

The Ijma (Consensus of Legal Opinion)

Ijma is one of the unanimously agreed sources and considered as the powerful primary source of Islamic law.

Literature Meaning

The literal meaning of Ijma, Unanimous and Unified.

It is used in the Quran for two meanings: The one is determination and solution. The Quran states:

فَاجْعِلُوا أَمْرَكُمْ وَشُرَكَاءَ كُمْ .

“Determine your plan and among your partners gives the meaning of deciding or determining the matter.”

The second meaning for which the word used is the Qur'an is agreement upon a matter. It is said:

اجْمَعَ الْقَوْمُ عَلَىٰ كَذَا

“the people agreed upon such and such matter.”

The difference between these two meanings is that Ijma‘, “in the first meaning, is possible from one person, but in the second it requires two or more person”

Technical Definition

Technically or legally the term Ijma‘ is defined as:

اتفاق المجتهدين من امة محمد صلى الله عليه وآلها وسلم
بعد وفاته في عصر من اعصور على حكم شرعى

“The consensus of mujtahids (independent jurists) from the Umma of Muhammad (upon whom be peace and greetings), after his death, in a determined period upon a rule of Islamic law (hukm Shari‘a).”²

¹ Yūnus, 10:71

² al-Rāzī, al-Maḥsūl, Vol.4, p.35

The Authenticity of Ijma‘ from the Qur’ān

وَمَنْ يُشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعُ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ نُوَلِّهُ مَا تَوَلََّ وَنُصْلِهُ جَهَنَّمَ وَسَاءِثٌ مَصِيرًا³

“But whoever opposes the Messenger after the path of guidance has become clear to him, and follows the path other than that of the believers, We shall keep him in the same (state of disorientation) he has (himself) turned to, and shall (eventually) cast him into Hell and that is an evil dwelling.”

This verse presented as the argument for the consensus of Muslim jurists in any matter. Allah is promising hell and worst ending to those who follow a different way from the way of the believers. Their way of the believers can be determined by explicit or unanimous Ijtihad. So the consensus after Ijtihad is the true path to be followed by the Muslim believers.

Arguments from the Sunna

Prophet (upon whom be peace and greetings) stated:

إِنَّ أُمَّتِي لَا تَجْتَمِعُ عَلَىٰ ضَلَالٍ،

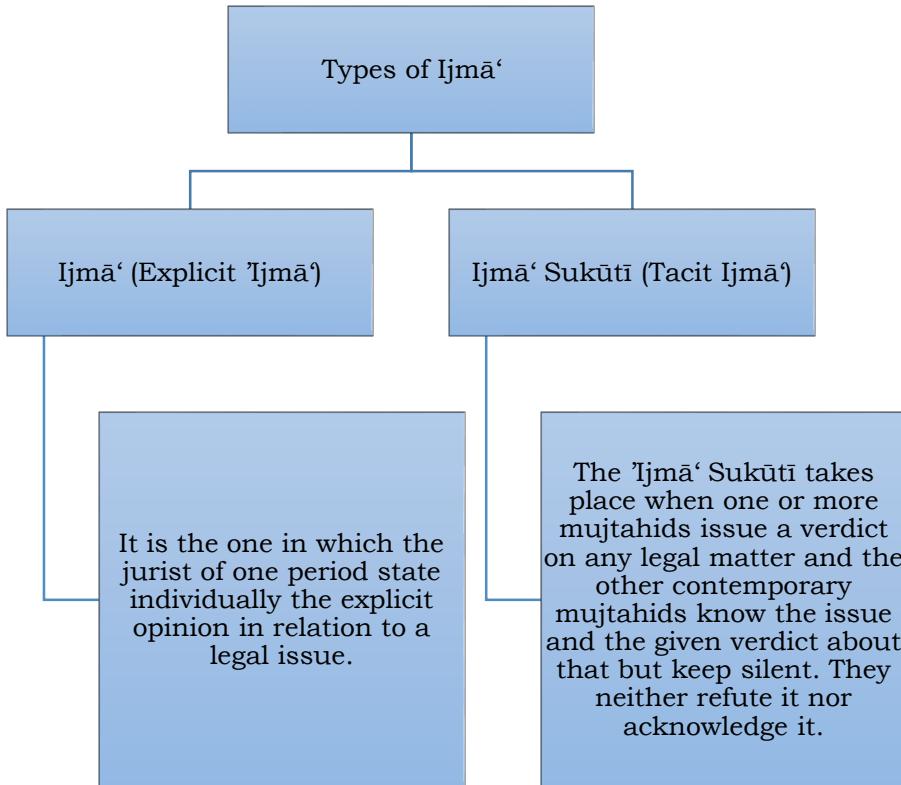
“My Umma will not collectively agree upon an error, the hands of Allah’s assistance will remain on jamat and the one who slips away will slip towards hell.”⁴

Types of Ijma‘

The Ijma‘ is divided into two types: The one is Ijma‘ Sarīḥ or Ijma‘ Qawlī and the other one is Ijma‘ sukūtī/ tacit Ijma‘.

³ al-Nisā’, 4:115

⁴ Tirmidhi, h. 2167.



Qiyas (Analogy)

Literal meaning:

“The word Qiyas means measuring or estimating one thing in terms of another. Thus, measuring cloth against the metre rod is Qiyas. It also applies to making two things equal that is, comparing. This comparison may be physical or it may be rational.⁵

Technical Meaning

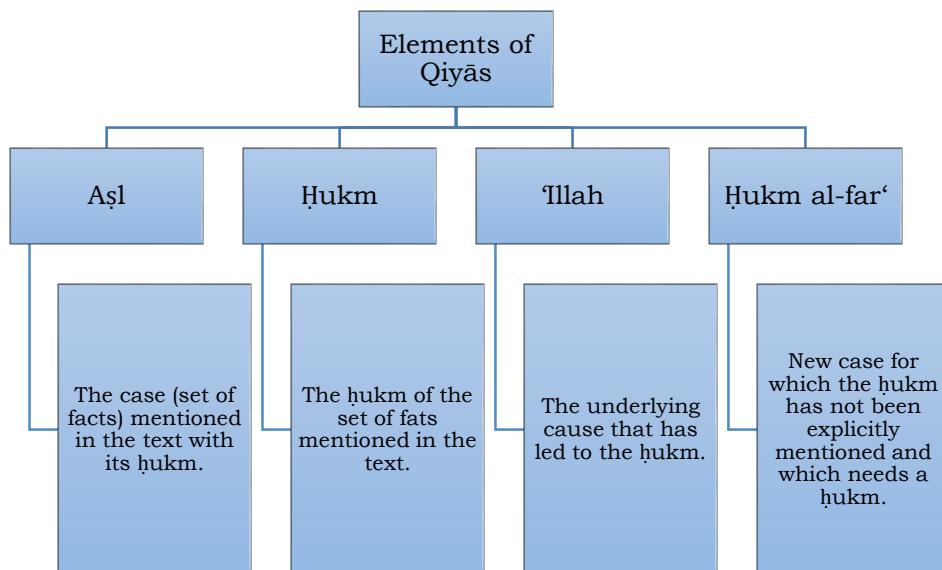
“The assignment of the ḥukm of an existing case found in the texts of the Qur’ān, the sunna, or Ijma‘ to a new case whose ḥukm is not found in these sources on the basis of a canon underlying attribute called the ‘Illah of the ḥukm.

And the other is:

“The equality of a case, whose hukm is not mentioned, on the basis of the equality between the underlying causes found in the two cases.”⁶

Elements of Qiyas

The Qiyas has four elements which are as following:



5 ‘Abd al-‘Azīz al-Bukhārī, Kashf al-Asrār, Vol.3, p.395

6 Nyazee, Imran Ahsan Khan, Outlines of Islamic Jurisprudence, p.214

Example of Qiyas

The prohibition of khamr:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّهَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ -
إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقَعَ بَيْنَكُمُ الْعَدَاوَةُ وَالْبُغْضَاءُ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ
أَنْتُمْ مُنْتَهُونَ ⁷

“O believers! Wine and gambling and idols mounted (for worship) and divining arrows (for seeking luck—all) are filthy works of Satan. So turn away from them (completely) so that you may prosper. Satan seeks only to breed enmity and spite amongst you by means of wine and gambling, and hinder you from remembering Allah and observing Prayer. Will you abstain (from these evil-generating temptations)?”

- Are drugs prohibited? New Case

In the original text there is only khamr which is a drink (vine) made of grapes that is prohibited no other drugs is mentioned but the reason of prohibition is same.

- Khamr causes intoxication. ‘Illah
Drugs also cause intoxication. Reasons is same
- Khamr is prohibited. Asl
- So, the drugs are also prohibited. ḥukm

It is Qiyas.

The proof of Qiyas from Hadith

Sayyidina Mu’adh (RA) reported that (when) Allah’s Messenger sent him to Yarnan, he asked him how he would decide (cases). He said, “I will decide in accordance with Allahs Book (the Qur’an).” He asked, “What, if it is not in the Book of Allah?” He said, “Then according to the sunnah of Allah’s Messenger ----: .” He asked, “And if it is not in the sunnah of Allah’s Messenger?” He said, “I will make ijtihadO through my judgementet.” The

7 al-Mā’ida, 5:90-91

Prophet ﷺ - said, “Praise belongs to Allah Who has made the messenger of the Messenger of Allah ﷺ consistent with what pleases him.”

[Abu Dawud 3592, Ahmed 22161]