

The Meaning of *Ijmā'*

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Ijmā' literally means setting or collecting.¹ Technically it means consensus of jurists (*fuqahā*) or a community over a particular matter. Islam provides this institution to perform indispensable function in consolidation and stabilisation of structure of Islam. In Islamic epistemology *Shari'ah* provides a doctrine that where there is no clear text (*nass*) of the Qur'an or an authentic saying, decision or action of the Prophet (صلى الله عليه وسلم), Muslim society is ordained to join for consensus in the community on the given issue.²

In the structure of Islamic law *ijmā'* is regarded as the third source and it requires consultation, discussion, dialogues, debates, and conversation among the jurists on different arising issues of Muslim community, before arriving at a conclusion. In the Holy Qur'an Muslim community is ordained to join for mutual consultation in deciding their matters. Allah (swt) says in this verse:

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَىٰ بَيْنِهِمْ

“Those who respond to their Lord and establish regular prayer and who conduct their affairs by mutual consultation”³

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The above verse defines the characteristics of those who wish to serve Allah (swt) and one of the essential characteristic of a true Muslim who want to respond to the call of Lord is that he must practice consultation. It is their quality and they did not refrain from the community. In this verse term *Shura* (consultation) is the key word that inspires Muslim to perform their responsibilities in the society.

The Holy Prophet (صلى الله عليه وسلم) is also said to have encouraged *ijmā'* by his words and deeds. In a Tradition He is reported to have said:

يدالله على الجماعة

“The Hand of God is over the community”⁴

The above Tradition depicts the efficacy of the community and Allah’s will to it. The Holy Prophet (صلى الله عليه وسلم) used to consult the *sahabah* and *sahabiyāt* (R.A.) at various occasions and considered their opinions. In an other Tradition Prophet (صلى الله عليه وسلم) is reported to have said:

لا تجتمع امتي على الضلالة

“My people will never agree on falsehood”⁵

In this Tradition Prophet (صلى الله عليه وسلم) has obviously substantiated *ijmā'*. To encourage this institution and to resolve the issue at different occasions he called his Companions (R.A.) and decide the matters accordingly. At the time of battle of *Badr*⁶, the call to prayer (*Adhān*) or deleting the name of Prophet (صلى الله عليه وسلم) while signing the treaty of *Hudaibiyah*, and digging of *khandaq* (ditch) indicates the use of consultation as an institution by the messenger of Allah (swt).

During the times of *Khulfa-i-Rashidīn ijmā'* was frequent. The Companions (R.A.) used to sit together and had consultation to manage their decisions in the public meetings. This institution was further appraised till it emerged as a separate institution in Islam. The institution was named as *majlis-i-shurā* in the history of Islam. In an other incident it is

also reported that Hadrat 'Umar (R.A.) while discussing the issue of punishment of a theft, consulted the *sahabah* (Companions) on cutting hand of thief if he commits theft for the first time and his foot if he commits it second time and if he repeats it then put him in prison. On this decisions all *sahabah* (Companions) agreed.⁷

After demise of the Prophet (صلى الله عليه وسلم) *ijma'* emerged as a special institution. In the history of Islam *saqifah bani saidah* was the first seat of *ijma'* where the question of *khilafah* was jointly discussed and decided through consensus of the *sahaba* (R.A.).⁸

Abu Hanifah (d. 150 A.H.) and his pupil have written considerably on the need and justification of *ijma'*. The Hanfi scholars justify the authenticity of *ijmā'* on the basis of this Tradition:

واراه المسلمون حسناً فهو عند الله حسن

"Whatever the believes considered good is good in the eyes of God and whatever they considered evil is evil in his eyes"⁹

Imam Abu Hanifah was the first jurist who assembled *fuqaha* and framed an assembly to hold debates and discussions on legal issues and Abu Hanifah (R.A.) used to declared his decision after arriving at a conclusion. Whereas Imam al-Shafi'i, the founder of third school of Islamic law, accepts *ijmā'* as a legal doctrine and source of fiqh. In his famous treatise *Al-Risalah*¹⁰ he supported his statement by the following Tradition of the Prophet (صلى الله عليه وسلم).

"Three things on which the heart of a Muslim will not be stingy; sincerity of action to seek the pleasure of God, well wishing of authorities, and adherence to the community, their call encompasses them from behind."¹¹

In this Tradition Imam al-Shafi'i says that it is only a Muslim adherence to the call of community that binds him in *ummah*. He further cited this verse of the Holy Qur'an:

وَيَتَّبِعْ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ تُولَّاهُ مَا تَوَلَّى وَنُصَلِّهِ
 جَهَنَّمَ وَسَاءَتْ مَصِيرًا

"If anyone contends with the messenger even after guidance has been plainly conveyed to him and follows a path other than that becoming a man of faith, We shall leave him in hell, what an evil refuge"¹²

The classical jurists have also discussed *ijma'* and have considerably written on it. Al-Gazali has suggested the appellation of *ahl al-hal wal 'aqd* (اهل الحل والعقد) for *mujahid* (the persons capable to hold consensus or to exercise *ijtihad*). Another classical jurist al-Badawi says, "One who rejects the doctrine of *ijma'*, rejects the religion at large."¹³ Whereas another scholar Abd al Malik al-Juwayni (d. 478 A.H.) views *ijma'* as the strap and support of the *Shari'ah*. Al-Juwayni considered *ijma'* as an aid to solve the legal issues and its authority is provided by the Qur'an and Hadith.

The jurists hold the *ijma'* is a sign and indication of the existence of authority from the Qur'an or Hadith but majority of the jurists are of the view that *ijma'* must carry with it the same authority from the Qur'an and Sunnah because it is not permissible to legislate without reference to the *shari'ah*. The jurists did not offer all the reigns to the authority of *ijma'* so they recognise it as the third source of law. The same view is stated by Shah Waliullah as:

"When the jurists are unanimous on a certain point of law, they forget about the source thereof and due to the significance of *ijma'* thereon, the incentive to quote the authority also weakens. This is the state of affairs in most of the *ijma'* matters therefore the doctors of jurisprudence were compelled to recognise *ijma'* as the third source."¹⁴

Ijmā' or the agreement of jurist along with reasoning, *qiyās* (analogy), *istihsān*, *istidlāl*, certainly has a place and role to play in Islamic society. According to Dr. Allama Iqbal *ijmā'* performs two functions; first is discovering the law and the second is implementing the law. To him *ijma'* is the only institution helpful in reconstruction the thought of Islam but the authority of *ijmā'* and *ijtihad* should not be given to every individual and the authorities should be within the hands of group of *muftis* and scholars. *Ijmā'* is null and void if any rule may be framed outside the limits of *Shari'ah*. *Ijmā'* is a process of consultation on a particular issue without detracting from fundamental principles of Islam.

References and Notes:

1. Hasan Ahmad, *The Early Development of Islamic Jurisprudence*, Adam Pub., Delhi, p. 165.
2. Ausaf Ali, "The Philosophy and Methodology of Islamic Social Sciences", *Hamdard Islamicus*, Vol. XVI, No. 3, 1992.
3. Al-Qur'an, Sura al-Shura':38.
4. *Mishkat-ul-Masabih*, Trans. by Abdul Hameed Siddiqui, Babal-Jammah, Kitab Bhawan, 1986, Delhi.
5. Sunan ibn Majah, (tr. Imam Hafiz Muhammad bin Yazid) *Abwab al-Fitan*, tr. No. 1749, Itiqad pub., Delhi, 1986, pp. 472.
6. *Sahih Muslim*, V. III, B. Kitab al-Jihad wal Siyar, tr. Ab. Hamid Siddiui, 1977, p. 961.
7. Hasan Ahmad, *The Early Development of Islamic Jurisprudence*, Adam Pub. Delhi, 1994, p. 65.
8. *Ibid.*
9. Al-Shaybani's *al-Muwatta*, Lucknow, Mutabah Yusufi, tr. 1925, pp. 111-12, the tradition goes: if your leaders are good governors and your affairs are settled by mutual consultation the surface of the earth is better than its bottom. (See also Al Tirmidhi, *al- Jami*, *Abwab al-Fitan*, tr. 78)
10. *Al-Risalah* means an epistle and is the first book on principles of Islamic jurisprudence. Compiled by Imam Shafi'i, M. Khadduri trans. *Shafi'i's Risalah* MS Baltimore, 1961, *Jamia Hamdard*, Delhi, p. 202.
11. Khadduri M. *Al-Shafi'i's Al-Risalah*, Baltimore MS, *Jamia Hamdard*, Delhi, 1964, p. 479.
12. Al-Qur'an, Surah Al-Nisa:115.
13. Al-Juwayni, *Al-Burhan Fi-Usul al Fiqh*, MS 714, Usul Daral-Kutub-al Missirya, Cairo folio 192 Vide; Hasan Ahmad, *The Doctrine of Ijma' in Islam*, Kitab Bhawan Delhi, 1992, pp. 17-18.
14. Dr. Riyazul Hasan Gilani, *The Reconstruction of Legal Thought in Islam*, Markazi Maktaba Islamic, Delhi, 1982, p. 103.