

# **A STUDY OF SELECTED JURISPRUDENTIAL AND DOCTRINAL ISSUES CONTRIBUTING TO THE DISUNITY OF MUSLIMS IN NIGERIA.**

By

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## Abstract

The intellectual unity of Nigerian Muslims is the background of this study. The study discusses the Islamic verdicts and scholastic view points on certain issues that have been causing disunity among Nigerian Muslims who are expected to be bounded in the spirit of one religion. The discussion embodies a close look at a number of jurisprudential and doctrinal issues upon which there is a huge debate among scholars, ranging from: eating the food of *ahlul kitāb*, to the usage of *misbahah* (rosary), the issue of *tawassul bi Rasūlillah* (seeking intercession with prophet Muhammad), the *hadīth* of division, bowing in greeting (*'inhinā'*) and saying a *salat* for the Prophet other than the *Ibrahimiyyah* one. In the long run, it is found out that these issues are branches (*furū'*) of the main tree of the religion, which have optional and numerous alternative views. Each group of Muslims and individuals can choose the school of thought that fits his own condition, place and time, making the whole thing a mercy and easement for the Muslims. In addition, the study covers the framework of *fiqh al-ikhtilāf* as postulated by scholars, using the historical method to do a content analysis of the books of scholars concerned. On that, it is found that if Muslims can stick to the principles of *fiqh al-ikhtilāf* as postulated by Al-Qardawi, *Fiqh al-wāqi'* of Ibn Al-Qayyim and Suhayb Misbah's *Fiqh al-I'tilāf* among others, disagreement may not always lead to disunity. The solution therefore will be that the act of upholding a particular school of thought on an issue upon which there are other valid opinions from notable sources, should be done free of *'asabiyyah* (sectarianism), *hamiyyah* (overzealousness) or *hamāsah* (over-enthusiasm). On the whole, this study concludes that disagreement on issues that are branches of the religion is a natural phenomenon, which is inevitable. On the other hand, upholding the unity of Muslims is obligatory, as commanded in the Qur'an. It therefore becomes a necessity for Muslims to embrace tolerance, flexibility and open mindedness towards their fellow Muslims, even in the presence of points of disagreement.

## **Introduction.**

Islam emerged at a time when the world is mostly in need of an all-round salvation and deliverance i.e doctrinal (*'aqadiyyah*), legislative (*tashri'iyah*) and behavioural (*sulukiyyah*) salvation. The religion emerged in Nigeria in the same vehicle of salvation thereby making its adherents to stand out distinctively from all other Nigerians in terms of an enlightening intellectual heritage taking them fast ahead of adherents of all other civilizations. At that point, Muslims were united as one unit, which can be likened to the condition of the early Muslims who were compassionate among themselves as a single unit. At a point, the religion spread round and its adherents grew in the study of the religion. Many children of this nation started going abroad to study the religion to a higher level of learning. This had its positive and negative results. Positively, the nation became popular in the community of Muslim nations thereby making more intellectual thoughts and texts to flux into the nation. Negatively, as it happened to the Ahlul Kitab (Jews and Christians) likewise the early Muslims, the more the volumes of the thoughts and texts been added up to the basics, the higher the rate at which the unity of its adherents tear apart. The moment a neutral understanding of certain issues started to get compounded, there and then started the questioning and rethinking of the issues as a result of which each group started holding on to the understanding of his teachers and school of thoughts in disunity with others. It would not have called for a consideration if it stopped at that, but it grew perpetually to a point of enmity, breaking kinship and friendship bonds and national disunity. Contemporarily, scholars and thinkers of Islam and common Muslims alike, began to ask themselves questions like; would it be a religion from the One Merciful God, when it breaks us into seventy three and admits only 1/73 of them into paradise?. Would it be a religion from God the Source of Peace, when it has always caused rancor amidst its adherents? Certainly, Islam is the religion from Allah. It beholds the Muslim ummah in Nigeria to find out what they are really practicing; same applies to Muslims around the world. To answer these questions, contemporary scholars began to re-thinking and re-interpret same issues (*mas'alah*) that have always been one-sidedly interpreted and understood, painting the religion with a mosaic colour which appears very tight, restricted and unthinkable instead of being the last divine message that is broad, open, conceivable in many directions and meant to stand the test of time. The issues are much, but some are more common and pressing than some others. This

paper will see to some of such issues by highlighting the products of some scholarstic researches on same. The arrangement of the issue discussed will be in this order:

1- Jurisprudential issues

- (a) Eating the food of ahlul kitab.
- (b) The usage of misbahah (rosary).
- (c) Saying a *salat* for the Prophet other than the *Ibrahimiyyah* formular.

2- Doctrinal issues

- (a) The issue of tawassul bi Rasulillah (seeking intercession with prophet Muhammad).
- (b) Rethinking the hadith of division.
- (c) Bowing in greeting ('inhina')

### **Eating the food of Ahlul Kitab**

The permissibility of eating the food of the Jews and Christians is not in contention but the one that generates annual disagreement among Muslims is the eating of their food during their festivals. In Nigeria especially, in Yoruba Land to be specific, where the people are deeply acquainted with sharing moments of celebration with one another regardless of the difference of religion, it sounds very strange in the hearing of Muslims when modern Muslim scholars started the advocacy of 'no eating' each time Christmas and new year comes around, since some decades from now. The effect of this has been an increase in the number of Christians that reject the muslim's sallah meet too, regarding it as 'a sacrifice to an oracle named Allah'. Some reject it outrightly, while some others takes it only to get it disposed away; same for both faiths. This makes the issue worthy of being discussed here and now.

In Q5:5, the Qur'an specifically spelled it out that Muslims can eat the food of Jews and Christians, without putting an exception. Some scholars who claimed that the food is lawful except on their festive days provide what they think is a specifier '*mukhassas*' for the verse above. They pointed to four verses in the Qur'an, all of which prohibit 'anything -food-prepared in the name of any deity other than Allah'. The proponents of permissibility of eating this food explains that the verses quoted by the opponents only refer to animals slaughtered on oracles or foods prepared by the idolators on their festive days, and not affecting the verse that permits foods of the people of the book i.e the Jews and Christians. In his own explanation, Shaykh Muti'ullah Esiniobiwa brings a reason that all the four verses prohibiting the idolators food were revealed earlier than the verse that mentions the

permissibility of eating the Christians foods. Even the only one of the four verses of food prohibition that appears in Q5:3 was followed almost immediately in Q5:5 by the verse that permits it. He said that since the revelation arrangement and chapterization of the Qur'an has been said by the scientists of the Qur'an as a communicator in itself, it becomes tenable that the verse of permissibility in this regard is the specifier (*mukhassas*) of the generality (*'umum*) of the verses of prohibition.<sup>1</sup> In the word of ibn al-'arabi, he said:

my teacher the scrupulous Imam Abul Fatih Nasr bn Ibrahim Napalsi said a lot on this issue; main part of which is that Allah the Most-high has permitted that we eat their food (ahlul kitab) even though He knows that they mention the name of something other than Allah on it, but since they have held on to the book of Allah and relate themselves to a Prophet, they got a prior treatment over the people of idols.<sup>2</sup>

In the submission of Al-Qardawi, he explains that while Islam takes an uncompromising attitude towards the polytheists, it is lenient towards the people of the book for they are closer to Muslims for their belief in divine revelation, prophethood and other fundamentals of religion. Islam permits us to eat with them, marry their women and in general, have social relations with them. It may be that by interacting with them...they may come to realize that in truth, Islam is their own religion but with higher level of spirituality, a more perfect law and a book of greater authenticity...Imam Malik was once asked about eating the flesh of animals slaughtered for Christian festivals and churches. He replied "I classified it as *makruh*, but not haram".<sup>3</sup>

In my own humble view, in addition to that of the scholars above, I will like to call the attention of readers to Q60:8-9 which divides the unbelievers into two groups (a) the ones that does not show hatred and enmity towards muslims. (b) the ones who show hatred and enmity to Muslims.

Regarding the permissibility of eating their food, even though it is lawful and right to eat it, by the rule of *Saddu Dhari'ah*, eating the food of the group (b) may depict a kind of weakness of the Muslims when they eat the food of the group of Christians who show hatred to the Muslims. They may even have an evil plan for the Muslims on it, such as poisoning the food or roasting a non-halal food, such as pork, together with *halal* meat, so as to make the Muslims eat what they would not eat if they know, hence justifying the *makruh* position of Imam Malik, in such circumstances. The Qur'an has warned us to be careful of such group of

unbelievers as they always love to see the muslims hurt (Q3:118) and always want the muslims to turn to

unbelievers like them (Q2:19). As for the other group who are good to muslims, taking their food may continue to foster the love and beauty of Islam in their heart, without going to the extent of taking part in the religious celebrations on their festive days or claiming 'oneness of religions' which is far from the reason behind the permissibility of their food in Q5:5. The same *Saddu Dhari'ah* applies to the permissibility of marrying their women. In a circumstance where a muslim man is very weak in his *iman*, it is very likely that marrying a Christian woman can later take him away from Islam. It is better for him to marry a muslim woman. Another circumstance is a situation where there are too many muslim women unmarried. To protect our muslim women from *zina* and the fading away of our men's faith, it becomes recommended that muslims marry muslims. The permissibility of social relationship with the Jews and Christians in Q5:5 therefore can be said to be applicable to the right people and in the right circumstances.

### **The Usage of *Misbahah***

Misbahah means any instrument that is used to ease the praise of God. The word is in the formular of *ismu alah*, ie name of instrument, from the verb *sabbaha*, i.e he praised. Ordinarily, misbahah, from the mediaval period up till modern day, refer to a chain of beads which is often tied together with a woolen rope. Many muslims around the world use *misbahah* of various types to do their *adhkar*. Recently, there has been a light uproar and an exchange of arguments among scholars on the permissibility of using *misbahah* in worship. This issue, in my own view, has been settled long before now, and as such Muslims should be allowed to move on with their religion and scholars should be busy with some more pressing issues that affect people's religious and mundane life. There is a strong consensus of majority of Muslim scholars that the use of *misbahah* is permissible, for the two strong hadiths where the Prophet saw it been used and did not condemn it, but recommended a prayer formular that covers many counts of rewards at a time. Here is just one of the numerous sayings of scholars on that; Ashawkani in his *Naylul Awtar* said:

والحديثان الآخران يدلان على جواز عد التسبيح بالنوى والحصى، وكذا بالسُّبحة لعدم الفارق؛ لتقريره صلى الله عليه وسلم للمراتين على ذلك، وعدم إنكاره. والإرشاد إلى ما هو أفضل لا ينافي الجواز... ولم ينقل عن أحد من السلف ولا من الخلف المنع من جواز عد الذكر بالسُّبحة بل كان أكثرهم يعدونه بها، ولا يرون ذلك مكروهاً

Meaning: the two hadiths point to the permissibility of counting praises (to God) with stones and pebbles and with rosary for lack of difference; for the reason of confirmation by the one upon whom peace and blessings of Allah be, and for lack of rejection from him. And the act of recommending a better thing does not negate the permissibility of the formal. And there is no rejection reported that any of the earlier or later scholars about the use of rosary, rather, most of them used it in counting, and they does see that as an unwanted thing.<sup>4</sup>

In addition, scholars gave priority to the use of fingers in counting, if the count of the *adhkar* is within the range of what the finger can count without confusion. This is because there is a hadith which directly recommends the use of fingers in counting *adhkar*. But when the number is much, the inability to use the fingers at that point in time makes its priority position seizes. And there is no bound to the count of *dhikr* a muslim can choose to do. There are too many great scholars who approved of the usage of misbahah quoting the that some companions have a container where they keep the counting items of their *adhkar*. Jalaluddin Suyuti wrote *Al-Minhah fi Assubhah*, Muhammad bn Ilan Assadiqi wrote *Iqadul Masabih limashru'iyati ittikhadhil Masabih* and the Prolific Abul Hasanat Allaknawi wrote *Nuzhatul Fikr fi Subhatil Dhikr*, all concluding that it is permissible to use rosary. Therefore, it is fair to leave those who like to use it to do so without any problem.

### **Saying a *salat* for the Prophet other than the *Ibrahimiyyah* formular.**

This issue is one of the most pressing factors of disunity of many muslim communities around the word. Again, it ensues out of variety of understanding of a religious commandment. Allah orders in Q33:56 that “surely Allah and His angels bless the Prophet; O you who believe! Call for (Divine) blessings on him and salute him with a (good) salutation”. On this, it is believed that the verse did not specify a formular of prayer for the Prophet. It becomes necessary to see what the hadith has to say. It is found that there is a sound hadith in the *sahihayn* that a companion asked the prophet, in the presence of others, the same question we are asking ourselves here that “Allah has order us to say *salat* for you, O the messenger, how do we say it?” and the prophet thought them the *salat ibrahimiyyah*, after a long silence<sup>5</sup>. From this, some scholars understand that *salat ibrahimiyyah* is the only valid formular with which one can pray for the prophet, because it the one taught by himself. Some other says no. *Ibrahimiyyah* remains the one with priority, but any other formular that has correct meaning in terms of the prayers and attributes therein is allowed too. The former group has the

standing hadith earlier quoted has there proof, which they choose to interpret holistically. The latter group has some other proofs for their own atomistic interpretation of the same hadith, part of which are:

- (a) The hadith is said to be pointing directly to the formular of salat which muslims say after tashahhud in their salat (conical prayer). This group believe that the required formular of salat that goes with tashahhud in prayer was the intention of the sahabah who asked the question in hadith quoted above. One would not have agreed with this because, though the hadith has its place in the chapter of tashahhud in the hadith books, the interpretation above appears disconnected from the expression of the companion who asked that “Allah has ordered... so how do we say”. It depicts that the sahabah were seeking to be taught a formular which they will be saying during prayer and beyond. But the group supported their stand by bringing another version of the same hadith which appears to strengthen their argument that the situation was in the realm of prayer alone. The hadith goes thus: “..O you the messenger, we have known how to do salam in prayer, so how do we say salat on you in our prayer? May Allah shower peace on you...” then the prayer thought them the ibrahimiyyah form, after a long silence.<sup>6</sup>
- (b) The presence of sound reports about the varieties of salat formulas said and taught by the companions, other than ibrahimiyyah.<sup>7</sup>

In general, orders that come in the Qur’an about adhkar and tasbihat (remembrance and praises of Allah), the formulas read by the prophet those not indicate that other formulas are not permissible, if it is in the realm of mandubat, i.e recommended. But adhkar statements that come inside the prophet’s conical prayer, hajj rites and other obligatory acts are meant to be copied in totality without adjustment, for its part of the whole. Apart from the salat formular variety, the sahabas and those who follow them have many adhkar (prayer statements) that are peculiar to them, as reported in many sound traditions. From time to time and up till the present day, Islamic scholars (speakers and writers alike) say a lot of statement of praise to Allah and salat to his Messenger, at the beginning and at the end of their speeches and writing (both in Arabic and local languages), other than the ones altered by the prophet. Some do that consciously while other do unconsciously, and still stand on the position that all *adhkar and salawat* must be tawqifiyyah (revealed), against themselves! not to talk of many statements of *qunut* that we read in our prayers nowadays which has the names of many afflicted Muslim countries that are not there in the prophetic qunut! All these are based on the

general understanding that al-qunut, for instance, is a prayer to seek Allah's help in times and places of affliction and therefore, its formular continue to expand and change.

### **The issue of *tawassul bi Rasulillah***

The topic of seeking the intercession of the Prophet (the peace and blessings of Allah be upon him), (*al-Tawassul*) is not in itself a central issue of Islam, nor is it one of Islam's categorical injunctions (*al-fara'id*). A Muslim could, conceivably, live and die without knowing what intercession is, and yet, still die as a Muslim.<sup>8</sup>

Most of the scholars who reject the use of prophet Muhammad's name to intercede in prayer to Allah are the followers of shaykh ibn taymiyyah, the first person to pronounce the illegality of *tawassul bi Rasulillah*. The proof of this group is that Allah is close to all things. He can be called directly without intercession. Using someone as intercessor before Him can be likened to the idol worshippers about whom the Qur'an says "we don't worship them, except that we use them to get closer to God". The group who approves of *tawassul* said: Allah knows that He is directly approachable and still requests that mankind should get to him through a *wasilah* (an intermediary) as stated in Q5:35. This *wasilah* is interpreted by some scholars as man's good deeds and prayers alone, while some included Prophet Muhammad and great people who worship Allah increasingly, who they regard as *awliya'* Allah, in line with Q4:64 which states that the companions should go to Prophet Muhammad and ask him to help them to seek for forgiveness from Allah. While the first group maintains that making a man stand as an intercessor between another man and God, the Lord of all is simply *shirk*, the second group opined that Allah who created our deeds (rewardable behaviours and acts of worship) and approves them as intercessors for man in the sight of his God, in this world and in the hereafter, has also honoured some of his physical creatures (mankind) such as the prophets and saints and permitted them as intercessors in this world and in the hereafter, by the permission of God. On this last point of theirs, they brought forth scriptural and prophetic proofs, some of which are:

- (a) Allah SWT makes it clear that mankind could have been punished, if not for the sake of the Presence of Prophet Muhammad among them. This is a show of sake and purpose, which actually makes it clear that Allah honours the sake of a special mankind in His divine decisions. He could have, for the sake of His own attribute of mercy, averted the punishment which mankind warrant due to their disobedience to Him, but he declared in Q8:33 that "But Allah was not going to punish them while



you are among them, nor is Allah going to punish them while they ask for forgiveness”.

- (b) It is well established with scriptural and traditional reports that intercession can be made with the prayer of a good man and the good deeds of man. In terms of the first one, there is no better man than Prophet Muhammad, but he too was reported to have made intercession with prayers of his Ummah to make Allah give the promised position (al-maqam al-mahmud).<sup>9</sup> When a man’s position in the sight of Allah makes his prayer to be accepted as an intercession, does his position changes in the sight of Allah changes after his death? The good deeds of man are creations of Allah too, and they are agents of intercession which do not die too.
- (c) There are reports which strongly establish that Prophet Muhammad had his companions taught a prayer of tawassul in his name which they utilized in prayer, during his life and beyond. Some reports even have it that they used to fetch his saliva and used water to seek for Allah’s mercy. One of them actually kept some hairs of the Prophet for years after his death, seeking victory with it. Here are some of such reports:

Al-Tabarani reported in his al-Mu‘jam al-Kabir, from Ibn Wahb from Shabib from Rauh ibn al-Qàsim from Abu Ja‘far al-Khatami al-Madani from Abu Umamah ibn Sahl ibn Hunaif: ‘Uthmàn ibn Hunaif that: A man was going to ‘Uthmàn ibn ‘Affàn trying to get something done for himself. However, ‘Uthman didn’t pay any attention to him, nor did he look after his need. That man went to ‘Uthmàn ibn Hunaif and complained about that to him. ‘Uthmàn ibn Hunaif said to him, “Go and perform ablution (wudu), then go to the mosque and pray two cycles (rak‘ah) of prayer, then say: ‘O Allah, I ask You and I approach You through your Prophet Muhammad, the Prophet of Mercy. O Muhammad, I approach my Lord through you that my need be fulfilled,’ then mention your need. Thereafter come to me that I might go with you.” Then the man went away and did what he was told. After that he went to the door of ‘Uthmàn ibn ‘Affàn; whereupon the doorkeeper took him by the hand and ushered him into ‘Uthmàn ibn ‘Affàn who sat him down beside him on his mat and said to him, “What can I do for you?” He told him what he needed and ‘Uthmàn had that done for him and then he said to him, “I didn’t remember your problem until now. Whenever you need anything come to me.” Thereupon the man left him and went to ‘Uthmàn ibn Hunaif and said, “May Allah bless you, ‘Uthmàn wouldn’t look after me, nor even pay attention to me until you spoke to him about me.” ‘Uthmàn ibn Hunaif replied, “I swear by Allah that I didn’t speak to him.

Actually, I saw a blind man come to the Messenger of Allah [sallallahu alayhi wa sallam] and complain to him about losing his sight. The Prophet [sallallahu alayhi wa sallam] said to him, “Wouldn’t you rather show patience?” He replied, “O Messenger of Allah, I don’t have a guide and the matter has become an ordeal for me.” The Prophet [sallallahu alayhi wa sallam] said to him, “Go and make ablution (wudu), then pray two cycles (rak‘ah) of prayer, then make this supplication (du‘a’). I swear by Allah, we hadn’t gone away, nor had we remained long time talk when the man returned as if he had never suffered any affliction.”<sup>10</sup>

Al-Tabarani declared this report to be rigorously authentic, As did al-Haithami in his *Majma‘ al-Zawà’id*, p. 179, vol. 2; and al-Mundhiri in his *al-Tarhib wa al-Tarhib*.

Another tradition substantiating the same position is that of the seeking of rain from Allah in the name Prophet Muhammad during a drought period in the reign of Umar bn Al-Khattab. Al‘asqalani regards the hadith as sound.

If this is the position of many rightly guided imams, who are authorities of this religion, on tawassul, it becomes optional for an ordinary muslim too choose to take advantage of the tawassul or leave those who take it in peace.

### **Rethinking the hadith of division.**

There is this hadith that Muslim often used to break up themselves into pieces; there is this hadith that, if not re-interpreted, is a threat to the unity of this ummah; there is this hadith that, if not re-interpreted, reduces Islam to nothing; there is this hadith that, if not re-interpreted, goes against numerous Qur’an verses that divide all mankind into two, just two. There is this glorious saying of the one that does not talk out of his mind sect, Prophet Muhammad which is recorded in Sunan Attirmidhi thus: The messenger of Allah said “the Jews were divided among themselves into seventy one sects, and the Christians into seventy two and my nation will later part into seventy three sects, all of them will enter the hell except one, the majority.”<sup>11</sup> In another version of the hadith, it was reported that the companions asked the prophet “who are they i.e. those that will enter the paradise”, the prophet answered: “(those who stands) on what I and my companions are”.<sup>12</sup>

The word “*Ummah*” in this hadith is the center of disagreement among scholars. Some scholars believe that it means the “submissive *ummah*” (*ummatul ijabah*) i.e. all those who

have become Muslims. Such scholars believe that the hadith is informing us that majority of the Muslims will be admitted into hell, except their own group. Some other scholars such as the martyred Dr. Said Ramadan Al-Buti and Sayyid Ahmad Musayyar, believe that the *Ummah* in the hadith means “the called nation” (ummatud Dawah) i.e. everybody that lived since the era of Prophet Muhammad till the end of time.<sup>13</sup> Considering this, the hadith has only grouped the whole world into seventy-three religions out of which only one of them i.e. the Muslims, will succeed into paradise. In many Quranic verses such as Q7:65, 61:5, 71:2, each of the prophets sent before Muhammad addressed the nations to which they were sent as “my people” i.e. people of my era, even before they believed. Another thing that will clear our doubt about this interpretation is another hadith where the prophet was reported to have said “by the one on whose hand lies my soul, none of this ummah be it a Jew or Christian, will die without believing in what I was sent with except that he belongs to the people of hell fire”. This hadith just referred to the Jews and Christians who heard the message of Prophet Muhammad as part of Ummah, i.e. the called ummah. Since there is a substantial interpretation of the hadith of iftiraq, which is fair and good for Muslim unity, sticking to the first interpretation which divides the Muslims appears like a deliberate attempt of a small group of Muslims to break-up the ummah into pieces and claim *najah* (salvation) for themselves alone.

### **Bowing in greeting ('inhina')**

To Allah alone must Muslims bow in worship. This is established in numerous verses of the Qur'an. The style of bowing and prostrating for Allah in worship is *tawqifiyyah* (dictated in injunctions) and it is only an *ibadah* (worship) when it is done with intention of worship. The Yoruba people have a specific type of greeting which they use to greet and respect the elderly ones among them. When a part of a certain culture is to be made haram, there must be a straight proof to stop the cultural act, unlike *ibadah* (worship) which can only be allowed if there is a straight proof establishing it. Some scholars condemn who ever bow in greeting anyone as a *kafir* or *mushrik* (an unbeliever or a polytheist) because he just gave to mankind what belongs to Allah alone. This group substantiate their stand with three proofs:

- (a) That Allah regards bowing as *sujud* in Q2:58, therefore the Yoruba style of bowing in greeting is a form of *sujud*, which is due to Allah alone.

- (b) That prostration of two bulls for the prophet<sup>14</sup> was a kind of bowing yet regarded as ‘sujud’, which the companions sought its permission from the Prophet and he disagreed.
- (c) That ma‘adh bn Jabal saw the jews bowing for their monks and returned to seek its permission from the Prophet and he disagreed<sup>15</sup>. The same thing applies to Ja‘far bn Abi Talib who did not bow for the monks and said that such is meant for Allah alone.<sup>16</sup>

These proofs had been re-interpreted by scholars thus:

- (a) The verse of Q2:58 ‘and enter the door in sujud...’ has its condition as an aftermath occurrence not a simultaneous one with the verb ‘enter’, as we have it in Q48:27, where Allah promises the early Muslims that they will enter Makkah ‘shaving their heads and cutting their nails’. The verse did not foretell that the Muslims will be moving in Makkah while doing all these (shaving and cutting) on the tour, rather the verse meant that they will do all that after entering. Therefore, the Jews in Q2:58 did not enter the gate in a state of bowing, rather they entered and then prostrated to Allah properly putting their heads on the ground, in giving thanks to Allah for the successful journey at long last. This is the exegesis of many scholars on Q2:58, including Shaykh Uthaymin.<sup>17</sup>
- (b) The ‘sujud’ which the companions wished to be doing for Prophet Muhammad, after seeing the animals bow, is the proper sujud which is explained in a hadith that ‘I am ordered to prostrate on seven things: the forehead and nose, the two arms, the two knees and the two feet.’<sup>18</sup> The proof that this complete sujud of worship is what is intended in the hadith, not bowing in greeting, is that Allah says in Q22:18 that “do you not see that Allah is He, Whom obeys whoever is in the heavens and whoever is in the earth, and the sun and moon and the stars, and the mountains and the trees, and the animals and many of the people...”. Ibn Kathir explains that the style of sujud of each of all the groups of worshippers mentioned in the verse is obviously peculiar to the group<sup>19</sup>. This means that, the bowing of the bulls is their own sujud since their body cannot be folded like that of man, while the sujud of man is not like the bowing of bulls, rather, it has its prescribed style.
- (c) Ja‘far bn Abi Talib and ma‘adh bn Jabal would not bow for the Jew monks because both of them, and other companions, knew that greeting of the Jews and Christians to their monks goes beyond greeting alone. It is coupled with a notion of placing their

monks in the position of their Lord. This is revealed in Q9:31 “they have taken their doctors of law and monks for lords besides Allah and (have also taken) the Messiah son of Maryam...” From this verse, the bowing of the Jews and Christians for their monks (selected persons) is not comparable to the bowing in greeting which many people does for their elderly ones in our Land, without selection and without any prior intention of making them Lords.

On the other hand there is an hadith which states that Umar knelt down for Prophet Muhammad on the day he was asked to many questions by his companions, in a spirit of testing his Prophethood. At a point Umar stood up, went to the pulpit where the Prophet was standing and knelt down to stop his anger, saying “we accept Allah as the Lord, Islam as the religion and we accept Muhammad as the messenger”. Then the Prophet stopped.<sup>20</sup> Ibn Hajar Al‘asqalani said in his Fathil Bari that “the hadith points to the permissibility of kissing the feet, getting angry in admonition, kneeling down of a student in front of the person he gains from, and also the kneeling of a follower for the followed when he wants to request something from him.”. If kneeling down in show of respect or in time of request is all the same with kneeling in worship which is due to Allah alone, the prophet would not have received it, not in time of contentment or anger. I hereby call on Muslims to make further research on this issue and get it right. If the most cherished part of our culture will be canceled by our religion, so shall it be. But that must be with the availability of clear proofs and the unavailability of a single proof approving it. In a situation where the argument of the proponents of the permissibility of bowing in greeting appears to be equal or stronger than that of the opponents, it becomes pertinent that Muslims should be left alone on such issue, and each person should take which ever part he understands most, without one side accusing the other of shirk or arrogance.

### **Theorizing the way out through *Fiqh Al-Ikhtilaf*.**

Having the understanding of jurisprudence of disagreement and agreement (*fiqh al-ikhtilaf wal-I’tilaf*) has been suggested by contemporary scholars as the way out this mess. None of them dears to assume that all muslims of all time of places will think alike or choose the same school of thought on conceivable (*zanniyyat*) issues of Islamic concern, but each of them laid down a theorized framework that makes the disagreement to be positive and fruitful in the spirit of tolerance instead of being hazardous and deadlock in the spirit of competition. These

theories and postulations actually involve various expressions but the thoughts are all similar and in the same direction. Let us have some of them discussed:

### **1- Al-Qardawi's principles of Fiqh Al-Ikhtilaf**

In five of his books namely *Assahwah al-islamiyyah baynal ikhtilafil mashru' watafarrukil madhmum*, *Assahwah al-islamiyyah baynal jumud watatarruf, thaqafatu Da'iyah*, *Assahwah al-islamiyyah bayna al-ikhtilaf al-mashru' watafarrukil madhmum*, and *Assahwah al-islamiyyah minal murahaqah ila arrushd*, Al-Qardawi gave a comprehensive framework which covers both the ethics of disagreement and ethics of dealing with Muslims of varieties of thoughts and unsolved disagreements. In terms of the ethics of disagreement, Al-Qardawi gave ten principles thus:

- (a) Knowing that disagreement on the branches (furu') is a necessity, a mercy and an enlargement (of options)
- (b) Following the middle course and not been at extreme in the Religion.
- (c) Focusing on the straight injunctions rather than the analogical ones.
- (d) Keeping away from rejection in issues of analogical exercise
- (e) Attaching great importance to reading the disagreements of great scholars.
- (f) Identification of thoughts and terminologies
- (g) A muslim must be more concerned about the greatest problems of his ummah.
- (h) Being part of keeping to the generally agreed upon issues.
- (i) Been lenient on issues upon which there is disagreement
- (j) Being gentle with someone who proclaims "la ila illa Allah"<sup>21</sup>

As for the ethics of dealing with fellow Muslims of varieties of thoughts or unsolved points of disagreement, Al-Qardawi, talking to the contemporary Muslim youths from whom uproar of disagreement often ensue, postulated a theory of seven principles. He said:

In the way of dialogue and good advice for this youths (muslim youths), I seek the good reward of Allah by fulfilling the recommended virtue of giving mutual advice on truth and patience...to make it (the theory) a road map to the goal, an hindrance that protect us (the muslim youth) from derailing or pulling us to tour on the road far from the goal:

- (a) Obey specialization.
- (b) Pick (seek knowledge) from the people scoupulousness and uprightness.

- (c) Be things easy and not tough.
- (d) Call with the best wisdom
- (e) Learn the ethics of calling and discussion.
- (f) Come together with majority of people in daily life.
- (g) Have a positive mind toward a Muslim who proclaims “la ila illa Allah”<sup>22</sup>

## **2- Suhayb Misbah’s framework on *Fiqh Al-’Itilaf***

Another theory which we want to look at is Suhayb Misbah’s *Fiqh Al-Ikhtilaf*. He started by sighting Q11:118-119, to advise that difference or disagreement should be seen as a natural phenomenon which cut across all forms of speculative field of study including Islam (in its furu‘ i.e branches). Then he talked about the right position at which the three parts of a discussion should be i.e the two persons/groups by each side of a discussion, and the topic of contention. The topic must be discussed on the platform of al-mawdu‘iyyah i.e looking to the content of the topic itself through the view of the Religion (Qur’an and Sunnah) on the topic, and a reasoning free of asabiyyah (sectarianism), hamiyyah (overzealousness) or hamasah (enthusiasm).

As for the two discussants, they are meant to uphold three virtues which are:

- a- Purity of intention, for all work done will be rewarded in accordance to the intention of the doer. In that spirit, none of them is supposed to be rigid to its position in the name of not wanting to accept defeat. Truth and the sake of religion should be their goal rather than counting the scores.
- b- Knowing and operating with *Fiqh al-waqi‘*: This means the understanding of the present occurrence. Both discussants of group of discussants should know about the context of the discussion in the era and place at which they speak. This theory is known to have been earlier postulated by Umar bn Al-Khattab in his letter to Abi Musa Al-’ash‘ari and by Ibn Qayyim who said that “A mufty cannot do ifta’ with tranquility except he has two forms of understanding namely (a) understanding the waqi‘ wa fiqhihi i.e occurrence and its jurisprudence. (b) Understanding the obligation of the occurrence (*fahm al-wajib fi al-waqi‘*)<sup>23</sup>. We can see an example of this by looking into the hadith in which it is recorded that an able bodied man whose parents are sick came to the messenger of Allah in time of holy battle to ask if he could follow the prophet, leaving his old aged weak parents at home. Despite the fact that all the

requirements of going out on holy battle is fulfilled by the man ie being a youth, man, able and free, the prophet told him to go back and take care of his parents. Ibn Qayyim also brought numbers of occurrence where the sahabah used their ijihad in line with fiqh al-waqi' to bring forth an applicable judgement, and neither the Prophet nor their fellow sahaba found it strange or rejectable<sup>24</sup>.

- c- The love of agreement (al-I'tilaf): this should be the aim of all muslims in disagreement from the start, not to get one side defeated and applaud the winner. Their objective should be to uphold the quranic principle of al-I'tisam (bounding) and get rid of al-'iftirak (break up) in line with, among numerous verses, Q3:103 where Allah says: "and hold fast by the covenant of Allah all together and be not disunited".

Suhayb concludes that

"إن الخلاف المعتبر في السنن الإلهية هو ما كان وسيلة إلى البناء. وما كان كذلك فمن شأنه أن يكون مؤلفاً وموفقاً بين المختلفين. ومن هنا كان عنصر الإئتلاف من مقاصد الإختلاف، فيختلف الناس ليأتلفوا، فما كان من الخلاف وسيلة إلى الإئتلاف فهو محمود وما كان منه ذريعة إلى الإفتراق فهو مذموم، يصدق عليه قول الله تعالى: واعتصموا بحبل الله جميعاً ولا تفرقوا..."<sup>25</sup>

Meaning: the significant type of disagreement in ways of Allah is that which serve as an instrument for building. In this type, it is often that this concern (bulding) is the interest and meeting point of the two parties of disagreement. From here, the element of accord is one of the objectives of disagreement, and people disagree to agree. Any disagreement that is instrumental to agreement is therefore a glorious one and the disagreement done for the sake of disunity is disrepute.

## Conclusion and Recommendations

In the paragraphs above, some issues of concern to the unity of Muslims in Nigeria have been discussed. The discussion of jurisprudential argument is very lengthy; therefore, this paper has only summarized some points of concern. The finding has been that all the issues upon which Muslims disunite, are issues of multiple valid sides. Therefore, anyone who wants to call people to a particular view which he thinks is more correct, must do with lenience, recognizing that they too have their proofs and rightly guided Imams which they follow on the view they hold.

On the whole, here are some recommendations:



- (a) Curriculum of Islamic Studies in Nigeria should involve such course as fiqh al-ikhtilaf ie the Jurisprudence of disagreement.
- (b) Most of our *madaris* only teach *nusus*, i.e lots of injunctions. They give room for little or no exposure of students (at least the *thanawiyyah*) to thinking. The youths in our *madaris*, should be well equipped with basic principles of Islamic philosophy and the methodologies of great thinkers so that their horizon will be widened, and the way they approach agree or disagree will improve.
- (c) The last recommendation in this paper comes in form of a poem titled “each person has the right to freedom of thinking”

ويح قومي اقتتلوا ما بينهم في فروع الدين تشبه بالقشور  
كم دعاة فرّقوا مجموعة عند أخذ البعض تكفير الأمور  
رام أقطاب العلوم الأتقيا بابتداع العقل في الهدى المنير  
كم جفو أن قياسا واجب عند فقد النص أو عند العسر  
كم نسوا أن أمير المؤمنين منعن تأليف قلب بالندور  
وكذا كان عليا يجتهد زاد صلوات الحبيب المنتصر  
بعض أصحاب الرسول المصطفى غير مستتكري بعض في النظر  
كم تعدو عد تكريم الشهادة من خالفهم في المؤتمر  
فقه هذا الدين نور عالمي إن للكل حريات افتكار  
ارجعوا يا أمة الهادى البشير من فروق الجمع مما يدمر  
نجدتهد في تحسين الأخلاق كي نلتقي المولى بقلب مستنير  
نأتلّف في جوهر الدين السلام رحمة مهداة للجمع الكثير

## Notes and References

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