

Exploring the Practicability of the Islamic Concept of IJMA in today Legislative Assemblies and other Law-Making Institutions

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Abstract

The jurists of Islam unanimously agree on the acceptance of 'Ijma' as the fourth source of Islamic law and legislation. There is ample material on it in the books on Islamic jurisprudence. Although there is unanimity on its acceptance as source of Islamic law and legislation yet opinion widely differs on its definition, basic conditions, and exact position in the law making. Its concept is fuzzy by and large. The concept of 'Ijma' needs clarity keeping in view the importance of law making in the modern age. This paper is an attempt to clarify misconceptions about 'Ijma' with reference to its practicability in the modern times. This article explains its kinds, requirements and elements and its place and importance in the contemporary process of law making.

'Ijma' is the product of collective Ijtihad of Islamic jurists. This is one of the principle sources of Islamic law and is based on Quran and Sunna. It is in a way a kind of Ijtihad and can be termed as collective Ijtihad. This source of law making can be exercised through parliament or committee on Ijtihad. Its scope can further be widened for the Umma through an international council or congress of Islamic scholars.

Key words: Ijmaa, Ijtihad, Islamic jurisprudence, Islamic Legislation.

INTRODUCTION

All the prominent Scholars of Islam agree that Ijma is an important source of Islamic law and Jurisprudence. In this connection there exists considerable discussion in the writings related to Jurisprudence and Principles of Jurisprudence. However, it is strange to know that in spite of its importance there are still misconceptions about its practicability for the modern time. There is difference over its definition, degree of authenticity, occurrence and conditions. In modern times the more the importance and need of law making, the more it has become obscured.

STATEMENT OF THE PROBLEM: The problem under investigation was, "Legislative Assemblies, Institutions, and the Practicable concept of 'Ijmaa'.

SIGNIFICANCE OF STUDY: In this article, an effort has been made to present a clear concept of 'Ijma', its importance and implication for the modern times. This will help the contemporary religious scholars to positively project the practicability of Ijmaa as a potential alternative to the apparently rationalist yet inherently deficient human endeavor for law making.

THE MEANING OF THE TERM 'IJMAA':

"اتفاق المجتهدين من أمة محمد صلى الله عليه وسلم في عصر من العصور بعد وفاته صلى الله عليه وسلم
على أمر ديني"¹

Literally this word means determination and concurrence. In Islamic jurisprudence, it means the concurrence and harmony of 'mujtahids' (learned persons of highest degree) over a question having a base and authenticity.

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There is a great difference among the Islamic scholars over the definition and mechanism of 'Ijma'. Imam Shaukani believes that 'Ijma' is the name of concurrence and agreement of Mujtahideen over a matter after the death of the Holy Prophet (SAW)². According to Imam Ghazali, "The concurrence of Ummat-e-Muhammadi (SAW) over any matter"³. But Amdī has criticized the above definition on the following grounds: (1) in this definition the Ummat-e-Muhammadi (SAW) has been considered as "Ijma". The Ummat-e-Muhammadi (SAW) will remain till the last day (Qiyamat) and it will be unknown that on what matter the Ummah has agreed at specific time; (2) if it is agreed that Ummah mean, Ummah at a specific time and if there are no Ahl-e-Hal Wa-Aqad (Scholars of the highest degree), the concurrence of common people over a religious matter cannot be accepted as 'Ijma'; (3) the concurrence over national and social matters will not be Ijma due to its confinement to religious matters only. Furthermore, Al-Amdī defines Ijma as "The concurrence of all the Ahli-Hal-Wa-Aqad of the Ummat-e-Muhammadi of any age over a matter"⁴. Al-Amdī's definition is close to the above definition. Anyhow, he has added the word "all" (entire) Ahli-Hal-Wa-Aqad. Al-Amdī is right in criticizing the definition of Al-Ghazali that according to him 'Ijma' is the concurrence of Ahli-Hal-Wa-Aqad. It is not the task of common people but of proper people i.e Mujahideen (Jurists)⁵. Abdul-Qadar Auda defines 'Ijma' in the following words, "Ijma means the concurrence and harmony of all the Mujahideen of any time after the time of the Holy Prophet (SAW) over a matter of Shariat."⁶

If 'Ijma' is admitted as a permanent source of law on one side and on the other side the definitions and conditions imposed by scholars then 'Ijma' will remain a theoretical thing and it become impossible to hold an 'Ijma' on matter dealing with practical life. But as a result of thinking over the text and context of the Holy Quran and Sunnah together with having a glance at the period of the Companions of the Holy Prophet (SAW), it can easily be grasped that 'Ijma' is the collective decision of major Mujtahideen or the members of Shura. If the representative forum of the Ummah does 'Ijma' for the whole Ummah, it will be considered for the whole Ummah. If it is done in a country, it will be binding on the people of that country. It is a clear-cut concept of 'Ijma'.

CONDITIONS FOR IJMA: Islamic religious scholars have described some conditions which are mentioned in all the definitions and are as under⁷:

- (1). 'Ijma' is to be held after the age of the Holy Prophet (SAW).
- (2). 'Ijma' must be based on proper arguments and authenticity
- (3). One who does 'Ijma' must be a Muslim.
- (4). One who does 'Ijma' must be an adult and a wise Muslim.
- (5). He must be Mujahid (Jurists) and not a common person.
- (6). All the Mujahideen of the time have consensus over it.

IJMA AFTER THE HOLY PROPHET (SAW): So far as the concept of 'Ijma', available in the books of the jurisprudence is concerned, there was no need of it during the age of Holy Prophet as that was the time of revelation and direct guidance from Allah (God). Anyhow, the Holy Prophet used to get advice from His Companions on important matters but as such there was no need for formal 'Ijma' during that time.

AUTHORITY FOR IJMA: Islam believes in reasoning, argumentation and wisdom so proper arguments and authenticity pertaining to text and context is inevitable for 'Ijma'. As only Allah and the Prophet are the Law givers so no one else has this authority.

Hence, law making through 'Ijma' must have sufficient arguments and proofs based on the Holy Quran and Sunnah.

The Companions of the Holy Prophet (SAW) had proofs and arguments when they did 'Ijma' on a matter. There was 'Ijma' (Consensus) among the Companions of the Holy Prophet (SAW) that grandmother will share inheritance. For this agreement, they deduced proof from the narration by Mughaira ibne Shuaba (R.A). Similarly the Companions of the Holy Prophet (SAW) agreed that two 'Muhrim' women cannot be married to the same person at a time and they deduced their argument from the narration of Abu Hurairah (R.A). In case one has no real brother, half paternal brother was considered in place of real brothers. In this case they argued on interpretation by the Holy Prophet (SAW) ⁸.

In short Ijma can be based on either the Holy Quran or Sunnah. It is because of this reason that jurists forbade marriage with grandmother based on the verse of the Holy Quran :

"حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ"⁹

"Your mothers are forbidden to you". Similarly, in case of edible things, their sale is forbidden before they are taken in one's possession. The jurists have consensus over it and they argued on the basis of the Sayings of the Holy Prophet (SAW) as He has said, "One who purchases an edible thing, it is not permissible to sell it before it is taken in one's possession" ¹⁰. In short for Ijma, the argument can be deduced from either the Holy Quran or Sunnah, customs or precedents etc.

A WISE AND ADULT MUSLIM: Ijma is either a kind of Ijtihad or source of Ijtihad and for it a man must be Muslim, wise and adult as mentioned above. It is a commandment in the Holy Quran,

"يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ"¹¹

"Obey Allah, His Prophet (SAW) and the men of authority among you". In this verse the Muslims have been ordered to obey the men of authority (Leaders) among them. Authority holders mean responsible and Mujtahideen from Muslims. Similarly wisdom and adulthood is also a condition for Ijma in the light of the Holy Quran and Sunnah ¹².

THEY MUST BE MUJTAHIDEEN: One condition for the acceptance of 'Ijma' is that it must be conducted by Mujtahideen. The 'Ijma' of common and ignorant or illiterate people is not acceptable or binding. They have no jurisdiction for legislation. Ijtihad is the responsibility of Mujahideen ¹³.

ALL THE MUJTAHIDEEN OF THE TIME MUST AGREE OVER IT: Most of the Islamic religious scholars think that all the Ulama must have consensus over the matter about which the Ijma is made and that none has different view. In such situation 'Ijma' is established. Some Ulama says that when some religious scholars do 'Ijma' on a matter, it must be followed after their demise that it may be known that none differ in this matter. Another condition is added that people must also be in agreement with the Ulama. Similarly, another condition is that all the Ulama should have used the same words in their 'Ijma' and they define it in such a way that all the Mujahideen agree in the same words during their 'ijtihad', it is called 'Ijma' ¹⁴.

All these are only traditional conditions imposed by certain Ulama which has made the making of 'Ijmaa' almost impossible in practical life. The agreement of all jurists and Mujahideen of the time is not a condition based on the Holy Quran and Sunnah.

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According to the conventions majority of the Ulama must have consensus and harmony over it. This will be quite enough in this connection. Amin Ahsan Islahi writes: “Any matter of Ijtihad on which the Mujahideen of the time have consensus or agreement and there is no worth mentioning difference despite it is known that Ijma has been concluded in this matter”¹⁵.

LEGITIMACY OF IJMA (THE HOLY QURAN AND IJMA): Neither in any verse of the Holy Quran nor in the Sunnah of the Holy Prophet (SAW) the word ‘Ijma’ is mentioned clearly. There was neither any literal conception of ‘Ijma’ in the age of the Holy Prophet (SAW) nor in the age of the ‘Salf-e-Saliheen’. It has been deduced from the Holy Quran and Sunnah in later times. Iman Shafiee has based his argument of ‘Ijma’ on the verse of Sura-e-Nisa which states,

وَمَنْ يُشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعْ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ نُوَلِّهِ مَا تَوَلَّىٰ وَنُصَلِّهِ جَهَنَّمَ وَسَاءَتْ مَصِيرًا¹⁶ “And whoever contradicts and opposes the Messenger (SAW) after the right path has been shown clearly to him and follows other than the believers’ way, We shall keep him in the path he has chosen, and burn himself in Hell. What an evil destination”¹⁷. In this verse those people are given a threat who give up the way of believers i.e. Ijma. It is evident from it that adopting the way of believers is inevitable on which believers act concurrently. It is very important to adopt that way.

The legitimacy of ‘Ijma’ is evident from another verse too:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا¹⁸

“Believers obey Allah, the Holy Prophet and those who possess authority among you. If there exists dissension among you in a matter take it to Allah and His Holy Prophet (SAW), if you really believe in Allah and the last day.

From this verse ‘Ijma’ has been proved in two ways i.e. the obedience of Allah and the Holy Prophet (SAW) has been ordered along with it the obedience of the persons of authority among you. ‘Ulil-Amr’ means those persons who have the authority of leading the people which may be legally approved just like in the case of rulers to abide by morality and law (Shariah) and to obey some persons because of their rank and status such as to follow the opinions of Mujahideen. In short, the Ijtihad and ‘Ijma’ of Mujtahideen come under this ambit of above verse¹⁹. Moreover, it is also ordered that in case of dissension over a matter, the same should be referred to Allah and His Holy Prophet (SAW). In such case, the consensus will be a substitute of the Holy Quran and Sunnah and it does mean Ijma²⁰. Similarly in Surah-e-Shura, it is said, ²¹ وَأَمْرُهُمْ شُورَىٰ بَيْنَهُمْ

“They conduct their affairs by mutual consultation” When consultation is held in such a manner where all the participants express their opinions freely and a consensus is arrived at is called a concurrent decision or agreement and literally this agreement is called ‘Ijma’. It is also evident from this verse that it is the responsibility of the men who have either authority or are Mujtahideen to make laws keeping in view the time and circumstances regarding matters and issues which are not clearly mentioned in the Holy Quran and Sunnah, their solution is sought in the light of the Holy Quran and Sunnah²².

THE ‘SUNNAH’ OF THE HOLY PROPHET AND ‘IJMA’: The Ulama have based their argument of ‘Ijma’ on the following tradition of the Holy Prophet (SAW):

"لا يجمع أمتي على ضلالة"²³

"My Ummah will never agree on falsehood". In this Hadith the Holy Prophet said that Muslim Ummah would never agree on falsehood and they would agree on truth. "A thing which the Muslims consider good will also be good near Allah"²⁴. It means that the Muslims will entirely act upon truth. "It is inevitable for you to follow Jamaah (Jama'at or simply group)"²⁵. The Hand of Allah is on Jamaah and those who get separation (remains detached from group) will have no place"²⁶. Similarly, it has been ordained, "One who separates himself from Jamaah will go to Hell"²⁷. Although these Traditions deal with Muslim Ummah and administration of Muslim state and 'ijma' is not clearly mentioned in it but the ulama have argued and based the edifice of 'ijma' on it.

TYPES OF 'IJMA: Ulama (Jurists) have mentioned many types of 'Ijma', however, two kinds of 'Ijma' are worth mentioning: one is called verbal clear 'Ijma' in which Fuqaha (the learned ones) have clear agreement concerning a commandment. It is also called real 'Ijma'. The other form is called tacit 'Ijma' (consensus). In other words, it means tacit consent of jurists. In this type of Ijma a 'Mufti' issues Fatwa and other Jurists of his time have information about it but neither have they showed agreement with it nor do they differ with it. The first type of 'Ijma' is of binding nature while there are differences among the jurists regarding the latter one to be whether binding upon Muslims or not²⁸.

'IJMA' IN RECENT TIMES: On the one hand Ulama have admitted 'Ijma' as a source of law but at the same time they set such conditions for 'Ijma' which are, if not impossible, are difficult to meet. They prove its legitimacy from the Holy Quran and Sunnah, yet they put conditions that such Ijma was not for the times of the Holy Prophet (SAW) and that it was meant for later times. Here a question arises that if it was allowed (legitimized) by the Holy Quran and Sunnah for later age, then it is the name of legislation, taking decision on consensus and the opinion of Mujatahideen so it is for every age and period. Moreover, Ulama have only theoretically discussed with out sitting any formal institution for its practical application neither at government level nor in personal context. Therefore, it is very difficult to ascertain that on what matters there had been 'Ijma' at specific time or otherwise²⁹.

In the period of the Companions of the Holy Prophet (SAW) 'Ijma' was considered as simple as possible for practical purposes. They acted upon the Holy Quran and Sunnah collectively and where there were no clear indications then they either individually or at proper forum tried to find out solution in the light of the Holy Quran and Sunnah. Same was the practice during the life of the Holy Prophet but it was in the later centuries that the concept was made relatively more complicated. Among the later developments it was also added that if a jurist agreed on a matter in certain time then it would be an established law forever and no one can deviate from it³⁰.

Moreover, many conditions were set which have already been discussed. It is not the right concept of 'Ijma' because a decision which gets the position of law must be based on the Holy Quran and Sunnah and its implication may be found in the Holy Quran and Sunnah. The reason is that in the Holy Quran and Sunnah, 'Ijma' does not mean that, as for this purpose the verses of the Holy Quran and 'Ahadith' are not properly interpreted. For instance, on the one hand the verse related to Shura is presented as an argument and on the other hand it is separated from Shura (consultation). For this traditional implication of 'Ijma' mostly this Hadith is produced,

"لا يجمع أمتي على ضلالة"³¹

“My Ummah will not agree on falsehood”.

But it is clear that the matter is not only of falsehood, rather it's a matter of time and circumstances. It is possible that in a specific time all the people agree on a law but with the passage of time a need may arise for amendment and modification of the law. Only the Holy Quran and Sunnah remain intact, all the rest human Ijtihads, either in individual capacity or in social context, need to be changed³².

The Companions of the Holy Prophet (SAW) thought that ‘Ijma’ was as unalterable source of law as Quran and Sunnah; and that ‘Ijma’ once concluded is for all the times. That is why the Companions of the Holy Prophet (SAW) acted upon a commandment then the men of opinion (Arbab-e-Halwal Aqal) amended it. It means to say that they opened this door in line with the thought of the Holy Quran and Sunnah³³.

PARLIAMENTARY ‘IJMA’ (‘IJMA’ THROUGH MAJLAS-E-SHURA): If the parliamentarian of an Islamic state consists of Ulama and Mujahideen, the law passed by the parliament will have the status of ‘Ijma’ for the concerned state. If it is not wholly consisted of Ulama and Mujtahideen as seen now-a-days, then, like that of technocrats, it is possible that there must be a reasonable quota for Ulama and Mujtahideen, or a committee consisting of these Ulama to address the task of ‘Ijtihad’ in the parliament.

There may be another institution like Islamic Ideology Council or ‘Ijtihadi’ Council or whatever may be the name and nomenclature, but such type of body would be needed to decide about any matter whether it is permissible in Islam or not, and that what can be the procedure and mechanism for its implementation. In this context a question arises that such an institution will affect the supremacy of the parliament but here it is pertinent to mention that it is not the question of supremacy of either one institution or the other but that of supremacy of Quran and Sunnah. Similarly, what is wrong, if a committee of experts for law in parliament is arranged and the services of experts outside the parliament are also consulted in this context to prove what is permissible or non-permissible; and the Mujtahideen of a country outside the parliament have consensus on a matter, the decision of the later may be binding and will remain a code for that country.

SOCIAL AFFAIRS OF THE MUSLIM UMMAH AND ‘IJMA’: So for Ijtihad has been discussed only within the context of state but there are some issues related to the whole Muslim Ummah. In other words, such matters are about the relation between different Muslim states or other non-Muslim community or states. This is because the situation was totally different in the past, keeping in view the geographical location, means of communication etc. but this is no longer an issue in the modern world. For example, there must be an established organization or a secretariat anywhere in the Muslim world with branches in the member states, and when they consider an issue worth of ‘Ijma’ then, the same may be intimated to all sub branches to sought the opinion of different jurists for an early and consolidated reply. After soliciting the feedback of such experts, through a grand meeting or whatsoever the Council decides an ‘Ijma’ may be concluded. This collective decision may be announced that the Muslim have agreed collectively. In case there is any difference of opinion, for instance, then it may be sent to all those who had different opinion because it is just possible that they might change their opinion. Similarly, when the answer from all the branches after due deliberation, it will be known that on what thing there is consensus or there is disagreement. Moreover, opinions must be received on the point of dissensions. They must be issued in the shape of a magazine in which answer must be produced along with arguments³⁴.

In some matters the aforesaid organization may also convene seminars or conventions representing all branches and a decision arrived may be called as 'Ijma' and may be duly published.

AN 'IJMA' VERUS ANOTHER 'IJMA': Important aspects of this controversy is discussed in the following points:

- 1 One school of thought thinks that once an 'Ijma' is held, there is no place for another 'Ijma' because it will abrogate the previous one and this is prohibited. Therefore, counter-Ijma will not be right³⁵. This school of thought thinks that it will cancel the previous one and the principle of cancellation is confined to the age of the Holy Prophet (SAW). A commandment of Shariah can not be cancelled after Him³⁶.
- 2 The other school of thought is that if the Mujtahideen of a time have reached consensus as 'Ijma'. It will be quite right and the first one will be deemed cancelled. But the condition is that the Mujtahideen of the previous 'Ijma' have passed away³⁷.
- 3 The third opinion is that a new Ijma can not be conducted in the opposition of the 'Ijma' of the Companions of the Holy Prophet (SAW)³⁸.

This condition is confined to the extent of the 'Ijma' of the Companions of the Holy Prophet, because after the Companions of the Holy Prophet (SAW) it is impossible to hold another 'Ijma' as 'Ijma' is conducted through 'Ijtihad' based on human reason. It is conducted for solving the emerged problems. So, an 'Ijma' can be conducted after the previous one. There is no evidence for the conditions that an 'Ijma' cannot be done after the previous one or the death of all the Mujtahideen of the 'Ijma'

The first opinion that the second 'Ijma' is cancellation for the previous or cancellation is confined to the age of the Holy Prophet (SAW) is a very weak argument because there was no traditional concept of 'Ijma' during the revelation of the Holy Quran. It is a later development for practical purposes and the Holy Quran and Sunnah never explained that there will be no 'Ijma' after the previous one. If there exists a commandment, it was the cancellation of the Holy Quran and Sunnah which is clearly impossible after the Holy Prophet (SAW) and the Holy Quran cannot be cancelled after revelation. Revelation can be cancelled only by revelation. As far legislation and constitution making based on Ijtihad and human reason are concerned, they can be cancelled according to needs, conditions and arguments. Its cancellation (*Naskh*) means that a law, 'Ijma', or 'Qiyas' etc. cannot cancel the other ones then it will be understood that laws cannot be made. And the doors are closed for law making and constitution making. Islam has been completed by Allah as said,

"الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ"³⁹

"This day, I have perfected your religion for you". Perfection means those basic principles which have been laid down in the Holy Quran and Sunnah that cannot be amended or abrogated. Beside this, law making can be conducted through 'Ijtihad' using the means like 'Ijma' and 'Qiyas'.

As far as the 'Ijma' of the Companions of the Holy Prophet (SAW) is concerned regarding interpretation of the Holy Quran or Traditions, it cannot be abrogated because these Companions had directly heard it word by word from the Holy Prophet (SAW). As far as the 'Ijma' of the later times is concerned, it means the agreement and concurrence of Mujtahideen on an issue. The word "Jamhoor" is used in place of 'Ijma' of the

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Companions of the Holy Prophet (SAW) i.e. the consensus of the majority of the Ulama on a question. Similarly, it is called the opinion of “Jamhoor”. It is clear from the above discussion that if a new ‘Ijma’ is required according to the new conditions and needs. Ijtihad and Ijma are important for new circumstances and this ‘Ijma’ will be practicable as that of the previous one.

Suppose, it is admitted that ‘Ijma’ can not be conducted in the case of an existing or previous one, then the question arises that the previous ‘Ijma’ was conducted for the circumstances and needs of that time and now if the circumstances change and need of the time changes, in such case the previous ‘Ijma’ can subsist? It is clear that the answer will be in the negative and an ‘Ijma’ can be established in place of the first one. Dr. Hamidullah writes about establishing ‘Ijma’ in place of the previous one.

“It is a fundamental question that a law giver can change a law or a supreme one or an inferior one cannot change it. If Allah has given an order it can be change by Allah (SAT). Similarly the law given by a Prophet can be changed by the same prophet or another prophet can change it Who has been sent by Allah (SWT). A jurist can not change it. So those teachings that lie in the Holy Quran can not be changed by a person. But a jurist can reject the opinion of another one and he can produce his own opinion as I have mentioned in previous lecture that it does not concern with the individual analogical Deduction. It least, it is accepted in Hanafi school of thought that a new ‘Ijma’ can abrogate the previous one...Suppose that a consensus is found over a thing should we surrender before it (Ijma). But it does not mean that one can not argue against it till the last day. If a person dares with veneration to give his opinion based on arguments and proofs and other jurists also accept this new opinion; it will take the shape of a new ‘Ijma’. This new ‘Ijma’ abrogate the old one. A famous Hanafi Imam Abdul Yasir Al-Buzadawi has mentioned these principles in his book “Usol-e- fiqah”. Imam Buzdawi has been a Jurist between fourth and fifth century. This is his great success in Islamic law. From this description we conclude that ‘Ijma’ cannot be a cause of trouble for us. If ‘Ijma’ (consensus) has been conducted on an improper thing and we can not act upon it due to the changing circumstances. It is possible that we arrange to change the ‘Ijma’ and we change the old consensus by a new one through deduction”⁴⁰.

In another place Dr. Hameed Ullah writes:

“If a new ‘Ijma’ is established in place of the old one, it will be practicable just like the previous one and the previous ‘Ijma’ cannot subsist. It is also the opinion of Imam Razi. The law made through ‘Ijma’ is not permanent unlike the law that came from Allah and His Holy Prophet (SAW) but it is based on human opinion. It can not be acted upon for ever and can be changed by the law made by another person (jurist)”⁴¹.⁽⁴¹⁾

From this discussion, it can be concluded that those matters which are affected by time, place and customs, another ‘Ijma’ can be conducted. But new consensus is important for the new circumstances so that the execution of the Holy Quran and Sunnah be ensured according to the new circumstances.

CONCLUSION:

On the basis of the findings of the study it can safely be concluded that:

- 1 Ijma’ (consensus) is the name of collective exposition of law (Ijtihad) of the jurists of Islam.
- 2 ‘Ijma’ is an authentic argument which is deducted from the Holy Quran and Sunnah.

- 3 In one respect, 'Ijma' is a kind of Ijtihad (Exposition of Law) i.e. collective Ijtihad, on the other hand, it is the mean and way through which Ijtihad can be conducted.
- 4 The parliament or its Ijtihad Committee of a state can conduct Ijtihad for the concerned country.
- 5 For the collective affairs of the Muslim Ummah, 'Ijma' can be conducted through an International organization or conference of 'Ijtihad'.
- 6 An 'Ijma' (Consensus) can be conducted in place of the previous one.

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