

Ijma (Consensus)

4th = Ijtihad
5th = Qiyas

Introduction:-

Ijma (consensus) is the third source of law. It means determination or consensus. The society which was established by the Holy Quran and Sunnah is a living society, so the Allah Almighty gave sanction to the consensus of the Muslims to meet the arising needs of the time.

(Sura-al-Nisa : 59) يَا أَيُّهَا الَّذِينَ آمَنُوا اطِيعُوا اللَّهَ وَاطِيعُوا الرَّسُولَ

"O you who have believed to faith, pay heed unto Allah, and pay heed unto the Apostle"

Literal meaning of Ijma

The literal meaning of the word Ijma (consensus) is 'to resolve firmly to do something'

Ijma and 8th Abu's Raman

"Ijma is defined as agreement of the jurists among the followers of Muhammad in a particular age on a question of law."

Ijma according to Hanafi legal theorist Abd Al Wahhab Khalaf

The popular 20th century Hanafi legal theorist Abd Al Wahhab Khalaf says

Thaw' it is agreement of all the ^{majorities} of the Muslims in a particular age coming after the death of the Messenger upon a scriptural ruling regarding a particular occurrence.

Ijma according to Holy Quran:

As for Quranic proof, it is Allah's saying in Surat-al-Nisa "whoever disputes with the Messenger after guidance has become clear to him and then follows other than the way of the believers, we shall leave him in the path he has chosen and chance into Hell."

Younes
urak

ثم جعلناك خليفا في الارض من بعد نبينا كيف تعلمون (٩)

"And thereupon we made you their successor on earth, so that we might behold how you act."

Ijma according to Sunnah/Hadith

Ijma also defined in Hadith in such a way Thaw' "My followers will never agree upon what is wrong"

On other Hadith it is said Thaw'.

"it is incumbent upon you to follow the most numerous body"

It is further said Thaw'.

"whoever separates himself from

the main body) will go to hell"

Kinds of ijma:

There are two kinds of ijma

i) Explicit ijma or ijma sawli

Explicit ijma is one in which the legal opinions of all the jurists of one period coverage in relation to a legal issue, and each of ^{jurist} states his opinion explicitly.

a) it may take place when an issue is raised in a certain period and all the jurists in turn issue similar fatwas independently and at separate times.

b) it may take place when all jurists gathered in a session and issue is presented to them and collectively express an unanimous opinion.

ii) Tacit ijma or ijma sukuti

Tacit ijma takes place when some mujahid issue a verdict on a legal issue and rest of the mujahids come to know of it during the same period but they keep silent, neither acknowledge it nor refuse it.

Types of ijma

There are five types of ijma

i) Regular ijma: in this kind, the

Jurists express their opinion by words or deeds

ii) *Ijma' al-Furqa*: In this kind the particular opinion is expressed and the other jurists don't contradict it within (three days).

iii) *Ijma-ul-Umma*: The companion used to be unanimous in their opinions. It was the most superior kind of *Ijma*.

iv) *Ijma-ul-Ulema*: It's consensus of the learned people only.

v) *Ijma-i-Madina*: This was *Ijma* by the learned people who used to reside in Madina.

which one *Mustahid* can perform *Ijma*:

Only muslim *Mujahids* or jurists can perform *Ijma*. He must possess the following qualification.

- i) He must be sound mind.
- ii) He must be man of thorough judgement and must have capability of making logical deduction.
- iii) He must have thorough knowledge.
- iv) He must have thorough knowledge.

of Nashr principles:

- v) He should be expert in Arabic language.
- vi) Well versed with up to date knowledge.
- vii) He must know Qiyas.
- viii) Conversant with the science of Usul and Fiqh.
- ix) Competent to expound law.
- x) He must have impartial thinking.
He must have knowledge of Quran and Sunnah, Islamic law, jurisprudence and rules and methods of analogical deduction.
According to accepted doctrine of four Sunni schools, there must be unanimous decisions in the formed assembly of jurists. (Fiqh)
- i) Shafi school and concept of Ijma:
They recognize the consensus or agreement of opinion of the whole Ummah. For instance Ijma-al-ummah.
- ii) Shafi school and concept of Ijma:
They hold that the only binding Ijma is that done by Ahal-i-Bayt thus recognize Ijma Ahal-i-Bayt.
- iii) Maliki school and concept of Ijma:
They recognize the Ijma of companions and their successors living in Madina without reference to the opinions of others. Thus they recognize Ijma Madina.

iv) Hanbali / Hanbali School and concept ijma
They recognize the ijma of companions
and their successor but they also recognize
ijma by jurists of Modern Age. For instance
ijma al-Sakaba and al-Mutahidin.
According to Hanafi School; conditions
to fulfil/valid the binding of ijma

i) ijma by Mujtahid's:

The ijma must be performed by
Mujtahid's such that those who have attained
status of Ijtihad.

ii) Emphasize unanimous opinion

There must be unanimous opinion among
all mujtahid's upon a Mukam Shari.

iii) Muslims perform ijma

All the jurists participating in ijma
must be from Ummah of Hazrat
Muhammed (P.B.U.H).

iv) After death of Holy prophet (P.B.U.H)

After death of Holy prophet (P.B.U.H)
ijma would must have taken place.

v) in a determined period of performance:

The ijma must be performed by
jurists of single determined period
such that of the same generation.

vi) ijma on/upon Rule of Law:

The ijma must be upon Rule of Law

and all non-legal matters are extended from the domain of Ijma.

vii) Reliance upon sanad (Evidence)
For deriving their opinions; Mujtahids should relied upon some sanad (evidence)

viii) Expression of Text
Ijma should be based on an express text of the Quran or tradition of a continuous or well known character.

ix) Jurist, Companion and constitution:
no companion should be differed. no jurist should have changed his mind later on. it must be regularly constituted.

x) decision making base on:
The decision must be as being either universally known or at least well-known.

Ijma as a source of law
Ijma is third source of law under the circle of Quran and Sunnah's delegation many issues can be resolved by Ijma.

a) Enforcement of ordains of Quran & Sunnah
Ijma is source of law. it helps discovering the law and enforces the principles laid down in Quran and Sunnah.

b) interpretation of Sharia.

Ijmas helps in interpretation of Shariat according to changing needs of time.

(b) New legislation can be made

To achieve the objects of Quran and Sunnah, new legislation can be made through process of Ijma.

(c) First Ijma performed by muslim.

The election of Hazrat Abu Bakr to the caliphate by the vote of people was based on Ijma.

Ijma and modern concept

According to accepted opinions of all four Sunni schools, Ijma is not confined to any particular age or country. The underlying principle of Ijma is that if principles and rules upheld collectively by the highest legal forum in the land, then such principle must be followed by those subordinate to this forum. In the earlier days, this forum was composed of just companions then leading jurists of school. Today it would be highest court in each muslim country.

Modern procedure of Ijma

Uthra'ad is type of Ijma. Modern

procedures can be used for *ijtihad* can be used for *ijma* only.

i) parliament as *ijtihad* legislative body (by Iqbal)

ii) world Islamic *ijtihad* council (by Dr Hamidullah)

iii) A academy of Islamic jurisprudence (by international Islamic collegium)

iv) Codification of opinions adaptable to contemporary conditions of life.

Ijma and western concept of *prudentium* "opinion *prudentium*" which means the opinions and decisions of lawyers is parallel concept of *ijma* in the western society. However concept of *ijma* has wider scope than opinion *prudentium* which is known as *propona prudentium*.

Conclusion: (By Dr Mulemmad Allame Iqbal)

He in his book "Reconstruction of religious thought in Islam" are that the principle of *ijma* should be applied and that the power of *ijtihad* should reside not on individual but in a body of learned muslim scholars of advanced view who may interpret the law in the light of modern legal