

Series of Questions Addressed to the Eminent Scholar Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his Facebook Page (Fiqhi)

Answer to Question

Ijmaa' is a Hadith which the Sahaabah did not Narrate

To: Abu Hamza Al-Shirbati

(Translated)

Question:

Assalamu Alaikum wa Rahmatullahi wa Barakatuh Our Sheikh, may Allah open at your hands, may He accept your obedience, and hasten us with victory and empowerment.

I have a question regarding inferring from the consensus (Ijmaa') of the Sahaabah with evidence from the Qur'an and Sunnah; as came in the *Islamic Personality, Volume III* that the considered consensus of the Sahaabah (Companions) is only their consensus that a certain verdict (Hukm) is a Shar'i verdict, for it shows that there is a Shar'i evidence for this verdict, and that they had narrated the verdict and didn't narrate the evidence. Since the consensus reveals evidence that they did not narrate, then why do we infer from it with evidence from the Qur'an and Sunnah? For example, in the book, *Al Amwal* (Funds in the Islamic State), the zakat of sheep is due in the Sunnah and the consensus of the companions, as well as in the book of *The Social System in Islam* on the divorce and the original in its legitimacy is the Quran and the Sunnah and the consensus of the companions, so why do we infer from the consensus the Companions, may Allah be pleased with them, with evidence from the Quran or from the Sunnah? May Allah reward you with good and excuse my long question.

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

May Allah bless you for your kind prayers to us. Here is the answer:

1- Definition of Ijmaa': It came in the book, *The Islamic Personality, Volume III*:

(... The consensus (Ijmaa') in the terminology of the scholars of the Fiqh Principles (Al 'Usoul) is the unanimous agreement that the verdict of an incident is a Shar'i verdict... So the considered consensus of the Sahaabah (Companions) is only their consensus that a certain verdict (Hukm) is a Shar'i verdict, for it shows that there is a Shar'i evidence for this verdict, and that they had narrated the verdict and didn't narrate the evidence.)

2- That is, the Companions learned something from the Messenger of Allah (saw) and instead of transferring to us the Sunnah of the Messenger of Allah (saw) through a narration from him, they transferred this through their consensus, i.e. their

consensus took the place of transferring the Sunnah ... therefore the consensus of the Companions, may Allah be pleased with them, discloses that there is a daleel (evidence), that is, it discloses that there is a Sunnah of the Messenger of Allah (saw) that was not transferred to us as a text through narration, but the consensus of the Companions on its ruling was transferred to us ... the consensus takes the place of a daleel from the Sunnah that was not narrated.

3- Thus, as we infer from an Ayah and a hadith or from a hadith and a hadith, so also we infer from an Ayah with Ijmaa' or a hadith with Ijmaa', because the Ijmaa' (consensus) is a hadith that was not narrated by the Companions but rather they transferred the rule as indicated above, thus, the consensus (Ijmaa') is a hadith that was not narrated.

4- One thing that is worth to draw attention to, is that transmitting the Ijmaa' of the Sahaabah on a rule along with other evidence from the Qur'an and Sunnah strengthens and affirms the rule, because the rule evidenced by the Ijmaa' of the Sahaabah is not permitted to be abrogated; because the Ijmaa' had happened after the Messenger (saw), and the abrogation of it can only be by evidence, and since the Ijmaa' is after the death of the Messenger (saw) and then the interruption of revelation (Wahi), so there is no evidence to abrogate the Ijmaa'... That is why we say that the existence of Ijmaa' on a specific rule confirms and strengthens it because abrogation is not possible.

5- The conclusion is that inference from a hadith and Ijmaa' is as inference from a hadith and another hadith, and inference from more than one evidence, especially Ijmaa', strengthens and affirms the rule.

I hope that this will suffice, and Allah Ta'ala Knows Best and He is All-Wise.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer from the Ameer's Facebook page:

<https://web.facebook.com/HT.AtaabuAlrashtah/posts/2699773073602033>