Role of *Ijma* in the contemporary Muslim world: An analysis

Mudasar Ahmad Lone

Research Scholar for PhD
CCAS University of Kashmir

Abstract

Despite different views among the scholars about the position of *Ijma* as a source of *Shari'ah*, its authority is unanimously agreed, and the authenticity of it is proved by the Quran and *Sunnah.* When a number of persons who are learned in the Muslim law and have attained the rank of jurist of some sort, agree on a particular legal question, their opinion is binding and has the force of law. The classical view is that while individual jurists are liable to error, the community as a whole cannot fall into error. The Quran and *Sunnah* being rigid and no change was possible in their words. *Ijma* had opened the doors for new interpretations of Islamic legal rules. In fact, there is a well-known tradition of the Prophet (SAAS) that "my people will not agree in an error.' It is thus a part of traditional authority and has formed an early date of the authority of the beliefs and practices. *Ijma* also has come to operate as a principle of toleration of different traditions within Islam. Classical Muslim jurists unanimously have provided rulings for many pre-modern religious and ordinary issues of Muslims in the past. However, many other classical issues have not been solved this way, rather different opinions of different schools of law concerning them have continued until today. On the other hand, different types of new human problems and issues emerge every day from the onset of modern times. Since Islam is considered to be a complete and enduring code of life, it should be able to provide solutions and rulings for these new issues. Reforms in Muslim personal law are possible even today in the same manner as *Ijma*was being formed in the past.

Key words

Ijma, *Shari'ah*, Agreement,*Mujtahids*, Contemporary times

I. Introduction

Islam is guiding and adaptable not only individual's relation with Allah, but all human social relationships, since the beginning Islam was not just a religion but a complete code of living. During the lifetime of Prophet (*SAAS*) he and his companions used *ijtihad*, which means independent and informed opinion on legal or theological issues subject to the conformation and modification through revelations. *Ijma*is considered the 3rd source of *Sharia'h* after the Quran and *Sunnah* according to majority of the scholars. The authority of *Ijma* is consistently agreed to be irreversible and hence any ruling shaped through *Ijma* cannot be reinterpreted as it is considered to be recognized through it. Though for the classical *Ijma* to take place, certain criteria such as total unanimity of all *Mujtahd'un* of a particular era must be fulfilled. Arguments among the scholars on possibility of *Ijma* to take place in its classical form in the contemporary times are also found, whereas few oppose that *Ijma* in its classical form. This cannot take place in the present world due to lack of competent and well versed *Mujtahid'un* others refute the claim based on the previous practices of *Sahabah*. In order to preserve harmony and unity of the society, there should be some constant ways to decrease differences between Muslim jurists. Among others, *Ijma* is considered to be a source of law and way to remove such dissimilarities and to deduct new rulings for the issues stated above. The purpose of this paper is to investigate whether it is possible to conduct *Ijma* at present times. In order to reach this objective, the researcher would critically deliberate the arguments of both opponents and supporters on this opportunity using both classical and modern sources.

Traditional Muslim jurists have provided a number of contradicting definitions of *Ijma*. The researcher provides only the definitions of the majority of these jurists and will struggle to compare them with components of other definitions. *Ijma* according to the majority of Muslim jurists is 'Consensus' or 'agreement' of all mujtahid'un of Muslim*ummah* during any particular era of time on a particular Shari`ah ruling, which is subject to

Ijtihad and to be conducted after the death of the Prophet (*SAAS*).[1] According to this definition *'Ijma'* is the agreement of *mujtahid'un* that hold all the conditions of *mujtahid,* such as having the knowledge of the Qur'an and the *Sunnah*. A very good command of the Arabic language, enough knowledge of *Usul al-Fiqh*, knowledge of previous *'Ijma'* issues, and so forth.[2] Some jurists like Imam al-Ghazali, and Al-Amidi maintain that *Ijma* is the agreement of the whole ummah.[3]

However, it seems to the researcher that these scholars do not mean "the whole ummah" to be the whole Muslim community beginning from the time of the Prophet (*SAAS*) until the end of this world. Rather, they confine it to the entire Muslim community of a certain period of time. This type of requirement is not acceptable because it would cause the *Ijma* to be a theoretical source of Islamic law, which has nothing to do with the evolving issues of the life of present-day Muslims. Some scholars such as Shahwalli-u-Allah, Muhammad Iqbal and Muhammad Abduh argue that modern Muslim jurists do not possess knowledge of contemporary emerging issues. Therefore, they alone are not capable of doing *Ijma* in modern times, instead of a group of *Mujtahid'un*, the legislative body or the parliament of an Islamic country should perform *Ijma* because the latter enjoy this type of knowledge.

According to this group, some *mujtahid'un* should be included among the members of the parliament,[4] though this view is not viable for the present situation of Muslim countries where most of the rulers rule the country for their own sake. Any decision by the parliament might be influenced by the belief and interest of the ruler and withdrew of any freedom of speech, which is essential to formulate a *Shari`ah* rule. However, problems that have nothing to do with the rulings of the *Shari`ah* could be solved by non-*mujtahid* members of a parliament. Al-Zuhayli upholds that an *Ijma* for the problems of every field, such as *Fiqh*, *Usul al-Fiqh*, *Nahw*, etc. should be conducted by the professionals of that field.[5] Another contemporary jurist, Mustafa al-Zulami, also supports this view. He has added other fields, such as economics, medicine, agriculture and military, to those stated above.[6] This view is so general that it excludes jurists from conducting *Ijma* for fields other than *Fiqh* and *Usul al-Fiqh*. This statement should be qualified, that is, scientific and other ordinary problems that do not need any ruling of the *Shari`ah* could be solved by the agreement of the specialists of those fields, which are not considered to be an *Ijma* because *Ijma* is done for *Shari'ah* rulings only,[7] not for other aspects.[8] On the other hand, problems of scientific nature that require rulings of the *Shari`ah* should not be allowed to be solved solely by the specialists of those fields. Rather, the leadership of *Ijma* should remain in the hands of the mujtahids, who should consult the specialists before deciding on a ruling for a scientific issue. The above definition also states that all jurists should agree without any exception.

According to IbnJarir al-Tabari, Abu Bakr al-Razi and some others, a unanimous agreement of all jurists is not required. Rather, an agreement by the majority is enough for conducting an *Ijma*.[9] This opinion has some justification because a thorough scrutiny of the past *Ijma* that was conducted by the

[1]Ibn Amir al-Hajj al-Halabi, Al-Taqrirwa al-Tahbir `ala al-TahrirfÊUsul al-Fiqh (Beirut: Dar alKutub al-`Ilmiyyah, 1999), vol. 3, p. 102; Abu `Abd Allah bin Muhammad bin al-HusaynFakhr al- Din al-Razi, Al-Mahsul fi `Ilm al-Usul (Beirut: Dar al-Kutub al-`Ilmiyyah, 1999), vol. 2, pp. 3-4; Abu al-Barakat `Abd Allah bin Ahmad Hafiz al-Din al-Nasafi, Kashf al-AsrarSharh al-Musannaf `AlaalManar (Beiruit: Dar al-Kutub al-`Ilmiyyah, 1990), vol. 2, pp. 179-180.

[2]Al-Zuhayli, vol. 1, pp. 496-498

[3]Abu Hamid Muhammad bin Muhammad bin Muhammad al-Ghazali, Al-Mustasfa min `Ilm al-Usul (Egypt: Al-Matba`ah al-Amiriyyah bi-Bulaq, 1322 A. H.), vol. 1, pp. 181-182; see Bernard G. Weiss, The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Din al-Amidi (Salt Lake City: University of Utah Press, 1992), p. 214;

[4]See Ahmad Hasan, The Doctrine of Ijma` in Islam (Islamabad: Islamic Research Institute, 1991), pp. 227-255.

[5]Al-Zuhayli, vol. 1, p. 501.

[6]Mustafa Ibrahim al-Zulami, Usul al-Fiqh fi Nasijihi al-Jadid (Kurdistan: Matba`atUfsit ha Walir, 6th ed., 1999), vol. 1, p. 49.

[7]Such as wajib (obligatory), mandub (recommended), haram (forbidden), makruh (disliked), mubah (permissible).

[8]Zaydan, p. 181

[9] See Abu Hamid Muhammad bin Muhammad bin Muhammad al-Ghazali, Al-Mankhul min Ta`liqat a Usul (Beirut: Dar al-Fikr al-Mu`asir, Damascus: Dar al-Fikr, 3rd ed., 1998), p. 409; Abu Muhammad Ali bin Ahmad bin Sa`id bin Hazm al-Zahiri, Al-IhkamUsul al-Ahkam (Beirut: Dar al-Kutubal`Ilmiyyah, 2004), vol. 1, p. 671; Al-Razi, vol. 2, p. 78; Al-Zuhayli, vol. 1, p. 518.

companions of the Prophet (*SAAS*) prove that many *Ijma`ic* issues were not solved via this method but were still considered as *Ijma* by the *ummah*. However, issues of *fara'iz*(obligatory duties) were agreed by all without any exception. Some jurists like Imam Malik maintain that the agreement of the people of *Madinah* only is enough to conduct an *Ijma*.[10] He has some justification for this opinion because many early *Ijma`s* were based on jurists of *Madinah* during the period of first three caliphs when most of the jurists remained at this city. However, after the era of the early caliphs, this opinion should not be valid anymore because people of *Madinah* were considered to be a part of *ummah*, not the whole *ummah*. According to a narration, a Hanafi jurist, Qadi Abu Hazim and Imam Ahmad, opined that the agreement of four caliphs was considered to be an *Ijma*.[11]This opinion was also unacceptable because these caliphs were part of the ummah. Imami Shi`ites and Zaydiyyah, on the other hand maintain that in order to conduct an *Ijma*, agreement of the Prophet's (*SAAS*) family was sufficient.[12] This view is also refutable because this family was also a part of the *ummah*. The above definition likewise stipulates that *Ijma* should be conducted by Muslims. Non-Muslims have nothing to do with *Ijma*because it is related to rulings of the *Shari'ah*, which cannot be decided by other than Muslims.[13] Additionally, *Ijma* should be for *Shari'ah* rulings as discussed above. For aspects that do not require *Shari`ah* ruling *Shar'iIjma* is not necessary.[14] Rather, a simple agreement of the community other than jurists is sufficient. Besides, this ruling should be subject to *Ijtihad*. If it does not require an *Ijtihad*, then once the ruling is confirmed conclusively by the certain texts, no *Ijma* is required.

Opponents against the Feasibility of Conducting *Ijma* at Present

Those who are considered to be opponents of the authority of *Ijma* are also considered to be opponents of conducting *Ijma* at present. They are Ibrahim Al-Nazzam and al-Qashani of the Mu`tazilite group, some Kharizites, most of the Rafiites, and some others.[15] Some scholars who identify only the *Ijma* of Prophet's, such as scholars of Zahiri school of law, and according to a report, Imam Ahmad are also considered to be opponents of conducting *Ijma* after the era of the companions, including modern times.[16] Scholars, such as Shahwali-u-Allah, Muhammad Iqbal, Muhammad `Abduh, and some others, are considered to be opponents of classical definition of *Ijma*. Shahwali-u-Allah maintains that a ruling sanctioned by the *shura* and enforced by the caliph is *Ijma*.[17] On the other hand, Iqbal and Abduh opine that the decisions of the elected legislative assembly are *Ijma*.[18] Hence for them, *Ijma*, according to its classical definition, is not possible to be conducted in modern times. Arguments of this group are as follows:

1. There are no prescribed regulations or measures through which it can be judged who is a *mujtahid* and who is not. Without recognizing *Mujtahid*, it is not possible to conduct *Ijma*.[19]

2. Following the period of the four caliphs, jurists and mujtahid'un scattered over various cities and countries that it had become difficult to invite them to gather in one place.[20]The same problem might be appropriate during the modern times. Without being accumulated in one place it is not possible to conduct an *Ijma*.

---

[10]See al-Ghazali, Al-Mustasfa, vol. 1, p. 187; Al-Halabi, vol. 3, p. 127; Al-Ghazali, Al-Mankhul, pp. 411-412; Al-Zuhayli, vol. 1, p. 505.

[11]See al-Halabi, vol. 3, p. 125; Al-Zuhayli, vol. 1, p. 512

[12]See al-Halabi, vol. 3, p. 125; Al-Zuhayli, vol. 1, p. 515.

[13]Al-Zuhayli, vol. 1, p. 524.

[14]Shar`iijma` is the consensus which is accepted from Islamic legal point of view, i.e. the consensus of all Muslim mujtahid scholars available in a particular age on the Islamic legal ruling of a particular issue.

[15]See al-Nasafi, vol. 2, p. 189; Al-Halabi, vol. 3, pp. 104, 106; Al-Rzi, vol. 2, p. 9.

[16]See `Abd al-WahhabKhallaf, Kitab `IlmUsul al-FiqhwaTarikh al-Tashri` al-Islami (Egypt: Matba`t al-Nasr, 1940), p. 32.

[17]Shah Wali Allah, Izalat al-Khafa' (Urdu tr. By `Abd al-Shakur) (Karachi: n. p., n. d.), vol. 1, pp. 266267, in Ahmad Hasan, The Doctrine of Ijma` in Islam (Islamabad: Islamic Research Institute, 1991), pp. 227-228, 255.

[18]Muhammad `Abduh, Tafsir al-Manar, ed. Muhammad Rashid Rida (Cairo: n. p., 1367 A. H.), vol. 3, pp. 9, 12; vol. 5, pp. 209-210, 213-214, in Hasan, op. cit., pp. 244-245, 255; Muhammad Iqbal, Reconstruction of Religious Thought in Islam (Lahore: n. p., 1962), pp. 173-174, in Hasan, op. cit., pp. 239-240, 255

[19]Abd al-KarimZaydan, Al-WajizfÊUsul al-Fiqh (Cairo: Dar al-Tawzi` wa al-Nashr al-Islamiyyah, 1993), p. 191; Khallaf, p. 31.

[20]Zaydan , 1993, p. 191; Al-Zuhayli, vol. 1, p. 569; Khallaf, p. 31.

3.   If it is possible for them to come to gather in one place, it is not possible for them to be united on a single fixed ruling for a particular issue. This is because they are from different mental, cultural, ideological, circumstantial, geographical, and legal backgrounds. The same problems have been continuing in the modern times.

4.   According to some opponents, even if the *Mujtahid'un* agree on a single ruling for a certain issue, it is not possible for this ruling to be known to all Muslims all over the world. *Ijma*, therefore, is not worthy to be conducted.[21]

5.   The point of agreement either could be certain (*qat`i*), or speculative (*zanni*). If it is certain, which is supported by certain proofs of the *Shari`ah*, there is no necessity of *ijma* because other certain proofs are enough to deduce the rulings from them. On the other hand, if it is hypothetical, it would be impossible for mujtahid'un to agree on its ruling because of their numerous types of differences.[22]

6.   *Ijma* is considered to be way of the whole believers (*sabil al-mu'minin*), as it is mentioned in its Qur'anic proof. Allah says:

7.   "*The one who contends with the Messenger even after guidance has been plainly conveyed to him, and follows a way other than the way of believers we shall leave him in the path he has chosen, and land him in Hell.*"[23]

This notion is only applicable for the era of the companions because at that time they were the mostly believers. Hence, it was possible to conduct *Ijma`* by the whole of them. However, it is not possible for subsequent generations including the modern times after the era of the companions because none of them is considered to be the whole of the believers. Rather, they are a part of them.

8.   Some modern scholars argue that presently many different types of social, political, economic, scientific, medical and other problems have arisen in a way that it is not possible for classically educated mujtahids to know all these aspects, and without knowing them, it is not possible for them to do ijtihad, and subsequently it is not possible for them to conduct ijma`. Rather, ijma` should be conducted by those who are in charge of the affairs of the community, i., e., the government and its legislative body,[24] among whom some *mujtahid'un* could be included.

---

[21]Zaydan, 1993, p. 191; Khallaf, p. 31.

[22]Zaydan, 1993, p. 191; Al-Zuhayli, vol. 1, pp. 569-570; Khallaf, p. 32.

[23]Surat al-Nisa', 4: 115

[24]See Hasan, pp. 227-228, 244-245, 255.

Proponents of Feasibility of Conducting *Ijma* at Present

Majority of Muslim jurists maintain that it is possible to conduct *Ijma* according to its classical definition, both during the time of the companions of the Prophet (*SAAS*) and after this era including modern times. Their arguments are as follows:

1. Most of the proponents of feasibility of conducting *Ijma* at modern times argue that since *Ijma* was possible to be conducted in the past it should be possible at modern times.[25] For instance, the companions of the Prophet (*SAAS*) had unanimously agreed to distribute one-sixth of the inheritance to grandmother; they had unanimously maintained that marriage with grandmothers and granddaughters is forbidden; they had unanimously agreed upon the caliphate of Abu Bakr, and some others. The same type of *Ijma* on those issues that have been remained disputed is even possible in modern times.

2. The reason for which the companions of the Prophet (*SAAS*) conducted *Ijma`* was to have had many new issues that had rulings neither directly mentioned in the Quran nor in the *Sunnah* of the Prophet (*SAAS*). This reason at modern times has become very times stronger than it was during the era of the companions because nowadays unlimited new issues have been arisen and continuing to arise every day for which direct rulings are neither prescribed by the Quran nor by the *Ahadith* of the Prophet (*SAAS*).[26] Therefore, a group of Mujatihid'un are worthy to be conducted to deduce the rulings for these issues.

3. Conditions of *Ijma* stipulated by the majority of the classical jurists through its definition are possible to be achieved at modern times as they were possible to be materialized during the time of the companions.[27]

4. All of the proofs of the authority of *Ijma* are suitable to be proofs of the feasibility of conducting it at modern times. This is because the texts of the Quran and *Sunnah* are not confined to a particular age. Rather, they are suitable for all the ages until the end of this world. One such proof is the verse no. 115 of the *Surat al-Nisa'* mentioned earlier.[28]

Analysis of the Arguments

---

[25]See Zaydan, 1993, p. 191.

[26]See Zaydan, p. 192

[27]For instance, see these conditions in al-Zuhayli, vol. 1, pp.496-498; vol. 2, pp. 1043-1051

[28]For instance, see these proofs in Muhammad Mustafa Shalabi, Usul al-Fiqh al-Islami(Beirut: Dar alNahdah al-`Arabiyyah, 1986), p. 165-168.

1. The argument of the opponents of the feasibility of conducting *Ijma`* during modern times that the regulations and measures for judging a *mujtahid* are not known and is not acceptable because most of the classical and modern books of *Usul al-Fiqh* mentioned conditions for a *mujtahid*, which are well known within the community of Muslim jurists. However, some new conditions according to the demand of the modern time could be added.

2. Another argument of the opponents that mujtahids are scattered in so many countries all over the world that it is not possible for them to be assembled in one place is likewise not acceptable. This is because nowadays the transportation system is so sophisticated that it is possible for any number of jurists and *mujtahid'un* from all over the world to be assembled in any place of this world within a era of one or two days. Likewise, if any *mujtahid* is unable to travel to the place of conducting *Ijma*, he can send his opinion through phones, faxes, telexes, emails, websites, or even he can appear before other mujtahids through teleconferences.

3. It is true that the agreement on a particular issue is not easy, but it cannot be impossible. Examples of the companions prove that after their disagreement for a while, they were able to be united on rulings for many newly arisen issues of their times. During modern periods, the international community has united themselves on many common issues. If they can be united, Muslim *mujtahid'un* also should be able to be united on rulings for certain issues of the *ummah* of today.

4. Moreover, the argument that it is not possible for an *Ijma`ic* ruling to be known to all Muslims is not acceptable because the media of transmitting information is so advanced that within a few minutes or so following making any *Ijma`ic* decision it could reach all Muslims all over the world. This could be done through televisions, radios and Internet websites.

5. The argument that there would not be much benefit if an *Ijma* were done for a certain issue, which is established through a certain proof of the *Shari`ah* is partially sound. This is because in doing *Ijma* for this type of issues there will be a second proof for them, which is a contemporary *Ijma*. Moreover, nowadays some ignorant Muslims have inclination to ignore or give no importance to some of those rulings that are established through certain proofs. An instant *Ijma* for these issues would enhance the position of the *Shari`ah* regarding them. Likewise, the argument that mujtahids would not be able to agree on the ruling of a speculative issue is not always sound because the implementation of the method of comparison and preference would enable the *Mujtahid'un* to agree on the rulings of this type of issues. Thus *Ijma* would make these rulings certain (*qat`i*) though they were speculative prior to this consensus.[29]

6. The argument that only companions could do *Ijma* because they were the only community who were at their time considered to be the whole of the *ummah,* which cannot be applicable for any other generation is full with flaws. This is because according to this notion, there was not a single moment in the history of Islam when all the companions were present together. For instance, some of them passed away during the time of the Prophet (*SAAS*) and some others departed this world before conducting some of *Ijma`ic* rulings of 2nd and 3rd caliphs, Since companions conducted *Ijma* through consultation, *mujtahid'un* of subsequent generations, including the modern period, should also be allowed to do so.

7. The idea of inability of *Mujtahid'un* with classical education of not having knowledge of newly arisen social, economic, political, and scientific problems is acceptable. But this is not considered to be a valid interruption for them from conducting *Ijma* because they can consult the specialists of every field prior to making their agreement over the ruling of an emerging new issue. This could be an additional condition for contemporary *Ijma* especially for those new issues for which consultation with the specialists is required.

8. The 1st argument of the supporters that since conducting *Ijma* was possible for companions it should also be possible for *mujtahid'un* of modern times is sound because the necessity of doing it during modern times is higher than it was in early Islam, and facilities of conducting it presently are better than they were at the time of the companions as discussed earlier.

9. The argument that the fulfillment of the conditions of *Ijma* stipulated by the majority of the classical jurists is possible during contemporary times is likewise sound. This is because the most important condition of *Ijma* is that some jurists should have qualifications of doing *Ijtihad*, acquiring of which nowadays has become easier. This is because thousands of sources on commentaries of the Quran and *Hadith*, criticism of *Hadith*, *fiqh*, *usul al-fiqh*, language, Arabic grammar, etc. are available in both hard and soft copies all over the world. Furthermore, nowadays Muslims do not need an absolute mujtahid who can do *Ijtihad* for every branch of Islamic law. Rather, they need that type of *Mujtahid* who can conduct

---

[29]Zaydan, 1993, p. 192

Ijtihad for certain issues or who can do comparison and contrast between conflicting opinions and can give preferences to the stronger opinion over weak ones. This type of *Mujtahid'un* is available presently even according to those who are reluctant to recognize the existence of any *Mujtahid* during modern times.

10. The argument that proofs of *Ijma* are suitable to be proofs of the feasibility of conducting *Ijma* in modern times is not that strong. This is because all the arguments of classical supporters of *Ijma* are criticized by the opponents in a way that nothing of them left as a strong proof of *Ijma*. However, some other arguments given by some later scholars are considered to be very strong, such as the argument of *Shura*, which is established through those verses whose meanings are certain, such as the verses "Their affairs should be mutually consulted,"[30] and "Consult with them in their affairs."[31] The concept of *Shura* mentioned in these verses is certain, which was utilized by the Prophet (*SAAS*) himself for solving different issues through consulting them with his companions. These issues were no doubt a type of *Ijma`ic* decisions. The same *Shura* had continued during the time of righteous caliphs for solving many newly arisen issues, which are in other words could be called *Ijma*. Since this command of the Quran about *Shura* is for every generation of Muslims, conducting *Ijma* during modern times is not only lawful and feasible, rather, it is obligatory, especially for those issues for which there is no other ways except *Ijma`* is left for deducing rulings of the *Shari`ah* for them.

Steps to be taken for Conducting *Ijma* at Present

Although most of the contemporary jurists maintain that it is possible to conduct an *Ijma* during contemporary times, only a few of them has provided the methods of conducting it. Five different proposals regarding how to conduct a contemporary *Ijma* are available. First, Mustafa al-Zulami maintains that the specialists of every field should conduct *Ijma* in their particular field. Second, al-Zulami has a second belief about the issue. He also maintains that those who are capable of making *tarjih* (preference of stronger opinions over the weaker ones) and those who are capable of *istinbat* (deducing new rulings) should assemble themselves in either *Makah* or *Madinah* during the occasion of *Hajj*, and discuss the issues and solve them unanimously. [32] Al-Zulami, however, has not

proposed to form an organized body. Third, `Abduh, Iqbal, and some others maintain that the parliament of every Muslim country should do *Ijma*.[33] Fourth, another contemporary jurist, `Abd al-KarimZaydan maintains that a central *Fiqh* Academy should be established to conduct *Ijma* in contemporary period. All jurists capable of doing ijtihad should be members of this academy.[34]

Fifth, Abd Al-WahhabKhallaf opines that a central legislative association (*jam`iyyahtashri`iyyah*) should be established to conduct *Ijma*. All *Mujtahid'un* must be members of this association. We have discussed earlier that the first and third proposals, i.e. *Ijma* of the specialists of every field and *Ijma* of the parliament cannot be accepted. The 3rd proposal, i.e., doing *Ijma* during *hajj*, is also not suitable because during this time everybody, including participating *Mujtahid'un,* remains busy with different types of worshiping. Extra burden of *Ijma* might distract a *Mujtahid* pilgrim from these worships. Additionally, there is a possibility that ijma` of this era might be influenced by the views of Saudi kingdom. There is no big difference between the last two proposals, i.e., creating a central academy or association. Anyone could be suitable for this task because each one has the capacity to organize the procedures of *Ijma* neutrally. However, many steps should be taken to conduct ijma` through this type of academy or association. From among the above scholars, Zaydan has provided a brief idea about these steps.[35] The researcher elaborates the steps of conducting *Ijma* at present based on Zaydan's brief idea and ideas of some other scholars and his own inputs. These steps are as follows:

1. The above central academy or association must be independent from any particular government or political party.

2. The head office of this academy or association should be in a neutral country.

3. All Muslim governments should participate to finance this academy or organization because the cost could be so high that for one government it would be a burden. Likewise, if a single or some particular governments finance it, this academy or organization could be influenced by them.

4. All modern facilities, such as computers, fax machines, telephones, teleconference equipment's, Internets, printers, etc. should be supplied for this head office.

---

[30]Surat al-Shura, 42: 38
[31]Surat Al `Imran, 3: 159
[32]See Hasan, pp.227-255.

[33]See Hasan, pp.227-255.
[34]Zaydan, 1993, p. 193.
[35]Zaydan, 1993, pp. 193-194.

5. Most of the sources of *Tafsir*, *Hadith*, *fiqh, usul al-fiqh* and dictionaries both in hard and soft forms, including books, journals, articles, *fatawa*, etc. should be abundantly available in this office.

6. The conditions of *Ijtihad* should be determined. In addition to classical conditions, a new condition should be added, i.e., a *Mujtahid* should have knowledge of different emerging issues of the contemporary *ummah*.

7. The emerging issues that require *Ijtihad* and *Ijma* should be listed by the specialists of every field. The most urgent ones should be selected first to conduct *Ijtihad* and *Ijma*.

8. *Mujtahid'un* should consult specialists of scientific, technical and other fields about which the formers don't have sufficient knowledge to judge them.

9. The members of this academy or association should assemble together according to an organized timetable. Before they will come to this meeting they should be given the new topics to be discussed in it. There should be enough time for them to do their own ijtihad at their homes prior to attend this meeting.

10. During the meeting the proposed topics should be discussed freely. All different views should be tabled for judging. The strongest opinion should be accepted by the assembly.

11. Once these members of the academy or organization reach an agreement on the ruling of a particular issue, the *Ijma* will be accomplished for it.

12. This ruling of *Ijma* should be published through the publishing media of this academy or organization so that it will be known to other scholars all over the world.

13. This ruling of *Ijma* should be binding for these *Mujtahid'un* and all other Muslims all over the world including all Muslim governments. However, without having a central powerful Islamic government many *Ijma`ic* decisions might not be able to be implemented.

14. If this ruling is based on a *Sanad* (proof) of the *Quran* or *Sunnah*, the subsequent generations will have no authority to change it. However, if it is based on a public interest, once this interest changes, the ruling also could be changed via another *Ijtihad* and *Ijma*.[36] If the *Mujtahid'un* are unable to agree on a ruling, rather, they have two opinions, i.e., the opinion of the majority and the opinion of the minority, the former opinion still will be binding for the Muslims. But the subsequent *Mujtahid'un* will have the right to choose the view of minority, if they feel that that is the most

appropriate ruling. But according to majority of the jurists, they are not allowed to choose a third opinion.[37]

II.   CONCLUSION

This article concludes that the definition of the majority of the classical jurists about *Ijma* is sound and appropriate to be followed. According to this definition and some Quranic verses whose meaning is certain (*qat`i*), the researcher maintains that conducting *Ijma* during modern times is not only feasible and allowed, rather, it is obligatory for those issues for which there is no other way except this *Ijma* is left for deducing decisive rulings of the *Shari'ah* for them. The suitable method of doing this *Ijma* is to establish a central and neutral *fiqh* academy or association in a neutral country, to which all mujtahids of all Muslim countries of the world without exception should be affiliated as its members, who would assemble together in its headquarters and thoroughly and freely discuss rulings of the issues that require such rulings, and finally they would arrive at combined and united views regarding these rulings. This must be considered a valid *Ijma* (consensus), which must be followed and implemented by all individual Muslims and their governments all over the world.

REFERENCES

[1]. Abduh, Muhammad. Tafsir al-Manar, ed. Muhammad Rashid Rida'. Cairo: n. p., 1367 A. H., vols. 3, 5.

[2]. Al-Ghazali, Abu Hamid Muhammad bin Muhammad bin Muhammad. Al-Mustasfa min `Ilm al-Usul. Egypt: Al-Matba`ah al-Amiriyyah bi-Bulaq, 1322 A. H., vol. 1.

[3]. Al-Mankhul min Ta`ieqat al-Usul. Beirut: Dar al-Fikr al-Mu`asir, Damascus: Dar al-Fikr, 3rd ed., 1998.

[4]. Al-Halabi, Ibn Amir al-Hajj.Al-Taqrirwa al-Tahbir `ala al-Tahrir fi Usul al-Fiqh. Beirut: Dar al-Kutub al-`Ilmiyyah, 1999, vol. 3.

[5]. Hasan, Ahmad. The Doctrine of Ijma in Islam. Islamabad: Islamic Research Institute, 1991.

[6]. Iqbal, Muhammad. Reconstruction of Religious Thought in Islam. Lahore: n. p., 1962.

[7]. Khallaf, `Abd al-Wahhab.Kitab `IlmUsul al-FiqhwaTarikh al-Tashri` al-Islami. Egypt: Matba`at al-Nasr, 1940.

---

[36]Al-Zuhayli, vol. 2, pp. 973-975.

[37]See Al-Ghazali, Al-Mankhul, pp. 417-419; Al-Halabi, vol. 3, pp. 135-136; Zaydan, p. 186.

[8]. Al-Nasafi, Abu al-Barakat `Abd Allah bin Ahmad Hafiz al-Din. Kashf al-AsrarSharh al-Musannaf `Ala al-Manar.Beiruit: Dar al-Kutub al-`Ilmiyyah, 1990, vol. 2.

[9]. Al-Razi, Abu `Abd Allah bin Muhammad bin al-HusaynFakhr al-Din. Al-Mahsul fi `Ilm al-Usul. Beirut: Dar al-Kutub al-`Ilmiyyah, 1999, vol. 2.

[10]. Shalabi, Muhammad Mustafa. Usul al-Fiqh al-Islami. Beirut: Dar al-Nahdahal`Arabiyyah, 1986. Wali Allah, Shah.Izalat al-Khafa' (Urdu tr. By Abd al-Shakur). Karachi: n. p., n. d., vol. 1.

[11]. Weiss, Bernard G. The Search for God's Law: Islamic Jurisprudence in the Writings of Saif al-Din al-Amidi. Salt Lake City: University of Utah Press, 1992.

[12]. Al-Zahiri, Abu Muhammad `Ali bin Ahmad bin Sa`id bin Hazm. Al-Ihkam fi Usul al-Ahkam. Beirut: Dar al-Kutub al-`Ilmiyyah, 2004, vol. 1.

[13]. Zaydan, `Abd al-Karim.Al-Wajiz fi Usul al-Fiqh. Beirut: Mu'assasat al-Risalah, 6th ed., 1997.

[14]. Al-Zuhayli, Wahbah.Usul al-Fiqh al-Islami. Beirut: Dar al-Fikr al-Mu`asir, 1996, vol. 1.

[15]. Al-Zulami, Mustafa Ibrahim.Usul al-Fiqh fi Nasijihi al-Jadid. Kurdistan: Matba`atUfsit ha Walir, 6th ed., 1999, vol. 1.