

CHALLENGES ASSOCIATED WITH THE APPLICATION OF IJMA IN MUSLIM MINORITY COUNTRIES.

Ijma is third primary source of Islamic law. It is the consensus of opinion of Muslim jurist minority Muslim countries could be countries like Uganda, Kenya, and Congo etc

The challenges of applying it include;

- a. Lack of enough qualified personnel to teach it
- b. Weak faith
- c. Lack of political support
- d. Differences among scholars
- e. Factionalism in Muslims institutions.
- f. Lack of adequate literature.
- g. Financial constraints to support it.
- h. Government policies that are against Sharia.
- i. Muslims have a belief that such are for sheiks and Imams.
- j. Differences in customs of people.
- k. Negative attitude towards Sharia.
- l. It is very difficult in such countries for scholars to come to a consensus.
- m. The environment in such countries is not suitable.
- n. Competition with other religions like Christianity.

138, Examine the application of Ijma of a source of Islamic LAW to a secular state like Uganda.

Approach.

Ijma is a third source of Islamic law where the Muslim jurists of a particular age meet on the question of law and the agreement is reached upon to overcome a certain problem within Islamic community.

- Muslims jurists have sat and agreed on different problems in the Muslim community where the question is silent eg the formation of Uganda Muslim supreme council in 1972.
- Use of condoms to eradicate AIDS the Muslim jurists of Uganda agreed against this and became generally immoral (Is 1 ami catty).
- Using birth control methods, Muslims of Uganda greatly opposed it since islamically all kind of sex is meant for child production in marriages.

However, to the large extent there are various view relating to the application of Ijma that made it effective in the Muslim community of Uganda.

- Ijma ensures opinions of jurists only.
- The existence of different opinions that Ijma is in or more particular generation.
- There is a problem of defining a Muslim jurist.
- Problem of gathering Muslim jurist to come and attend debating sessions.
- Political or interference and difference.
- Disunity among Muslims.
- Restricting Ijma to the house of prophet.

- General consensus to the whole community is difficult.
- Divergence in the acceptability of some sources of Sharia.
- Restricting using to the people of Medina (Muhajirun)

Where do the following sources of Sharia derive their authority

- (a) Quran
- (b) IJMA

Here candidates should bring out the Quranic verse and prophetic sayings that support the two sources of Sharia. Quran refers to the revealed word of Allah to Prophet Muhammad through Angel Jibril for the guidance of mankind, It is the first source of Islamic law where all laws are drawn Quran 2:2

Describes the Quran as a perfect book in which there is no doubt.

Quran 17:9 Describes the Quran a book which guides to the most right

Quran 5:47 And those who don't judge by what Allah has revealed these indeed are the transgressors. This emphasized that all Muslims should follow the teachings of the Quran.

Quran 4:59 Says obey God and if you differ in any matter refer to God, in this verse Allah refers to His word (Quran)

Quran 6:38 We have left out nothing in this book, this emphasizes that Quran covered all aspects of life and therefore highly dispensable.

Prophetic traditions in support of the Quran as a source of law.

The prophet said I have left among you two things if you adhered you will never go astray, the book of Allah. The book of Allah in the above Hadith refers the Quran and whoever holds firmly on it will never go astray.

The prophet also said I have been given the Quran and its like.

He once said the best among you is he who learns the Quran and instructs other in the same.

The prophet also said the Quran can abrogate my words but my words can not abrogate the Quran.

All the above show genuineness of the Quran as a source of law (sharia)

Ijma can be defined as the consensus of the companions of the prophet and the agreement reached on the decision taken by the learned jurist on various Islamic matters.

Quran 4:59 "Obey God and obey the messenger and those charged with authority among you"
Those charged with authority refers to people who make consensus -Quran 3:159

"Pardon them and ask forgiveness for them and consult with them. This calls for people consulting each other's whose outcome is the decision (Ijma)

Quran 42:38 "And those who answer the call of their Lord and establish prayer and who conduct their affairs by counsel..."

Quran 4:115 " and follow a path other than that becoming to men of faith "The calls for collective decision making and following the faithful.

The prophet said "My people will never agree in error.

The hand of God is with the group.

My people would never agree with whoever leads them astray.

The four sources of Sharia can only work as supplement to each other.

Justify the statement?

The Islamic sources of law are

Quran

Hadith

Ijma

Qiyaas

Ra'y

- i) Sharia is the totality of God's commandment relating to all activities of man.
- ii) Quran refers to the revealed word of God to Prophet Muhammad through Angel Gabriel for the guidance of mankind.

Quran supplements or supports hadith in the following verses.

3:31 indicates that if you love God, follow me, Allah will love you and forgive you all your sins.

59:7 indicates that whatever the messenger gives you, take it and whatever he abstains from it.

53:3-4 indicates that Muhammad (S.A.W) doesn't speak out of his own desire but inspiration from God.

4:80 indicates that he who obeys the apostle obeys God

33:21 indicates that indeed we have got the best example from the messenger of God.

- iii) Hadith supplements the Quran as follows

It explains the Quran e.g. 5:90, 2:187

The prophet himself lined as a perfect example of the Quran in 33:21

The prophet being an Arab was in better position to explain the Quran which was revealed in Arabic.

God himself explained the importance of Muhammad in explaining the Quran, 3:31, 4:65

It said that I have left amongst you two things, if you adhere to them you will never go astray i.e Quran and hadith.

Hadith helps to authenticate other sources like the Quran.

iv) Ijma: This is the general consensus of learned people on issues not covered in the or hadith i.e. during the prophet's time there were no such drinks like beer, drugs etc. which are existing now but because of their intoxicating effect or nature they are haram.

v) Qiyas: measuring and comparing on the basis of analogy, the case of kissing your wife and don't reach organism doesn't invalidate fasting.

vi) Ra'y: independent opinion when someone fails to get any reference from Quran, hadith or the above sources, it was supported by Quran 4:59 which says

"Oh you who believe obey God, his messenger and those in authority among you"

156. Sharia covers all aspects of life; discuss the statement with particular reference to Social and Economic Aspect.

Sharia means the ideal code of conduct or pure way of life which aims at regulating the relationship of God and man, sharia covers all aspects of life be it religious, social, economical and political.

Social aspect

Sharia advocates for unity and equality of all mankind irrespective of colour, origin and status in society 49:10-13, 3:03

Sharia helps Muslim to help one another in piety as seen in 5:21 and sincere love for one's fellow being, mercy to the young and respect the old.

Sharia enjoins one to do good to the parents and wayfarer 17:24, 4:36

Discourages suspicion and backbiting for in most cases it is a sin 49:11-12

Sharia encourages Muslims to console the distressed, visit the sick, help the poor, in one hadith it in one hadith that " whoever relieves a human being from the grief of this world, Allah will relieve him from the grief on the day of judgement"

Islam calls for good relation of Muslim with the non Muslims under the Islamic state

Prohibits fornication (Zina) in Quran 17:32 and encourages Muslims to marry, Quran 4:3

Prohibits gambling and games of chances in Quran 5:9

Man is guided on what to eat in 5:21, 5:4

Economic aspect

Sharia governs man's transaction in that it enjoins man to carry on trade with justice and honestly

4:29

No cheating, hiding defects from the goods or merchandise, no monopoly of trade and no hoarding of goods 33:1-6 and in one hadith which states that "one who withhold goods until prices rises is a sinner"

Sharia prohibits Ribba (usury) in 3:130 and 2:275-8

Fair dealing is encouraged in 4:29 and proper weight too should be done 55:9, 83:1-6, 17:35 and 17:25-27

Dependence of able Muslim on other is discouraged and in the same way begging others whether they give you or not strongly discouraged, ^

A person who keeps on begging will meet his Allah with no fresh on his face " (Agreed upon)

Work of any kind provided that it is lawful encouraged in 45:13 and 62:10

Sharia has spelt out labour and work ethics to guide all Muslim life in economic terms.

Islam has also spelt out commercial ethics in all business transaction for the smooth running of economic activities.

Discuss where Ijma and Qiyas derive their authority as sources of Islamic law

This is the general decision made by jurists pertaining any issue that was not ruled by the Quran and Hadith.

Q42 38 Those who do not think are deaf, dumb and blind

Q3 159 so pardon them task forgiveness for them for consult with them on the matters

Q4 59

Q4 115 and follows a path other than that becoming to men of faith

Qiyas comparing with or judging by comparison i.e. Judging a new problem whose solution is not known but comparing it which a similar matter whose solution was either mentioned with Quran or Hadith.

Q22:27

Q30 50,

Q46 33

Q22 5

