



Ijma and Qiyas

AS SOURCES OF FIQH

Sources of Fiqh

- ▶ Quran – The word of Allah is the primary source of Fiqh
- ▶ Sunnah – The teachings of the Prophet (s) are the second source of Fiqh
- ▶ Ijma – The consensus of the scholars
- ▶ Qiyas – Logical deduction
- ▶ Urf – Local culture
- ▶ Istihsan – Overriding Qiyas due to Maqasid

Ijma – The Consensus

- ▶ The Prophet (s) said, “My nation will never agree upon falsehood.”
- ▶ So the consensus of the scholars is considered a source of Islamic Law.
- ▶ All of the madhhabs, even the Dhahiri madhhab acknowledge Ijma as a source of Islamic Law.
- ▶ If the ummah is united on an issue, it becomes binding to follow that opinion.

Differences regarding Ijma

- ▶ No Ijma on the definition of Ijma.
- ▶ All scholars accept the Ijma of the first generation of Muslims i.e. the Sahaba.
- ▶ Shafi'ee, Ahmad and Shawkani doubted possibility of Ijma after the first generation.
- ▶ Does silence count as Ijma?
- ▶ Does the consensus of the four Imams count as Ijma?

Misuse of ijma

- ▶ Ijma often misused to force an opinion upon others.
- ▶ When someone doesn't want to recognize a difference of opinion, they claim Ijma.
- ▶ Example: claiming Ijma on prohibition of music.
- ▶ Shawkani wrote an entire book, "Refuting the claim of Ijma on the general prohibition of music."
- ▶ Example 2: TV shows depicting the Sahaba and pious predecessors.

Examples of Ijma

- ▶ Order of the Surahs of the Quran.
- ▶ Second Adhan for Jum'ah.
- ▶ Additional words for Fajr Adhan.
- ▶ Permissibility of praying Tawareh in congregation.
- ▶ The hair of a woman is considered part of her awrah.

Qiyas – Logical Deduction

- ▶ Qiyas refers to logical deduction based on primary principles extracted from the Quran and Sunnah.
- ▶ Qiyas was practised by the Sahaba during the Prophet's (s) lifetime.
- ▶ Qiyas is accepted as a source of Fiqh by all madhhabs besides the Dhahiree madhhab.
- ▶ The result of Qiyas is considered speculative and subject to difference of opinion.
- ▶ Majority of differences of opinion are regarding issues of Qiyas.

Maxims of Qiyas

- ▶ Maxims were constructed in later generations to make Qiyas easier.
- ▶ “Original state of things is permissibility.”
- ▶ “Harm must be eliminated.”
- ▶ “Necessity make permissible the prohibited things.”
- ▶ “What became permissible due to an excuse is invalidated if it goes.”
- ▶ “Anything that is needed to fulfil an obligation is an obligation.”

Examples of Qiyas

- ▶ New technology is generally permitted because the original state of things is permissibility.
- ▶ Cigarettes, and recreational drugs are prohibited to remove harm from society.
- ▶ Health insurance is allowed due to necessity.
- ▶ Addictive painkillers are only allowed during times of need, not otherwise.
- ▶ Getting a job becomes wajib if a person needs it to provide for their family which is wajib.

Summary

- ▶ Ijma of the Sahaba is a proof and binding upon the ummah to follow.
- ▶ Ijma after the time of the Sahaba is a contentious issue and may not even be possible.
- ▶ Qiyas is necessary for deriving practical Fiqh rulings on new issues.
- ▶ Maxims were constructed to make Qiyas easier.