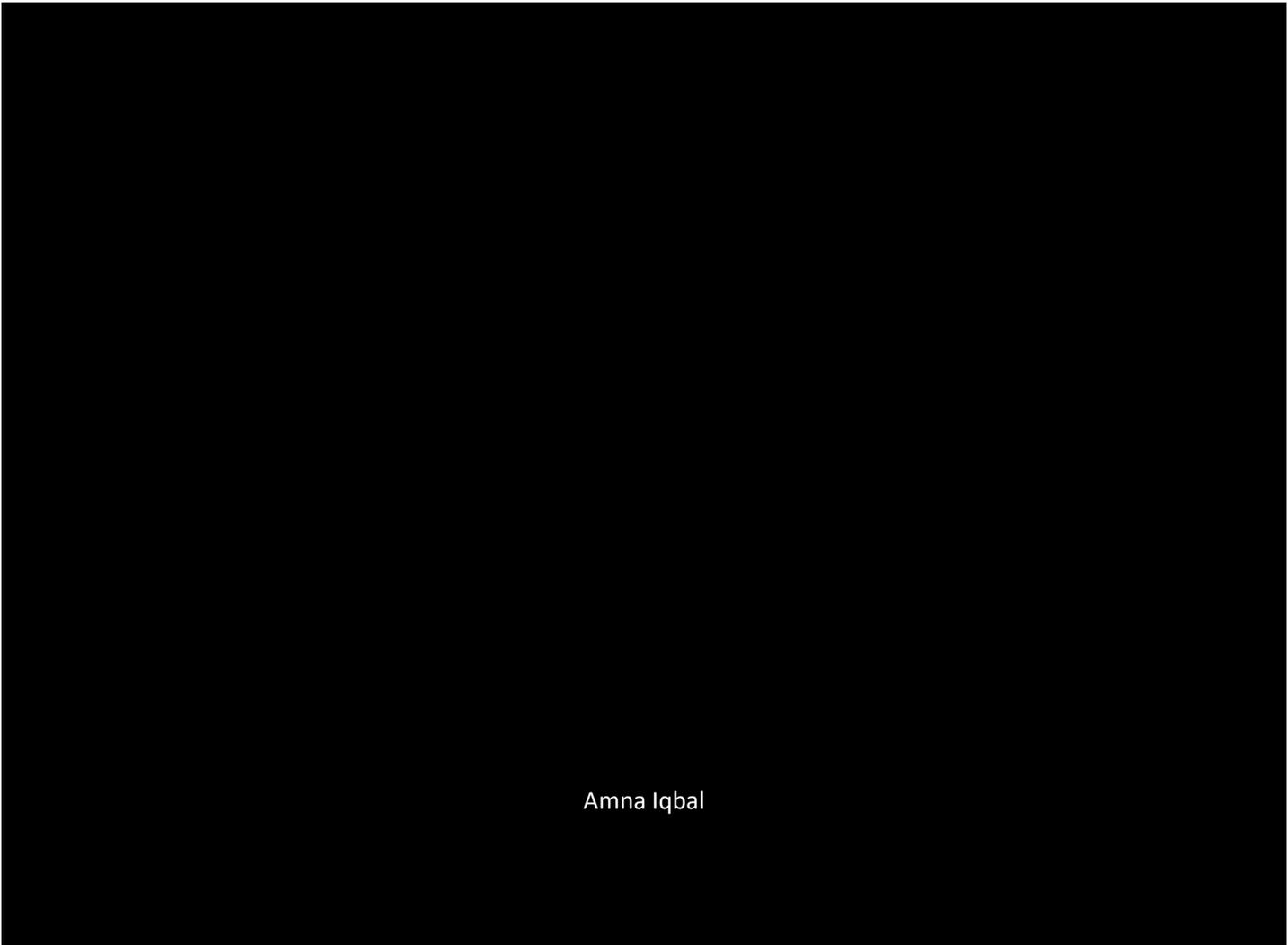




IJMA (CONSENSUS OF LEGAL OPINIONS)



Amna Iqbal

IJMA

(CONSENSUS OF LEGAL OPINIONS)

LITERAL MEANING:

- A- Determination & resolution
- B- Agreement upon the matter

Quran “Determine your plan and among your partners” [Quran 10:71]

Hadith “The person who has not resolved to fast prior to dawn has no fast”.

Difference b/w two meanings:

In first sense ijma is possible from one person but not in second sense, it requires 2 or more persons.

TECHNICAL OR LEGAL MEANING:

The consensus of mujtahid (independent jurist) from the ummah of Hazrat Muhammad PBUH after his death in a determined period upon a rule of Islamic law

According to **Imam Razi (Al mahsul Vol:4, 35)**

Verse

CONDITIONS FOR VALIDITY OF IJMA:

- 1- Agreement or consensus must takes places between mujtahids

Those who have attained the status of mujtahid (expending of maximum effort in the performance of an act)

- Non mujtahids are excluded
- General public is also excluded
- Members of a modern legislature are also excluded unless they attained the status of mujtahid

- 2- Unanimous Agreement:

- By all mujtahid
- No conflicting opinions

- 3- All mujtahids must be muslims:

- Must be followers of Hazrat Muhammad PBUH

- 4- Agreement must have taken place:

- After the death of Hazrat Muhammad PBUH

- 5- Agreement must be among the Mujtahid of a single determined period:

- Otherwise ijma would become impossible
 - Should be at a single time
- 6- Agreement upon a rule of law:
- Rule must state that certain thing is permitted, prohibited, valid or void
 - All non legal rules are excluded from the domain of ijma
- 7- Mujtahid should have relied upon sanad for deriving their opinion:
- A sanad is evidence in one of the accepted sources of law
 - Not from Quran & Sunnah only but from legal system
- 8- Ijma should have been transmitted to the latter jurist by way of tawatar:
- Written or memorized form

➤ **Note:**

Following 2 conditions are not followed by most of the jurists:

i.e ijma would be valid after the death of the participating mujtahid as they can change their opinions & views as long as they are alive
agreement is must death is not required

TYPES OF IJMA:

1) Ijma Qawli or Explicit Ijma or Sarih:

- Legal opinions of all the jurists of one period pertaining to legal issue
- Explicit opinion of each one of them regarding that issue
- All of them gathered in one session or all the jurists issue Fatwas on issue

2) Tacit or Sakuti ijma:

When some mujtahid issue a verdict on a legal issue and the rest of the mujtahids come to know of it and they keep silence

They neither acknowledge it nor reject it expressly

➤ **Conditions for tacit ijma:**

For the occurrence of Tacit ijma following conditions have to be met:-

- a- Silence must be free from external indication regarding agreement or disagreement:
 - If agreement = then explicit ijma
 - If disagreement= non tacit ijma
- b- The silence of Mujtahid should before a considerable period(no time can be fixed)
- c- Ijtihad must be related to permitted issue

LEGAL FORCE OF IJMA:

Explicit ijma (binding)

- Obligatory to act upon
- Opposition is prohibited
- Cannot be reopened

Quran 4:15 (P. 188) Niazi Book , Hadith

Tacit ijma:

Hanafi & Imam Ahmed Bin Hambal

Obligatory

Binding & definitive source

Imam Shafai & Imam Malik:

They says that do not recognize it even an ijma. But majority point of view is that tacit ijma is obligatory.

STANDARD OF IJMA:

Evidence from the quran and sunnah to be taken as sanad for ijma.

- **Example: “Forbidden unto you (for marriage) are your mothers”.**
- **Hadith “Whoever buys food should not sell it until he has taken possession of it”.**

Qiyas is also accepted as a valid sanad for ijma.