqi'in*, p. 48.
31. Abū'Abd Allah Muḥammad b. 'Umar b. al-Ḥusayn al-Taymī al-Bakrī al-Ṭabaristānī Fakhar al-Dīn al-Rāzī most commonly known as Fakhar al-Dīn al-Rāzī, was a Persian Sunnī theologian and philosopher who wrote in Arabic. He was born in 1149 in Ray (today, a southern suburb of Tehrān, Irān), and died in 1209 in Hīrāt (in today's Afghanistan). He also wrote on medicines, physics, astronomy, literature, history and law.
32. Al-Shawkānī, *Irshādal-Fuḥūl*, pp. 233-235.
33. Ibn Daqīq al-'Eīd (d.1302) was a Shāf'ī mujtahid imām, who was educated in Damascus, Alexandria and Egypt. Accounted as one of the greatest scholars in Islām in the fundamentals of law and belief, he wrote extensively in the areas of law, principles of jurisprudence, ḥadīth and tenets of faith.
34. Al-Shawkānī, *Irshādal-Fuḥūl*, pp. 233-235.
35. Ibid.
36. Ibid.
37. Ibid.
38. Ibid.
39. Ibid.
40. Zindīq is a medieval Islamic term applied by Muslims to individuals who are considered to hold views or follow practices that are contrary to central Islamic dogmas.
41. Ibn al-Qayyim, *I'lāmal-Muwaqqi'in*, vol. 4, pp 204-205.
42. Abū'Amr 'Uthmān b. 'Abd al-Raḥmān Ṣalāḥ al-Dīn al-Kurdī al-Shahrazūrī (577/643 A.H-1181/1245 A.D), commonly known as Ibn al-Ṣalāḥ, was a Sāfi'ī muḥaddith and the author of the seminal Introduction to the Science of Ḥadīth. He was originally from Sharazora place in sulaymāniyyah province in Irāq, was raised in Mūṣal and then resided in Damascus, where he died.
43. Ibn al-Ṣalāḥ, Abū'Amr 'Uthmān b. 'Abd al-Raḥmān, *Ādāb al-Muftīwa al-Mustaftī* (Beirūt: Mū'assasah al-Risālah, 11th Edition, 1421 A.H /2001 A.D) p. 115.
44. Abū'Abd Allah 'Ubayd Allah b. Muḥammad b. Baṭṭah al-'Ukbarī al-Ḥanbalī (304/387 A.H) known as Ibn-e-Baṭṭah, was a Ḥanbalī theologian and jurisconsult born at 'Ukbarah. He learned from a number of Ḥanbalī scholars of his time. Ibn Baṭṭah was severely attacked by Khaībal-Baghdādī, a former Ḥanbalī though he was defended by Ibn al-Jawzī who was much influenced by him.
45. Ibn al-Qayyim, *I'lāmal-Muwaqqi'in*, vol. 4, p. 153.
46. Al-Bazdawī, 'Alī b. Muḥammad, *Uṣūl al-Bazdawī* (Karāchī: Nūr Muḥammad Kārkhānah Tijārat-e-Kutub, n.d) vol. 4, p. 278.
 - Al-Tawḍīḥ, p. 382.

47. Al-Subkī, Tāj al-Dīn, Jām‘al-Jawāmi‘ (India: Dā‘irah al-Ma‘ārif al-‘Uthmāniyyah, 1411 A.H/1991 A.D) p. 260.

48. Imām Mawfiq al-Dīn ‘Abd Allah b. Aḥmad b. Qudāmah al-Maqdīsī (1147-1223) was a noted Ḥanbalī ascetic, jurisconsult and traditionalist theologian. He authored many treatises on jurisprudence and doctrine, including al-Mughnī as well as Taḥrīm al-Nazar. He was a member of the school founded by Aḥmad b. Ḥanbal, and is considered, along with Ibn Taymiyyah, as one of the two most significant proponents of Ḥanbalī’ism; in the modern era, adherents of the school often refer to the two as "the two shaykhs and Shaykhal-Islām.

49. Ibn Qudāmah, Abū Muḥammad ‘Abd Allah b. Aḥmad, Al-Mughnī (Cairo: Ḥajar Press, 1406 A.H/1986 A.D) vol. 2, p. 393.



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