

THE VISION OF IMAM IBNE HAZM ABOUT IJMAA(CONSENSUS) AND DALEEL (SIGNIFICANCE)

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Ijtihad is an important term and the basic part of Islamic Studies. Fiqh o Fatawa is the result of Ijtihad. The principles of Ijtihad are also called Usool-e-Fiqh. Islamic Scholars find the solution of non quoted problems of modern era in the light of Usool-e-Fiqh. It is as old as the Islam because it is used a lot of times by the Prophet and His Companions. At that time, it was not compiled but presented in the form of sayings and fatawas of the Prophet`s Companions. Imam Shafi is the pioneer who had compiled its principles and later on, a number of Islamic scholars had also continued it progressively. Ibn-e-Hazm is one of them who compiled the principles of Ijtihad or Usool-e-Fiqh and used it in his literary books. In this article, it is tried to provide the review of his way of Ijtihad and his diligence methodology specially the concept of Daleel and Consensus.

Keywords: ibne Hazm, daleel, Ijmaa, consensus, indication, deduction

There is no doubt that Almighty Allah bestowed upon Imam Ibne Hazm with great mental ability. He was very genius and extraordinary intelligent. He was an ocean of knowledge. He is adverb of intellectual memory among Islamic Scholars. A famous Islamic scholar affiliated to ‘Asma o Rihaal’, Imam Zahabi wrote about him:

”رأس في علوم الاسلام، متبحر في النقل ، عديم النظير”¹

"He was a science-based expert in Islamic Studies and Narration of Science."

Imam Ibne Hazm felt intensely the need of diligence (Ijtihad) although the need of it was felt before, but he wanted to expand its scope. He said that the person who has the ability to do so should work and utilize his all abilities for it. He writes:

”فرض على كل احد طلب ما يلزمه على حسب ما يقدر عليه من الاجتهاد لنفسه في تعرف ما الزمه الله تعالى ...”²

"There is a lot of utmost responsibility for everybody, and one who is capable of, must know about the obligatory duties of Allah."

In this field of Ijtihad, Imam Ibne Hazm used to utilize his talents and abilities, and collected a knowledgeable scholarship for the Muslim, but due to his special reason, his style was recognized as a separate school of thought. Imam Ibne Hazm argued by the basic sources of Islamic literature, Quran, Sunnah and Ijma etc, while addressing some rules due to his special school thought. One of

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them is Ijma(Consensus) and other one is Daleel(Significance, Indication). According to Imam Ibne Hazm, his concept about the term Ijma (Consensus) and the term Daleel is different from other scholars. His vision about these terms will be discussed in this article.

The Concept of Ijma(Consensus)

In any case, the scholars will agree or disagree. If all agree, it is called al-Ijma. In Arabic language, this word is used in determining and consensus. Ibne Hazm writes that it is apparently proven that determination and consent of all is done by Allah, and whatever from Allah is definitely true because the difference is not from Allah.³

Ijma as an authentic source of Islamic studies

Ibne Hizm states that consensus of Muslim scholars and their same opinion on any problem is absolutely right. Because according to the Prophet's command, a group will always be on the right. In other words, the whole nation cannot agree on error.

لا يجتمع امتي على الخطأ

Ibne Hazm writes that the difference of mine with people's opinion is not on reliability of Ijma, but the difference is:

1. According to them, it can be done without Quran and Sunnah.
2. Claiming Ijma. Sometimes it is difficult to claim Ijma on specific problem or in specific situation.

In the clear words of Ibne Hazm, there is no consensus (Ijma) without text, Neither in theoretical nor in practical.

He said that the text either the saying of The Prophet (peace and blessings of Allah be upon him) or His action.

The status of Ijma without Text(Nass):

Since the religion is complete and there is no need for any increase in the post of Prophet, he said:

“ وهذا باطل ان يجمع على شئ من الدين لم يات به قرآن و لا سنة...”⁴

The consensus on the thing which is not mentioned by the Qur'an and Sunnah is also invalid.

Chance of Ijma:

Ibne Hazm defined Ijma and said that it must be according to the prophet's Hadith, and the second thing is that all the scholars agreed on an opinion in specific matter. Now how it can be collected the opinions of all scholars, although they are scattered throughout the world.

For this reason, Ibne Hazm says that there was possible to agree all muslim scholars on an opinion in the period of companions of Prophet (R.A), and it was occurred also, but afterward it is impossible because they were scattered to different countries to Yemen, Oman Bahrain, Taaif, Makkah, Najd, Sindh, Kabul, Spain, Africa etc and to other areas which we did not know. The agreement and consensus from all of them was not possible then. Furthermore he writes about impossibility of occurrence of Ijma after the era of Sahabah the companions, that the nature of people is differed one another and its level is also different. Some people like a thing and others dislike that. There are so many levels of this dislike. There are some soft hearts and some extremists, some are hard work and some are easier, some delight and some hardship, some moderate, some are arrogant and some humble and tolerant. Therefore, it is not possible for them to agree on the matter due to differences of these habits. Only two things can make them agree:

1. Materialistic and physical matters: There is no relation of this to Shariah.
2. Revelation: Teaching of Prophet.

Without the second one, there is no consensus, no validity of such consensus.⁵

Condition of whole Period for Ijma

According to Ibne Hazm the Consensus which we bond to follow has no condition of such that it would be from first to end all the believers of all eras till the beginning of Islam till now, because it has a circular error. For example if this would be a condition for a valid consensus then no Ijma will be possible. Such as after the present period, there would be the next period, so it will be uncompleted and continue to infinite.

If the condition of all ages is corrupt then will it start from the time of Islam till the present time as a condition? Ibne Hazm writes in this regard that there are only three cases:

1. There are times after the companionship.
2. Only the time of companion.
3. Any time, companion or later

The first case is corrupt because of many reasons:

1.As it is conspicuous when it is invalid. No one is convinced of this point of view.

2.Actually this is just a claim, not the argument. The claim without any argument is unacceptable.

3. Through It is difficult to determine the time after the companionship, ie, after or after the companionship of the companion, or later ... An endless series.

But the second view is that the time of the companionship is valid for Ijma. This point of view is true and there are two arguments to sport it.

One is that no one has opposed it till today. Second reason is that the religion has been completed and it cannot accept any addition. Therefore, the consensus of Prophet's companions is valid, acceptable and authentic.

The third case is also corrupt. Ibne Hazm said that the companions are all believers, and later on, they may be believers and non believers.⁶

Ijma in Companion's era:

Ijmaa in the age of Sahaba:

In view of Ibn-Hazm only the Companions (Sahaba) is a trustworthy in respect of Ijmaa. Their Ijmaa is the real Ijmaa that is compulsory to follow. Any other Ijmaa is worth nothing.

Imam Ibne Hazm writes: "In the words of abu suleman and many of over fellows, Ijmaa is infect of Sahaba. Sahaba gathered on some matter only in light of Prophet's teaching. It is also a fact, Ijmaa is only wick is based in Prophet's sayings and secondly all the Sahaba are believers and there are no real believer other than Sahaba and they deserved this. Therefore their Ijmaa will be regarded authentic. Later on after the age of Sahaba, People were divided in believer and non believer (Momin and Kafir). Therefore the basic trait of Ijmaa is unity of all believers (Muslims). Moreover Sahaba was countable with respect to their numbers. Their unity of opinion in some matter can easily be traced which is not easier in later ages."⁷

Ijmaa after the age of Sahaba(Companions of Prophet):

In opinion of Ibne Hazm, Ijmaa of Sahaba is trustworthy and it can't be held after Sahaba. He has declined this statement that in every age either of Sahaba or later, Ijmaa of people is correct. Furthermore he says if Ijmaa was held after age of Sahaba on the matter on which it has been held before in the age of Sahaba, it is ineffective and unnecessary. Only the Ijmaa of Sahabas suffice. If it is on such matter in which Sahaba have differ or there is no statement narrated from Sahaba in this connection or a statement of the few but not that of all was known, in such cases the Ijmaa of later age wouldn't be trustworthy, particularly when Sahaba have

different opinions. It is impossible that there was difference of Sahaba on some matter and the people of later age may be united on that. It is unfair that reasoning in which is correct for them be incorrect for the later. Such consensus is religiously incorrect as it is not that of believers. All the believers are not possible to get them gathered and united in point of view.⁸

Ibne Hazm has inferred from this argument that only the Ijmaa of Sahaba is trustworthy.

Ijmaa on limited statements:

When there is difference in two or more than two statements, only the statement which is supported with Nass(Text of Quran or Sunnah), will be trustworthy. If people of later age are united due to Nass, there Ijmaa will be regarded as being right and true.⁹

If there are ten statements available in any matter in any particular age, it is considered Ijmaa held on those ten statements. The people of later will follow within these ten statements. In later, if scholars reject five statements and accept the other five, the people of later ages must adopt within these remaining five statements on the base of Ijtihad. Perhaps, he declared this to be Ijmaa to reject statements.

Consensus of citizens of Madinah(Ijma Ahl-e-Madina):

Some people have opinion that the people of Madina were eye witness of Prophet's revelation, if they agree on some matters it would be consensus (Iimaa). Ibne Hazm disagreed with this opinion, because he defines consensus is that in which all the Islamic scholars agreed upon some matter. For purpose of Ijmaa, only the people of Madina are not sufficient. If only a few scholars are united on some matter, this also does not suffice to cover the definition of Ijmaa. Therefore, Ibne Hazm negates this definition of Ijmaa which is confined to mere the agreement of people of Madina with following arguments.

1. This is mere claim which has no evidence.
2. Madina is a superior place what it does not mean the people of Madina are also superior as it is evident today the sinful people have dominate here.
3. The eye witness of Wahi (Revelation) were only Sahaba(رضى الله عنهم). Those people (Ahle Madina) can't fall in eye witness who lived in Madina later.
4. Those who received knowledge from Sahaba (Companions of Prophet) were Taabeen(Followers of Sahaba) and they

were spread whole over the world not lived only in Madina.

5. Scholars of Madina have also different opinions in every problem in which other scholars of Ummah have different opinions among them.
6. If Khalifa (Caliph) of Madina narrates the religious instruction to the people of Madina and other areas equally then there is no difference between people of Madina and other areas. And if they did not use to do so, then they would not be good men.¹⁰

But Ibne Hazm has even said that people who had Claimed the Ijmaa of Ahl-e-Madina only the followers of Imam Malik(ؒ), They only want to establish the writ of Imam Malik's following and they have nothing to do with other scholars of Madina.

Concept of Daleel(Significance, Reason, Evidence):

After Quran o Sunnat and Ijmaa (Consensus), Ibne Hazm(ؒ) has used daleel as the source inference (reasoning). Some people opined that he negated Qiyas (analogy and deduction) but he benefited from Qiyas when he needed in the name of Daleel.

According to Ibne Hazm, Daleel is not separate source of Sharia but it is abstracted and derived from Quran o Sunnat and Ijmaa.

Is it said that Daleel and Qiyas are same?

Ibne Hazm differentiates between Daleel and Qiyas and he writes: some non senses think that we have gone far away from Nass and Ijmaa for adopting Daleel. Some other say that Nass and Daleel are a single thing but it isn't true. We will explain Daleel in such a way as no doubt will be remained.¹¹

Ibne Hazm clarifies that the Daleel(Significance) is actually present within the Nass(Text) and al-Ijma, while in Qiyas a reason is extracted from Nass and applied to another place or case.

Here a question is raised that what is the meaning of lying Daleel inside the Nass? Is not Daleel and Nass same things? Ibne Hazm describes the difference between Daleel and Nass. He said that words, the fact of words, sentences, their structure, etc., indicate various matters. In fact, verbal and non-verbal indications are often referred to as Daleel.

He and his followers may have the point of view that clear meaning lye in the words of sentence so they have to go to Daleel

to understand the teachings of the scriptures or the meaning of Nass, so they extract the solution of problems on their own basis.

Types of Daleel (Significance):

Since there is no extermination except argument, Naseem and al-Azsa near Ibn Hizr, but under Nasr and Ummaah, they mainly divide the arguments in two types.

1. Daleel under Ijma (consensus)
2. Daleel under the Nass (text)

Ibne Hazm divided the first type of Daleel into four categories and he did not separate them from al-Ijma:

1. Istis-hab al-hal (Continuation)
2. Aqall ma qeel (Minimal Point)
3. Consensus on abandonment
4. Consensus on equality of all Muslims.

Ibn Hazm divided the second type of Daleel (under the Nass) into seven categories. He did not consider anyone of them out of Nass, Text of Quran and Sunnah.

1. The result that is not present in the sentence, whereas it is present in the background of the sentence. For example:
Phrase-I: The wine disturbs the system of our feelings, sensation and consciousness.
Phrase-II: The thing which disturbs the system of our consciousness is forbidden.
Result: The wine is forbidden for Muslims. In other words the result is that every drug (narcotics and wines) is forbidden.
2. Something depends on something such as

إِنْ يَنْتَهُوا لِعَفْرِ لَهُمْ مَا قَدْ سَلَفَ

"If they desist, that which is past shall be forgiven them, and if they return, then already gone forth is the dispensation of the ancients." ¹²

These are conditions or conditional matters for example someone will be forgiven if he stops committing sins.

3. Understanding a necessary and obligatory meaning of any word or sentence, such as

“إِنَّ إِبْرَاهِيمَ لَأَوَّاهٌ حَلِيمٌ”

"Verily Ibrahim was long-suffering, forbearing." ¹³

It is necessarily understood that Abraham(Ibrahim) was not mad.

4. Keeping one of the many types, such as one thing may be forbidden or obligatory or only allowed and permissible,

nothing else. If anything is neither forbidden nor obligatory, it means (Under Daleel) that it is allowed and permissible.

5. Being levels and being that the first level will be preferred on second or lower level, such as Abu Bakr(RA) is better than Umar(RA) and Umar(RA) is better than Usman(RA). From here, it will be extracted (Under Daleel) that Abu Bakr(RA) is better than Usman(RA), although it not mentioned in any sentence.
6. Vice-versa, for example, every wine is forbidden. From here, saying (Under Daleel) that some prohibited things are wine or narcotics.
7. To derive or extract an essential meaning from the given phrase, for example 'Zaid is writing'. From here (Under Daleel) it will be understood and said that he is alive and capable of writing, and he has something to write.¹⁴

Ibne Hazm use these method of deduction give it the name of the Daleel which is inside the text of Quran and Hadith and not out of Nass.

He Says:

We use these tricks and methodology and all of them are included by Nass and text (of Quran o Sunnah) does not exclude them from itself. These all types are of two things:

It may be the detail of definite or unclear problem, or it is a single thing and expressed in different words.¹⁵

Ibne Hazm further explains that Daleel and Qiyas (reasoning) are different things, Daleel or Indication is within Nass or Ijmaa and is included by them, but the reasoning (Qiyas) is separated from them and out of them. Qiyas (reasoning) means that a reason is being extracted from quoted matter and applied to a non quoted matter. It is said that the idea of taking any order to the non quoted problem is called Qiyas but Ibne Hazm strongly rejects this methodology for understanding the teachings of Shariah.

Findings and Conclusion:

The conclusion is that according to Imam Ibne Hazm the basic sources of arguments are Quran and Sunnah. Ijma(Consensus) may become the source of sharia if it supported by Nass(Text of Quran or Sunnah). And Daleel is also a basic argument but actually it has no existence out of Nass and Ijma. Daleel lies within the Nass or Ijma. It leads us to Quran o Sunnah.

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