



## Methodological Approach of *Fiqh* Academies towards Contemporary Islamic Financial Issues

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*Present study argues that contemporary fiqh academies have adopted an ease-based moderate approach to resolve the current financial issues within the framework of Sharī'ah. They played a vital role in development of Islamic Finance (IF) through an intricate expansion of Islamic legal principles pertaining to commercial laws. These academies operate as hubs of ijtihād institution. Their mode of ijtihād is collective or group ijtihād, in order to resolve contemporary fiqhi issues, and a considerable part of their resolutions consists of modern financial transactions. For the sake of resolving novel issues, Islamic legal interpretations of all the four schools of ahl-al-Sunnah, are deemed as common legal heritage, hence freely consulted without any bias to formulate new legal rules. However, many of the contemporary Muslim scholars criticized their methodological approach, mainly because they judge it as gross misapplication of the theories and principles of Islamic Law, thus leading to an abuse of legal diversity in fiqh discourse. The present research has undertaken an appraisal of methodology of some eminent pioneering fiqh academies of the world towards the development of IF industry through their fatāwa. The study concludes that these academies.*

### Introduction

Islam is not only a religion consisting of a set of beliefs rather it is revealed as a complete code of life (*dīn*). It provides directions and solutions for the issues arising at different times and spaces. However, it is also a matter of fact that the divine bulk of express commands provided

through Qur'ān and Prophetic Sunnah, is limited as compared to ever-growing novel issues. Hence, the institution of *ijtihād* has played a significant role to meet this gap, since centuries. In contemporary times, the *fiqh* academies are engaged in the noble mission of finding solutions of current legal issues. The contemporary Islamic Finance is also an upshot of various Islamic Legal Rulings (*Fatāwa*) of modern *fiqh* academies of the world. These academies are usually engaged in resolving novel *fiqhi* issues, in the light of Islamic legal rules and a considerable part of their resolutions consists of contemporary financial transactions. It goes without saying that these academies are operating as hubs of *ijtihād* institution for contemporary issues. However, many of the contemporary Muslim scholars criticized their methodological approach, mainly because they judge it as gross misapplication of the theories and principles of Islamic Law, thus leading to an abuse of legal diversity in *fiqh* discourse. In August 2008, a group of Pakistani scholars issued a “joint legal ruling”<sup>1</sup> against the validity of contemporary Islamic banking system. They substantiated their viewpoint with the following arguments:

Based on ground realities and the writings of Mufti Taqī Usmani, the ideal investment modes of Islamic finance are *mushārkah* (partnership) and *mudārbah* (entrepreneurship), by virtue of their fair participation in profit and loss. However, they are not duly practiced by the Islamic banks. On the other hand, these banks are employing the interest-based artifices (*hiyal*) in the name of *Murābahah* (Mark-up sale), *Ijārah* (Leasing) and *Musharkah Mutanaqisah* (Diminishing Partnership) The profits earned through such transactions are no different from “markup” of “Interest Free Banking” of 1981. Both of these returns are merely usurious in their nature, thus amounting to a heinous crime in the form of Islamic patching in conventional banking system Whereas Islamic banks regard it as milestone of their progress and are committed to follow and copy the conventional banks and to introduce similar banking products in the disguise of Islamic wrapping. In the light of *Qur'ān*, *Sunnah* and the deliberations of Muslim scholars, such type of banks can never be termed as Islamic or interest free banks.<sup>2</sup>

This strong criticism, it is significant to study the Islamic banking practices empirically, to sort out possible solutions for a state-of-the-art Islamic banking system. Though this empirical study is not a focus of the current research, it would rather focus upon appraising the underlying methodology of substantive rulings provided by *fiqh* academies to standardize the financial products and services. Mere criticism cannot

banish the factual underlying issues unless alternative solutions are charted out, for in the present world economies, the need for an organized financial intermediary system is indispensable. Present Islamic finance provides an alternate to interest-based systems of the world. It is a need of time to device alternate *Shari'ah* compliant products through Financial Engineering techniques, otherwise even the conscious segments of *ummah* would also be left to adopt the existing conventional banking system, eventually purely indulging in interest-based affairs.

Therefore, it is pertinent to analyze the rule deduction procedures of various eminent *fiqh* academies of the world. The present part will particularly focus upon those eminent *fiqh* academies and institutions, which has contributed in the development of Islamic Finance.

The last decades of the past century witnessed a rapid development in Islamic Financial sector, when Muslim countries made sincere efforts to abandon the conventional interest-based banking system and to substitute it with an Islamic banking system. Briefly stating the history of Islamic Finance, a few developments proved hallmark, such as, some individual efforts to develop an Islamic rural co-operative bank of West Pakistan in 1958. Likewise, the development of Mit-Ghamar Islamic Bank (1963) was another milestone in this field. Most significant achievement was the establishment of Islamic Development Bank (IDB) of Kingdom of Saudi Arabia (KSA) in 1975 under the auspices of Organization of Islamic Conferences (OIC), after realization of the needs of Islamic economies.<sup>3</sup> The industry is unique due to its all-time peculiar prerequisites for *Shari'ah* compliance, carried out through various *fatwa* boards of Islamic banks. Thus, it goes without saying, that the industry is greatly structured through the institution of *fatwa*, which has played a vital role in developing *Shari'ah* compliant financial products and services.<sup>4</sup> As far as their methodological approach is concerned, they have adopted an ease based moderate approach through the medium of collective *ijtihad*, to resolve the current issues faced by *ummah*. For the sake of resolving contemporary issues, Islamic legal interpretations of all the four schools of *ahl us Sunnah*, are deemed as common legal heritage, hence freely consulted without any bias to formulate new legal rules. However, many of the contemporary Muslim scholars have criticized this approach mainly because they judge it as gross misapplication of the theories and principles of Islamic Law, thus leading to an abuse of legal diversity in *fiqh* discourse. Thus, it is vital to analyze if the approach of these academies is

too lax to be attributed as an abuse of legal diversity, or whether they devise and follow norms of consistency while joining and merging opinions of several jurists? The present research has analyzed first, the working and role of two eminent *fiqh* academies of Saudi Arabia, which have provided intellectual base for the development of a financial industry compliant with *Sharī'ah* norms. Secondly, the paper also explores the methodological approach of these academies followed by some recommendations in its concluding para.

### **The Role & Working of the *Fiqh* Academies**

The *fiqh* academies of the world are involved in a vital mission of finding solutions for the contemporary *fiqhi* issues faced by *ummah*, in the light of Islamic legal norms and values. Indeed, these academies are operating as hubs of *ijtihādi* institution for resolving contemporary issues. Muslim World seeks their guidance for the resolution of their contemporary *fiqhi* issues ranging from their devotional matters (*ibadāt*) to rest of the legal questions related to all of the spheres of law (commercial, family matters, torts etc.) The role of these academies is undeniable in the development of Islamic Finance industry, too. Thus, in order to appraise the contemporary financial transactions, they provided several legal rulings, after a thorough process of academic discussions on different forums/seminars, ensuing in issuance of resolutions that are later either followed or adopted by Islamic Finance industry. This research has taken into consideration the role of two eminent *fiqh* academies of the Saudi Arabia namely, International Islamic *Fiqh* Academy of Jeddah and the *Fiqh* Academy of Makkah.

### ***International Islamic Fiqh Academy of Jeddah***

International Islamic *Fiqh* Academy of Jeddah was established under the patronage of Organization of Islamic Cooperation (OIC). The establishment proposal was presented by King Khalid ibn Abdul Aziz in January 1981 at a summit of OIC, held in Makkah al-Mukarramah and the same was adopted through its resolution number 3/8.<sup>5</sup> The meeting resolved to establish a body of Muslim jurists, '*Ulamā*' and scholars from all over the world including experts from various spheres of knowledge such as, anthropologist, educationists and economists. It was proposed that the said body of expertise would deliberate upon contemporary *fiqh* issues of the Muslim *ummah* and thereby finding Islamic legal rulings through the tool of *ijtihād*. Eventually in the coming year, the OIC approved the subject proposal to

form an International *Fiqh* Academy and in August 1982, the summit of Foreign Ministers of Islamic Countries, held in Nigeria, passed the statutes of the Academy. The inaugural meeting of the Academy was held in July 1983, in which those statutes were reviewed and finally approved *mutatis mutandis*, by the ministers of foreign affairs of Muslim States. Participants from all over the Muslim world attended that founding session, which concluded upon in the ceremonial establishment of the academy.

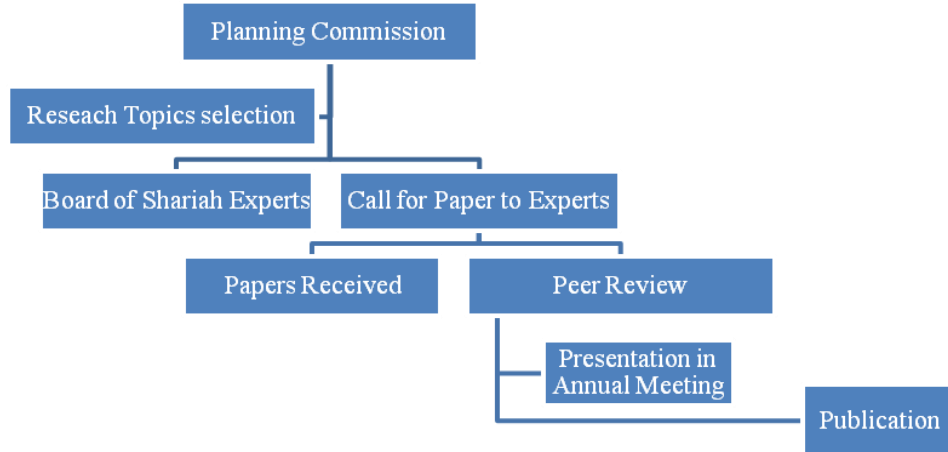
The organizational set up of the academy consists of:

- 1) A Secretary General, whose nomination is carried out through OIC Secretary General,
- 2) The Board of *Sharī'a* Experts, comprising of representatives from every Muslim state, who are nominated by their respective governments.

### *Procedure of the Academy*

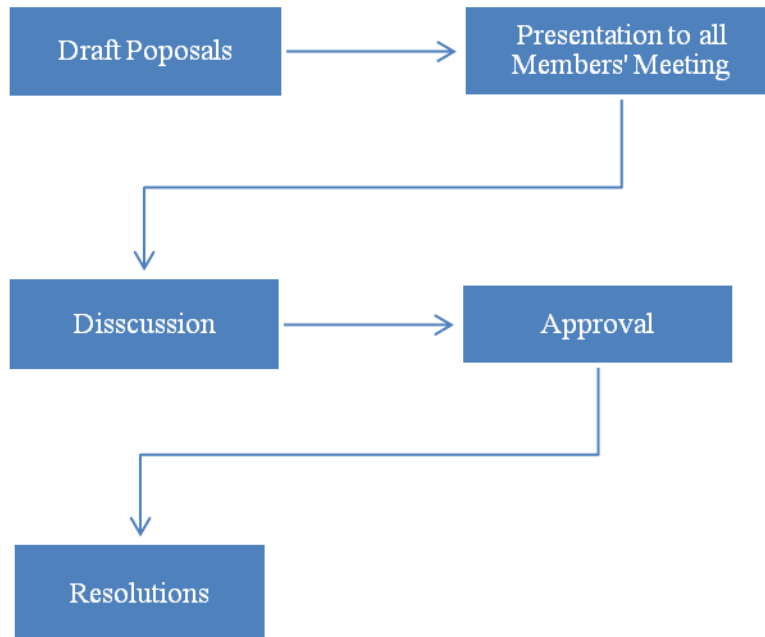
The Academy defined and adopted an explicit procedure to sort out the legal rulings upon contemporary *fiqhi* issues of *ummah*. Thus, for the sake of resolving such legal issues, certain methodical processes were prescribed.

At very first stage, the issues to be addressed are chosen by the Planning Commission of the Academy. These selected issues are then presented before the board members of the academy. Moreover, same issues are sent to eminent Islamic legal experts of the world as well, along with a call for writing research papers on them. The research papers contributed by these scholars are then circulated to all the members of the academy for peer review. In the annual meeting of the Academy, these papers are presented and spontaneously deliberated upon. The minutes of those sessions along with every detail of deliberations is recorded at full length and published as well later on. For every single topic, a drafting committee is formed to draft the proposed resolutions in the light of those discussions. Lastly, the draft proposal is once again presented before the meeting of all the members for a final discussion and approval.<sup>6</sup> So far, twenty-two annual sessions of the academy are held following aforementioned procedures.<sup>7</sup> Each annual session concludes upon certain resolutions including various topics which are recorded and published after every session in its annual journal.<sup>8</sup> This process may be described easily with the help of figures below.



**Figure 1: First Cycle of Process at *Fiqh* Academy**

Here starts the second cycle of this process.



**Figure 1: Second Cycle of Process at *Fiqh* Academy**

An English translation of its resolutions of eleven annual sessions (2-12) is also published by Islamic Research and Training Institute (IRTI) of IDB, entitled as, Resolutions and Recommendations of the Council of the Islamic *Fiqh* Academy 1985-2000. The details of all these resolutions are

accessible at the website of the Academy, as well. A few significant resolutions out of this august contribution, especially pertaining to Islamic Finance, may be exemplified here:

- 1) Lenders are obliged to pay *Zakāh* on debts, in case the borrower is solvent.<sup>9</sup>
- 2) Rulings pertaining to illegality of conventional insurance, in contrast with insurance contracts based on co-operation (*al-takāful*) (R. # 9(9/2));<sup>10</sup>
- 3) Declaration of prohibition on transactions with *ribā*-based banks including roll-over and stipulation of interest on loans, while permissibility to financing through trade-based deals. (10(10/2));<sup>11</sup>
- 4) *Sharī'a* Rulings on Paper Currency as real money, thus subject to the general rules pertaining to *ribā*, *zakāh* and *salam* etc. (R. # 21(9/3));<sup>12</sup>
- 5) A detailed ruling regarding *Muqāradah* Bonds and Investment Certificates, thus declaring them certificates that represent *mudārabah* capital, hence subject to all regulatory procedures of *mudārabah* contract as prescribed by *fiqh* writings. (30 (5/4));<sup>13</sup>
- 6) Legality Status of the banking product '*murābbah*' to the purchase orderer' and binding nature of promises in financial deals when the promisee incurs financial liability, owing to the promise of the promisor (R. # 40-41 (2/5 & 3/5)).<sup>14</sup>

Likewise, many other resolutions provide legal findings over financial issues, including but not limited to legal status of bonds, financial markets, Letter of Credit, and investment in companies, credit cards and lease ending in ownership contracts.

### ***Islamic Fiqh Academy of Makkah***

Islamic *fiqh* academy of Makkah is an educational organization that was established in 1964 as a permanent segment of Islamic World League (*rābitah al-ālam al-islāmi*), Makkah. The League soon after its establishment in 1962, realized that there is a need to launch an academic establishment for *ummah*, consisting of a core group of Muslim scholars and jurists bearing an ample perception of methods of *ijtihād*. The objectives of such an establishment would be to navigate the *ummah* in resolving their contemporary *fiqh* issues. Eventually for this purpose, a board of leading *muftis* and '*Ulamā*' of Muslim world, was constituted

under the chairmanship of Saudian grand Mufti, Sheikh Mohammad ibn Ibrahim. The rest of the members included, Abū al-Hassan Nadwī from India, Abū al-A‘lā Maudūdī from Pakistan, Mohammad ibn Alī al-Harakān and Abdul Aziz ibn Abdullah ibn Bāz from KSA, Mohammad Mehmūd al-Sawwāf from Iraq and Mohammad al-Fādal ibn ‘Āshūr from Tunisia.<sup>15</sup> The contributions of academy are several and diverse in solving the modern *fiqhi* issues, however, some of the landmark contributions regarding Islamic Finance Industry may be cited here:

- 1) The Academy after deliberating upon the issue of commercial insurance at length, concluded at prohibiting it in all its prevalent forms, due to the elements of *ribā*, *gharar* and gambling. It also urged the jurists to prepare working draft for co-operative insurance. (Resolution # 5 of First Session)<sup>16</sup>
- 2) Declaration of equivalence of paper currency with real money thus subjecting it to extensive rules of *ribā* etc. (Resolution # 6 of Fifth Session)<sup>17</sup>
- 3) Resolution regarding illegality of dealings at Stock Market due to the factors of *gharar* and *ribā* in it, with an urge to Governments of Muslims states to regulate the activity within the framework of *Sharī‘a*. (Resolution # 1 of Seventh Session)
- 4) After analyzing the contemporary practices of Islamic Banking Institutions, the academy issued rulings relating the permissible and prohibited kinds of credit sale. The issues included prohibition on discounting of commercial bills and their sale in secondary markets other than their face value, etc. (Resolutions of Sixteenth Session)<sup>18</sup>
- 5) Ruling condemning the views of those who consider banking *ribā* and fixation of *Mudāraba* fees for partner, as permitted due to its inevitable nature in banking sector. (Resolution # 5 of Tenth Session).<sup>19</sup>

Similarly, many other crucial rulings may be named, such as, prohibition of currency sale, earning through lottery, purchase of company and bank shares when their dealings are interest based. It is worthwhile noting that such intellectual database provided a great deal of assistance to Islamic Finance industry to initially engineer their products and services. However, the industry itself needs a lot more efforts to structure their products and services without violating the Islamic principles.



### **Methodological Approach of Academies of KSA**

In order to derive legal rulings, the subject *fiqh* academies have adopted specific deductive methodologies that are either expressly mentioned in their resolutions or may also be inferred from their rest of literature. It is plausible that they are cautious about the use of controversial tools to formulate legal rules, such as *talfiq* (a random pick and choose of opinions of various schools of thought) and *tatabbu' al-rukhas* (adoption of *fiqh* concessions).

#### ***Methodological Approach of the IFA, Jeddah***

In its first session (19-22 November 1984) the Academy, adopted certain significant recommendations about its working methodology to resolve the contemporary issues. Thus, it resolved to conduct fundamental researches upon such issues with the help of Islamic sources of law (*Qur'ān*, *Sunnah*, *Ijma'* and *Qiyās*), thereby heeding to attain recognized objectives of *Sharī'a*. The researches would be conducted through an ease-based approach with an objective to alleviate difficulty and hardship within the Islamic legal parameters. Moreover, it decided that the legal rulings would be deduced out of the doctrines of all the Islamic schools of thought; that would be necessarily derived from their originally recognized sources.

A specific methodology was required to be maintained in such researches and studies. Thus, it followed that their *ijtihad* would be based upon Islamic principles with an aim to preserve the objectives and interests of *Sharī'a*. Furthermore, in order to resolve the given legal issues, an approach of comparative *fiqh* would be applied. The researches would be required to portray, objectivity and impartiality. It committed to resolve the *fiqhi* differences with leniency and to adopt the view of majority jurists. For the sake of accuracy and precision, it stressed to derive the opinions from authentic sources of Islamic jurisprudence; and to adopt the most authentic *ahadīth*, meeting the standards of deduction.<sup>20</sup>

The above-mentioned criterion of the Academy assists in discovering its methodology to find solutions of contemporary issues. Thus, it has focused more upon finding solutions out of all the authentic sources of Islamic law, without discriminating the *fiqh* resources of any specific school of thought. Alongside it resolved to give prime importance to the facilitation of the stakeholders through fulfillment of objectives of *Sharī'a*. Thus, it may be inferred that whenever any issue is presented before the academy, it

will not only consider the *fiqh* resources of all schools of thought for solution, but will also facilitate the public, with an approach to attain *Sharī'ah* objectives.

On the issue of availing controversial methods like adoption of concessions and *talfīq* or random pick and choose of legal rulings, the academy concluded upon certain landmark recommendations. In its eighth session, held in Brunei Darussalam (21-27 June 1993), the Academy after thoroughly discussing the issue, resolved few important principles.<sup>21</sup>

First of all, it categorically differentiated between two apparently analogous concepts, i-e the “*Sharī'a* concessions” and “*fiqhi* concessions.” As far as, the former category is concerned, they are defined as such exceptional legal rules, which are provided by the Lawgiver (SWT), for any excuse to obviate the hardships of persons, while, the original rules remain operative as general law. There is no dispute amongst jurists on legality of adopting such concessions, provided there is some pressing need for their adoption; and which is sanctioned through the *Sharī'a* dictates.<sup>22</sup> For instance, the concessions granted to travelers to shorten the obligatory prayers;<sup>23</sup> or to break the fast due to sickness,<sup>24</sup> etc.

On the other hand, *fiqh* concessions are defined to be such derived rulings of various schools of thought which render a matter permissible, in contrast to rest of the opinions of other schools prohibiting the same. Adoption of juristic concessions means following their lenient most opinions within certain *Sharī'a* parameters. Thus, it resolved to adopt them in very special or exceptional circumstances qualifying *Sharī'a* acknowledged public interest, provided they are approved through the platform of collective *ijtihād* of competent scholars with good repute of piety and academic honesty. Whereas it has categorically condemned their use merely for the sake of one's whims and wishes, for it leads to a collapse of prescribed *Sharī'a* mandates. The academy further resolved to adopt them under following circumstances:

- 1) That the juristic views providing concessions are acknowledged by the *Sharī'a*, and they are not categorized as anomalous (*shāz*) views.
- 2) That there arises a genuine need to adopt such concession, in order to avoid undue hardship, whether such need is categorized as ‘general’, ‘specific’ or ‘individual’ need.
- 3) That the concession seeker should be either eligible to decide the

matter himself; or relies upon the words of any eligible person.

- 4) That adoption of concessions should not lead towards prohibited *talfiq*.
- 5) That adoption of such concession should not eventually become a mean towards an unlawful purpose.
- 6) That the one taking benefit of such concession should be satisfied.<sup>25</sup>

The notion of *talfiq* in following (*taqlīd*) various schools of thought has been defined by the academy as a situation whereby the follower carries out a compound matter, by combining various views of different jurists in such a manner which is not warranted by any one of those jurists. As per deliberations of the scholars on this issue, it was resolved that *talfiq* amounts to forbidden kind in the following circumstances, namely:

- 1) When the *fiqhi* concessions are adopted merely to satisfy one's own whims and wishes.
- 2) When it results in overriding court precedents.
- 3) When it leads to annul a previously adopted (by way of *taqlīd*) course of action.
- 4) When it results in violation of a consensus or its requirements.
- 5) When it leads to a joinder of compound set of rulings never approved by any of the jurists in its compound form.<sup>26</sup>

From the aforementioned resolutions, it may be deduced that the academy's approach is over careful in treatment of *talfiq* and adoption of concessions. Thus, it has elaborated sufficiently all the no go areas. Still adoption of concession is allowed in cases when it is carried out under the umbrella of collective *ijtihād* by competent Muslim jurists.

### ***Methodological Approach of IFA, Makkah***

The academy passed a resolution on the issue of *ijtihād* and emphasized its need in present era for the cases where no Texts are available. Moreover, it preferred the methodology of collective *ijtihād* by competent *mujtahids* as compared to individual efforts. For the sake of proper orientation, the present day *ijtihādi* efforts required to get benefit from the methodologies of early jurists, for their academic works are the great heritage and provide a great deal of precedents to be followed in later cases. (Resolution No. 3

of Eighth Session)<sup>27</sup> A thorough appraisal of the discussions and deliberations, of Islamic *Fiqh* Academy highlights that it has adopted a cosmopolitan methodology of deductive reasoning for legal rules. It can be deduced from the resolutions passed by it that no particular school of thought has been followed in strict sense. Though its members belong to various schools of thought, yet it is quite positive that they are fully benefiting from the legal opinions of all schools of thought. By this way, a new concordant *fiqh* is developing, which may be termed as “cosmopolitan *fiqh*” (a *fiqh* based on the combination of views of several schools of thought).<sup>28</sup>

It is also worth mentioning here that Islamic *Fiqh* Academy has fully benefited from the divergent views of Muslim jurists. In one of its resolutions on juristic differences amongst different schools of thought and the present preconception of their some of the followers, the Academy distinguished between “juristic differences” and that of “sectarian differences.” It denounced the later kind of differences, which are devastating the unity of Muslim *ummah*. On the other hand, juristic differences are a sign of development and progress for *ummah*. The Academy expressed its deliberations in following words:

These differences extend the scope of deductive reasoning of legal rules from the Text (*Qur’ān & Sunnah*). Owing to these differences Islamic Law is developing tremendously, consequently it has yielded easiness and broadness of vision to Muslim *Ummah* about its faith and *Sharī’a*. Moreover, Muslim *Ummah* is no more perplexed into the legal solutions of particular issues, so that they may not find a way out. On the other hand, the adversities and hardships of one school of thought can be substituted by the relaxations and easiness of other schools of thought. This relaxation is applicable to all the cases of rituals, family matters, civil and criminal issues etc. These juristic differences are not the shortcomings or contrary to the injunctions of our religion. In fact, difference of opinion in *Sharī’a* rulings is a natural phenomenon, for the Texts in majority cases imply more than one connotation. Furthermore, these Texts do not encompass all the anticipated events. According to some jurists, Texts are finite while issues are infinite, therefore it is incumbent to find the legal solution for new events in the light of Analogy (*Qiyās*), effective causes of existing rulings (*‘illal al ahkām*), the intention of the Lawgiver and the general objectives of *Sharī’a* (*maqāsid al-Sharī’a*). While applying and interpreting a prospective *Sharī’a* principle, it is quite normal to find diverse rulings, because of the variant priorities and understandings of various jurists.

Therefore, the opinions of different jurists differ on same issues, though everyone strives to explore the truth. In this endeavor, whosoever reaches a rightful deduction through his *ijtihad*, he gets entitled to a twofold reward. Besides this, the one who makes mistake in legal deductive ruling, he too is entitled for a single reward from Almighty Allah (SWT).<sup>29</sup>

Thus, it may be inferred from these deliberations that the Academy is inclined to take benefit from the doctrines of every school of thought in a liberal way, with an intention to facilitate the people, which may be termed as eclecticism (*takhayyur*). However, there is need to declare it expressly that while performing the task of *ijtihad* the random joinder of opinions shall be avoided, in order to maintain the true spirit of *Shari'a*.

## Conclusion

The *fiqh* academies are providing a juristic unity and coherent guidance to *ummah*. With the demise of Ottoman caliphate, *ummah* witnessed the demise of a formal institute to consult regarding the contemporary issue. The novel issues rising due to contemporary developments and the rise of technology giving birth to several new questions. All these questions need authentic and *shari'a* compliant answers. These academies fill that gap and avoid a perplexed approach. Moreover, a prevalent evil is baseless and arbitrary approach to legal issues and opinions. This not only causes chaos in Muslim world but disturbs and hurts their religious sentiments, as well. One of the major objectives for establishing these academies was to provide solutions to contemporary legal issues in light of Islamic legal system. If we review the horizon and scope of the juristic opinions issued by these academies, it becomes evident that their establishing goal is achieved to some extent. Several publications, research conferences and many resolutions directly address the contemporary issues of all domains of law. The contributions of *fiqh* academies of KSA in the field of Islamic Finance industry are remarkable and their methodologies to approve or disapprove current transactions carry the element of cautiousness. They have well benefited from adaptable character of Islamic Law, for modern developments, so far as it does not contradict the prohibitory law of transactions. Contemporary issues need to be resolved through the exercise of *ijtihad*, more preferably conducted as group assignments termed as collective *ijtihad*. The *Fiqh* Academies of KSA are performing the task of collective *ijtihad*, with the help of their qualified scholars.

These academies are bound to adopt the methodology incumbent for qualified *muftis*, in resolving the contemporary issues. Thus, keeping into consideration the overriding needs of society, interest of generality of public and to redress the harm, the comparative *fiqh* methodologies may be adopted by them in a restricted fashion. However, they are bound to avoid synthesizing of their legal opinion through forbidden kind of *talfiq* and adoption of rare opinions of various schools of thought.

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## Notes and References

<sup>1</sup> The so-called joint *fatwa* was published in “*the Daily Jang*,” on 29th. August 2008. However, was refuted by another group of eminent ‘*Ulamā*’ of Pakistan, who issued a disclaimer *fatwa* contending that above mentioned *fatwa* is neither agreed upon, nor commendable, for there exists an incontrovertible, years long research behind Islamic banking products.

<sup>2</sup> Rifaqa Dār al-Ifta’, *Murawwija Islāmi Benkāri-Tajziyāti Mutāli‘ā, Shar‘ī Jā’iza, Fiqhi Naqd-o-Tabsira*, (Karachi: Maktabah Bayyināt Banauri Town, 2008) p. 79-80.

<sup>3</sup> Rodney Wilson, “The Evolution of Islamic Financial System,” in *Islamic Finance: Innovation and Growth*, ed. Simon Archer and Rifaat Ahmed Abdel-Karim (London: Euromoney Books and AAOIFI, 2002), 29–40.

<sup>4</sup> Mahmoud A. Al-Gamal, *Islamic Finance: Law, Economics and Practice* (New York: Cambridge University Press, 2006), 30.

<sup>5</sup> Islamic Fiqh Academy, “Resolutions of Third Islamic Summit: Pertaining to Inauguration of Islamic Fiqh Academy,” *Mejellah Majma al-Fiqh al-Islami* (Jeddah: Al-Maktabah Al-Shāmilah, 1981), 26/1.

<sup>6</sup> Mufti Taqī Usmani, “Islamic Fiqh Academy: Deliberations of the 97 Meeting,” *Albalagh*. n.d. <https://www.albalagh.net/qa/ifa.shtml> (accessed September, 2017).

<sup>7</sup> Majma‘ al-Fiqh al-Islami al-Duwali. Qarārāt. <http://www.iifa-aifi.org/cs> (accessed September 24, 2017).

<sup>8</sup> *Mejellah Majma‘ al-Fiqh al-Islami* published through OIC.

<sup>9</sup> Islamic Research & Training Institute (IDB), “Resolution No. 1(1/2): Concerning *Zakāh* on Debts,” *Resolutions & Recommendations of the Council of Islamic Fiqh Academy 1985-2000*, (Jeddah: IDB, 2000), 3.

<sup>10</sup> IRTI, Concerning Insurance and Reinsurance, 13.

<sup>11</sup> IRTI, Concerning Transactions with Banks Dealing with Interest, 15.

<sup>12</sup> IRTI, Concerning *Sharī‘a* Rules Governing Paper Currency, 34.

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<sup>13</sup> IRTI, Concerning Muqāradha Bonds and Investment Certificates, 61.

<sup>14</sup> IRTI, Concerning Discharging of Promise and Murābha, 86.

<sup>15</sup> Rabitah al-‘Alam al-Islami, Al-Ta’rīf bi al-Majma‘ al Fiqhi al-Islami bi Makkah al-Mukarramah, 3rd. Edn. (Makkah al-Mukarramah: Rabitah al-‘Alam al-Islami, 2006), 11.

<sup>16</sup> Muslim World League, Resolutions of Islamic *Fiqh* Council-First Session 1398H (Corresponding 1978) <http://en.themwl.org/2012/05/06/resolutions-of-islamic-fiqh-council-first-session-1398h>

<sup>17</sup> League, <http://en.themwl.org/2012/05/09/resolutions-of-the-islamic-fiqh-council-fifth-session-1402h>

<sup>18</sup> League, <http://en.themwl.org/2012/05/23/resolutions-of-the-islamic-fiqh-council-16th-session-1422h>.

<sup>19</sup> League, <http://en.themwl.org/2012/05/19/resolutions-of-the-islamic-fiqh-council-tenth-session-1408h>.

<sup>20</sup> Majma‘ al-Fiqh al-Islami al-Duwali, Qarār Raqam 1, <http://www.iifa-aifi.org/1495.html>

<sup>21</sup> Islamic Research & Training Institute (IDB), “Resolution No. 70/1/8: Concerning Exemptions: Its Applicability and Rules,” *Resolutions & Recommendations of the Council of Islamic Fiqh Academy 1985-2000*, (Jeddah: IDB, 2000), 151.

<sup>22</sup> IRTI, Resolution #: 70/1/8(1)

<sup>23</sup> Quran 4:101

<sup>24</sup> Quran 2:184

<sup>25</sup> IRTI, Resolution # 70/1/8, 152

<sup>26</sup> IRTI, Resolution # 70/1/8, 152-153.

<sup>27</sup> League, <http://en.themwl.org/2012/05/16/resolutions-of-the-islamic-fiqh-council-eighth-session-1405h>.

<sup>28</sup> Altaf Hussein, “Al-Majma‘ al-Fiqh al-Islāmi.” *Ijtimā‘ī Ijtihād-Tasawwur, Irtiqā‘ aur ‘Amālī Sūratein* (Islamabad: Islamic Research Institute, 2007), 367-416.

<sup>29</sup> Al-Majma‘ al-Fiqhi al-Islami, “Resolution 9/10 Session (1987): Concerning Fiqh Differences of Various Schools of Thought and the Prejudice of some of their Followers,” *Qarart al Majma‘ al-Fiqhi al Islami bi Makkah al-Mukarramah* (Makkah: Al-Majma‘ al-Fiqhi al-Islami, 2004).

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