

## IJTIHAD AND ITS APPLICATION IN PAKISTAN

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### ABSTRACT

The purpose of this study has been to discuss Ijtihad in its traditional Islamic law sense and its application by the superior courts and the legislature of Pakistan. In our conclusion we have taken an analytical survey focussed on the capabilities of the judges and members of the National and Provincial Assemblies. Finally, the conclusion also makes it clear that although the door of Ijtihad is still open to the Muslim community, but its validity depends upon the fact as to how far the requirements regarding the exercise of Ijtihad have been met.

### INTRODUCTION

The phenomenon of Ijtihad is not new because it is widely, though verily, taken up by the researchers. The matter seems straightforward but it is not as simple and encircles some of the aspects which create dubiety. Especially, if it is applied in a country like Pakistan where Islamization is in process. It is pinpointed that the superior courts of Pakistan have given numerous verdicts based on their own Ijtihad whereas the principle of Ijtihad necessitates specific characteristics for the Mujtahids and the process itself requires some formalities to make the decision viable in the eyes of Islamic Law. Most of the researches have been undertaken by not taking into consideration the above points and this academic work illuminates the said points to keep the discussion in lines with the practicability of the phenomenon. Obviously, the other researchers may find a lead to do further work in some other context. We are not concerned here to account for the general Islamic Law. But, apart from some cursory references the main emphasis is on Ijtihad exercised by the Superior Courts of Pakistan. Likewise, the issue is discussed in the purview of court cases depicted in various law reports.

Ijtihad (interpretation) in the linguistic sense means the expending of effort and the exhaustion of all power. As a technical term it is taken to mean the expenditure in seeking and