

# A STUDY OF IQBAL'S VIEWS ON 'IJMA'.

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Iqbal penned his lecture on "The Principle of Movement in the Structure of Islam" (No VI in *The Reconstruction*) at a time when Turkey was hailed as "the element of stability in the world of Islam". No doubt, the stirrings of new life in Turkey in the wake of World War I touched off a wave of excitement throughout the world of Islam. Iqbal's appraisal of the potentialities for good or evil of the new trends in Modern Turkey is worth a critical study in the light of the facts of subsequent history. Today one cannot help feeling that at several places in the above lecture the emotionalism of the revivalist gets the upper hand of the cool analyst and the calm thinker. For example, one is at a loss to see, as Iqbal would like one to do, "that following a line more in tune with the spirit of Islam he (i.e., Sa'id Halim Pasha of the Religious Reform Party) reaches practically the same conclusion as the Nationalist Party, that is to say, the freedom of *Ijtihad* with a view to rebuild the law of *shari'ah* in the light of modern thought and experience". One can only wish that Iqbal had lived longer to see that the Nationalists only sought the freedom to displace the *shari'ah* and not to rebuild the law thereof. Even if the Nationalists called it 'free *Ijtihad*', it as clearly a case of free-thinking — free from, and without any reference to, the *shari'ah*.

It is clear that, like all modern thinkers, Iqbal was distracted by the thought of "the immobility of Islam during the last 500 years". He was afraid that if the new reforms of Modern Turkey were condemned outright the 'immobility' might get a fresh lease of life. That is why he would say: "The structure of Islam as a religio-political system, no doubt, does permit such a view (the separation of Church and State), though personally I think it is a mistake to suppose that the idea of State is more dominant and rules all other ideas embodied in the system of Islam". As if it were just a minor mistake! Further: "Turkey's *Ijtihad* is that, according to the spirit of Islam, the Caliphate or *Imamate* can be vested in a body of persons, or an elected

Assembly. The religious doctors of Islam in Egypt and India, so far as I know,, have not yet expressed themselves on the point. Personally, I believe the Turkish view is perfectly sound. It is hardly necessary to argue this point. The republican form of government is not only thoroughly consistent with the spirit of Islam, but has also become a necessity in view of the new forces that are set free in the world of Islam". True, but just a simple question: Is it the Caliphate/Imamate that is vested in the elected Assembly? If so, then what about the separation of Church and State? And further on, "Most people in India will condemn the displacement of Arabic by Turkish. For reasons which will appear later the poet(Zia)'s *Ijtihad* is open to grave objections, but it must be admitted that the reform suggested by him is not without a parallel in the past history of Islam". Iqbal is merely pleading a bad case, pointing to unreliable evidence for mitigation of sentence. Ibn Tumart was an eccentric who could only have erred on the side of unrelenting opposition to '*shirk*' and '*bidah*'. He was so particular about the Qur'an in Arabic that he invented a novel method of teaching the '*Fatiba*' to the barbarous Masmuda. 'He called individuals of them by a word or sentence from this *Sura*: the first was called " *al-hamdulillahi*", the second "*rabbil*", the third "*alamin*" and so on. He then told them to give their names in the order in which he placed them till he succeeded in getting them to repeat the first *sura* of the Qur'an.' But at the same time Ibn Tumart was anxious that the ignorant Berbers should understand, and be inspired by, the *Tawhid* (the opposite of *shirk*'). That is why he utilised his gift of extraordinary proficiency in the Berber language to compose a treatise called the *Tawhid*, which he himself taught and insisted on everyone of his followers to learn. In course of time the *Tawhid* and other collections of the writings and commentaries of Ibn Tumart in the Berber language became popular until his opponents, anxious to fight him with his own weapons, called this circulation of Berber treatises, in preference to the Qur'an as they must have put it, a '*bidah*' par excellence. All the reliable histories like the *Tarikh* of Ibn Khaldun, *al-Hulal al-Mawshiyya*, -the *Mujib* of alMarrakushi, and the *Rawd al-Qirtas* of Ibn Abi Zar, make no reference to the strange things about him

mentioned by Iqbal. The modern researcher, Uthman al-Kaak, reaches the same conclusion as given above (*Al-Barbar*, Tunis, 1956, p.115/116). But even if the parallel is established, parallelism does not necessarily mitigate the gravity of objections; it also accentuates the same if the ultimate results are taken into consideration. Ironically enough, the *Tanbid* of Ibn Tumart survives only in its Arabic translation and the attachment to Arabic is so great that even in the last century two persons who dared to bring out a Berber version of the Qur'an were killed outright (*Al-Barbar* p.116-117) Is not Turkey before our very eyes hard put to it to save the legacy of Atatürk from the nemesis of time?

Having chosen at random a few pointers to the mood that dominated Iqbal at the time of the emergence of Modern Turkey, we shall now proceed to the main subject of this article viz., a critical examination of Iqbal's observations on *Ijma*. This is exactly what he has to say about it:-

"The third source of Mohammedan Law is *Ijma*, which is in my opinion perhaps the most important legal notion in Islam. It is, however, strange that this important notion, while invoking great academic discussions in early Islam, remained practically a mere idea, and rarely assumed the form of a permanent institution in any Mohammedan country. Possibly its transformation into a permanent legislative institution was contrary to the political interests of the kind of absolute monarchy that grew up in Islam immediately after the fourth Caliph. It was, I think, favourable to the interest of the Omayyad and the Abbaside Caliphs to leave the power of *Ijtihad* to individual *Mujtahids* rather than encourage the formation of a permanent assembly which might become too powerful for them. It is, however, extremely satisfactory to note that the pressure of new world forces and the political experience of European nations are impressing on the mind of modern Islam the value and possibilities of the idea of *Ijma*. The growth of republican spirit, and the gradual formation of legislative assemblies in Muslim lands constitutes a great step in advance. The transfer of the power of *Ijtihad* from individual representatives of schools to a Muslim legislative

assembly which, in view of the growth of opposing sects, is the only possible form *Ijma* can take in modern times, will secure contributions to legal discussion from laymen who happen to possess a keen insight into affairs. In this way alone we can stir into activity the dormant spirit of life in our legal system and give it an evolutionary outlook. In India, however, difficulties are likely to arise; for it is doubtful whether a non-Muslim legislative assembly can exercise the power of *Ijtihad* "One more question may be asked as to the legislative activity of a modern Muslim assembly which must consist, at least for the present, mostly of men possessing no knowledge of the subtleties of Mohammedan Law. Such an assembly may make grave mistakes in their interpretation of law. How can we exclude or at least reduce the possibilities of erroneous interpretation? The Persian constitution of 1906 provided a separate ecclesiastical committee of *Ulema* — 'conversant with the affairs of the world' — having power to supervise the legislative activity of the *Mejlis*. This, in my opinion, dangerous arrangement is probably necessary in view of the Persian constitutional theory. According to that theory, I believe, the king is a mere custodian of the realm which really belongs to the absent Imam. The *Ulema*, as representatives of the Imam, consider themselves entitled to supervise the whole life of the community; though I fail to understand how, in the absence of an apostolic succession, they establish their claim to represent the Imam. But whatever may be the Persian constitutional theory, the arrangement is not free from danger and may be tried, if at all, only as a temporary measure in *Sunni* countries. The *Ulema* should form a vital part of a Muslim legislative assembly helping and guiding free discussion on questions relating to law. The only effective remedy for the possibilities of erroneous interpretations is to reform the present system of legal education in Mohammedan countries, to extend its sphere, and to combine it with an intelligent study of modern jurisprudence."

It is obvious that Iqbal is pained at the lack of organisation and of permanent 'institutions' for legislation in Islam. This, I am afraid, only shows an inadequate appreciation of the true nature of Islamic society and the bases

and the processes set forth for its growth and evolution. So far as *Ijtihad* and *Ijma* are concerned, it is in their very nature that they are diffused among the whole community in such a way as to defy all attempts at regularisation and organisation into rigid mechanical institutions which, as practical experience will amply bear out, are dangerously exposed to rigging and regimentation. It is the inalienable non-transferable privilege of every Muslim possessing the necessary qualities for the task to exercise his mind and form his individual judgment in regard to the new situations arising out of the forward march of life — history, culture and civilisation. Any question of representation, delegation or election is completely beside the point. Even the number of *mujtabids* is indeterminable; it is bound to vary — from time to time and place to place according to the nature and extent of education and culture. Further, the recognition of a *mujtabid* is not won through a counting of votes or the award of certificates by statutory bodies. The recognition is *commanded* by the *mujtabid* from the general body of believers through his personal qualities as revealed during a whole life time and not on the eve of a hectic election campaign. No periodicity, no registration of electorate and no mechanical method are needed for this purpose. When the individual *mujtabids* have put forward their opinions there sets forth a process of conflict and survival of the fittest comparable to the natural selection in the physical world. Both follow certain well-known principles and laws, which are nevertheless immeasurable in mathematical terms. The process is slow sometimes very very slow — it may take a generation or even more and nobody can set the pace for it. The reason is that there is no silencing of the opposition or browbeating of the minority by the majority. The opposition is not killed; it is tolerated until it dies its own natural death. There is no snapping and no guillotine. Of course, it requires a great deal of patience but the result — a consensus of the free will of the entire community — is worth much more than that. Once *Ijma* is achieved there remains no dissident minority waiting for its turn to impose its own point of view. That is why there have been very few instances of the later generations going back upon the *Ijma* of a previous generation. Theoretically it may be permissible but practically it is

redundant. A community which shows patience and tolerance for about a generation has a right to expect a high degree of permanence and stability for the decisions taken collectively by it. If there is a change in the situation it is sure to call for a fresh *Ittibad*, there being no question of the reversal of a previous one.

Those who lament that the progressive doctrine of *Ijma* was turned into a handmaid of conservatism are simply mistaken. To imitate the externals of the constitutional and political life of Europe is not much different from the borrowing of the externals of European civilisation which Iqbal has denounced so strongly and graphically. It must also be borne in mind that there can be no such thing as *Ijtihad* for the sake of *Ittibad*; *Ijtihad* is only forced by the genuine needs of an unprecedented situation, which cannot be met otherwise. Even a certain amount of reluctance to 'innovate' is quite understandable in view of the caution against turning the law into a plaything of *hawa*" (هوى) — the deviationist tendencies inherent in man. The truth underlying the general impression about the closing of the Gate of *Ittibad* is only this: By the time the Islamic civilisation reached the Golden Age the corpus of Islamic law had developed sufficiently enough to cope with the various needs of a complex life so much so that there remained no actual need for fresh efforts in the field (unless the *Ittibad* were taken as a mere game of cricket). In proof of the same it can safely be asserted that the corpus of Islamic law as evolved during the early centuries of Islam continued down to the modern times to minister to all the needs of family life, public activity, highly developed industry, crafts, international commerce, international relations, war and peace. Particularly the fact is remarkable that the vast and vigorous economic activity of the Muslims extending from Spain to Canton and involving all sorts of transactions was governed by no law other than that which is dubbed today as 'static.' It is really to be regretted that this fascinating aspect of Muslim civilisation is still awaiting painstaking researches which may help the construction of a complete picture. Nevertheless the broad fact that the lack of *Ijtihad*, as it is asserted, seldom let

down or handicapped the Muslims in any department of life is incontrovertible. It would be true to say that life was static: for the non-Muslim peoples the Middle Ages were all but darkness, for the Muslims it was an age of decline — no progress in science, no inventions, no change in the means of agriculture, industry and transport, in short, no change in the life-situations. But that is precisely the reason why there was no need for *Ijtihad*. The Muslims of those days knew their needs better than the protagonists of *Ijtihad* today. The real need of the time was not so much the forward movement of *Ijtihad* as the codification of law. This latter task was undertaken in right earnest particularly in India and Turkey, of which we have the monuments today in the form of the *Fatama* and the *Majalla*.

Theoretically, of course, the door of *Ijtihad* has always remained open and actually many a bold spirit has throughout been entering the same with appreciable gusto. But let it be remembered that *Ijtihad* is the exclusive and jealously guarded privilege of the competent and the knowledgeable. Modern legislative councils, constituted as they are on the Western model, cannot but violate this privilege outrageously. Iqbal is well aware of the same yet his anxiety for regularisation and fondness for 'institutions' are so great that he attempts a compromise and a reconciliation. The apparently generous and somewhat flattering concession that the Ulema should *guide* the deliberations and the laymen *contribute* to the same is a vague illusion. All the Muslim countries have been making one experiment after the other in this direction until now the hypocrisy lurking in it is fully laid bare. The history of constitution-making in Pakistan, where the religious feeling is strong, offers a striking illustration of the same. A union between the competent and the layman is an utter impossibility, a contradiction in terms, if not deliberate dishonesty. What contribution, for example, can a layman make to the deliberations of a board of medical experts? A layman can only give an account of his ailment, he can only present the problem (and even his understanding of the nature of the problem is not to be relied upon — an experienced medical practitioner is always on the guard against being misled

by the story of the patient) but he can never have a voice in the prescription of the remedy. In the West the layman has a voice, a full vote, because legislation springs from the *ignorant will* of the common man (just take the offensive examples of alcoholism, homosexuality, adultery, racism, colonialism and imperialism) without reference to the Will of God or even the true nature of man. Conformity to the Qur'an and the *Sunnah* as *one of the principles* of law-making and even that conformity to be ultimately judged and determined by a lay assembly is nothing but lay statesmanship. The layman, when confronted with the competent (*alim*) in such a circumstance, is bound to behave impudently. The point that we were driving at is that the grave errors which Iqbal visualised as 'possible' are just inevitable. Iqbal's was only a longing optimistic vision of the future; for us it is pathetic history of the past and painful experience of the present.

*Ijtihad* is often rendered as 'independent judgment.' The rendering, though not incorrect, is liable to give a wrong impression. For the sake of precision, I would call it 'individual effort' to arrive at a judgment as proximate to the pattern of Divine Wisdom and Guidance as can be. Such an effort is neither independent nor free; it is so well-grounded in the sum total of Divine Guidance — the Word of Allah and the *Sunnah* of the Prophet — that the resultant judgment is merely an unfolding of the Divine Will through the agency of human reason — in contradistinction from the meditation of the Prophet — in the manner of the germination of a seed. Otherwise the product of pure reason will only form an interpolation into the *shariah*. To qualify the *Ijtihad* with 'free' is in itself suspicious; the qualifying adjective may just discredit the so-called *Ijtihad*. Obviously, Iqbal has been constrained to use the qualified term (FREE *Ijtihad*) because of the weakness of the position of the Modern Turks in relation to the accepted traditions of *fiqh* and *Usul* in Islam. Can we have a category of FREE Science? Every fresh advance in science represents an effort (*ijtihad*) of human reason *along scientific lines*. Weightlessness in space poses a new problem for the scientist; an answer to the question of correct human behaviour in the unprecedented situation



must naturally conform to the Qur'an and the *Sunnah* of science. Prescription of some charms and *mantras* would be the FREE scientific *Ijtihad* — the exact counterpart of the so-called free *Ijtihad* in Islam. And let it be repeated that just as an atomic scientist would regard a 'layman' as an intruder into his laboratory endangering the lives of both of them as well as hundreds and thousands of human beings around, similarly an *alim* is in duty bound to refuse to be juxtaposed with a layman councillor,<sup>4</sup> who, all appearances and even good intentions notwithstanding, constitutes a virtual danger to the rectitude and piety of the multitude of the followers of Islam.

Really *Ijtihad* can be free only in one sense i.e., in the sense of the freedom of the conscience of the *Mujtahid* from political pressure and surveillance to temporal authority. Paradoxically enough, this is best achieved in the absence of a rigid mechanism and regularised institution. It is always easier to influence and corrupt a concentrated well-defined body, even though it be an elected one (in the mechanical Western way) than an unlimited body of independent scholars recognised spontaneously by the people at large for their personal qualities and achievements. The view that the Abbasid Caliphs were afraid lest 'a permanent assembly became too powerful for them' is falsified by the evidence of history. On the contrary, it was the *Mujtahids* themselves who resisted the attempts of the caliphs to accord statutory recognition to them because they were afraid that such recognition might be a handle for regimentation. The life of Abu Hanifa amply proves the point. It was also Imam Malik who persisted from the time of Abu Jafar al-Mansur to that of Harun al-Rashid in his stout opposition to the suggestion that his *Muatta* be promulgated as the official code of the Empire. Mention must also be made of the advice of Ibn al-Muqaffa to the Caliph Mansur as contained in the *Risalat al-Sababa (Rasailal-Bulagha*, 4th Ed., 1954 p.117 *et seq.*). Ibn al-Muqaffa was steeped in the traditions of

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<sup>4</sup> Even the *mutakallim* and the *muhaddith* (specialist in *hadith* who is not supposed to possess a knowledge of the subtleties of law) are excluded from *Ijtihad* and *Ijma*. Vide *Usulal-shashe*, ch. III.

centralisation in vogue at the Persian Court. He urged the Caliph to end the irregularity and the informality about the different, sometimes conflicting, judgments of the independent individual *Mujtabids*. But the Caliph dared not do that for fear of rousing the public opinion, led by the Ulema themselves, against him. This should not cause any surprise at all. Is it not a fact that all the attempts of the modernists to regularise the activity of the Ulema have so far ended in failure; they only generated a feeling of distrust and suspicion so wide-spread as to be uncontrollable?

I remember some years back they was a dollar-powered stunt to bring about a Christian-Muslim *entente* to safeguard religion against godlessness. When it came to finding a counterpart of the Vatican in the world of Islam even the Azhar could not muster the courage to assume that flattering role. Some of the Muslims must have felt ashamed of the lack of organisation among them but, as a matter of fact, it only proved how Islam and the truly Islamic conscience of the community as a whole were fortified against the pressures of power-politics both within and without. Thanks to the absence of rigid organisation, no one is able to lay his hands on Islam; when anyone tries to hammer Islam he ultimately finds to his chagrin that he has only been beating in the air.

How true and perspicuous the following exposition of *Ijma* by a Western scholar of Islam:-

"The Islamic religious structure, true to its egalitarian principles and conscience, had never countenanced any form of external organisation or any kind of hierarchy. Although it recognised *Ijma*, consensus of the doctors, as a valid source of the doctrine, there was neither Council nor Curia to promulgate its decisions. The volitional element that runs through all the pre-Ottoman religious institutions, and that made their efficacy dependent on their appeal to the will rather than on careful regulation of duties and powers, was naturally at its strongest in this sphere. To 'broaden down from precedent to precedent' was characteristic of Islamic usage long before the

birth of the British constitution. Each forward step was secured by tacit assent on the part of those who were most qualified to express an opinion, and from whom the rank and file took their cue. No one was prevented from opposing and trying to gain support for his opposition, but within a generation or two controversy on the point at issue would die out.'

*Islamic Society and the West, Vol. I, Pt. II, p. 74*