



STRATEGY FOR BRINGING MUSLIM MADHAHIB CLOSER TOGETHER

**Adopted by
the 10th Islamic Summit Conference
(Putrajaya, Malaysia, October, 2003)**

Publications of the Islamic Educational, Scientific and Cultural Organization

-ISESCO-

Rabat - Morocco - 1431H/2010 A.D

Table of contents

	Page
■ Foreword	7
■ Introduction	11
■ Chapter One: Jurisprudential Differences and the Efforts towards the Rapprochement of Madhahib	23
■ Chapter Two: Concepts and Sources of Rapprochement	37
■ Chapter Three: Evolution of Islamic Madhahib	47
I. Inception of Islamic Madhahib and groups	49
II. Role of jurisprudence principles in the rapprochement of schools	84
III. Aspects of difference among Islamic Madhahib	101
■ Chapter Four: Areas of Rapprochement	111
■ Chapter Five: Objectives of rapprochement	123
■ Chapter Six: Implementation Mechanisms of the Rapprochement Strategy	131

Foreword

In the name of Allah, the most Compassionate, the most Merciful

The organization of the common Islamic action foundations, in the areas related to educational, scientific and cultural development targeting the civilizational empowerment of the Islamic World, has invited the Islamic Educational, Scientific and Cultural Organization (ISESCO) to focus on establishing comprehensive strategies for education, culture, science and Islamic cultural action in the West. The rationale behind this endeavor is to provide the appropriate general framework that comprises the entire set of actions that the Organization performs within its scope of competence. In collaboration and coordination with the member States, General Secretariat of the Organization of the Islamic Conference, Islamic cultural centers and associations in the West, the following five strategies have been established:

- **Strategy for the Promotion of Education in the Islamic World (1988),**
- **Cultural Strategy for the Islamic World (1991),**
- **Strategy for Science, Technology and innovation in the Islamic World (1997),**
- **Strategy for Islamic Cultural Action outside the Islamic World (2000),**
- **Strategy for Development of Biotechnology in the Islamic World (2003),**
- **Strategy for Water Resources Management in Islamic Countries (2003),**
- **Strategy for Benefiting from Muslim Competencies outside the Islamic World (2003),**
- **Strategy for Developing University Education in the Islamic World (2006).**
- **Strategy of Cultural Takaful to Serve Muslim Developmental and Civilizational Causes (2007),**
- **Strategy for ICTs Development in the Islamic World (2007),**
- **Strategy for the Development of Cultural Tourism in the Islamic World (2009).**

In this setting, through the futuristic vision that ISESCO adopts to consider the prospects of common Islamic action, and to deal with the issues relevant to the interests of Member States and their comprehensive development, the Organization has decided to work on an extremely vital area related to the cultural unity of the Islamic World. Such area also concerns the cohesion and

solidarity of the Islamic Community and relates to the interconnectedness of its interests and the reinforcement of its texture. This area is the rapprochement between the Islamic Madhahib.

ISESCO action plans have included a program on this issue. In this regard ISESCO organized two symposia on the rapprochement between Islamic Madhahib, the first in 1991 and the second in 1996. These constituted the basis of reflecting upon drafting a document specifying the main objective of such rapprochement and explaining its academic concept. The document would also set the foundations of working towards the achievement this goal, through cooperation and coordination among the followers of various Islamic schools of jurisprudence. This would allow us to overcome all the hurdles that used to hinder rapprochement between these schools down the ages, which has contributed to weakening the Muslim Community.

ISESCO was so concerned by this issue that it commissioned a team of religious scholars and intellectuals to initiate the Project of the Strategy on Rapprochement between Islamic Madhahib. The Project is derived from the essence of Islamic law (shari'a), in line with its noble finalities. It hinges on scientific foundations representing the most recent conclusions of contemporary Islamic thought, such as emphasizing the need to overcome doctrine-related differences and to move on to scientifically deal with the effects of these differences in juridical reasoning (ijtihad) and inference of rulings from the sources of Islamic law, as well as the necessity to gear juridical reasoning for the accomplishment of the genuine interest of the Islamic Nation. Such interest, which is the object of consensus of the entire Islamic Nation, should be granted priority over any other interest with a view to achieving the cultural, intellectual and spiritual unity of the Islamic Nation. This endeavor would also lead to coordinated action to achieve the best interests of the Islamic Nation, and to the promotion of a strong unity in defending the rights of the Nation, protecting its existence and preserving its civilizational identity.

This Project, which has now turned into a fully-fledged Strategy, after revision and editing -with the will of Allah-, does not primarily aim at unifying the position of Madhahib in the Islamic World. This is because such move is neither practical nor realistic. It is not in line with the appropriate course of action in this regard, either. Rather, it aims at reducing the degree of disagreement, narrowing down its gap as much as possible. It also purports to promote the sense of Islamic brotherhood, based mostly on the two main sources, namely the Holy Qur'an and

the authentic Sayings of the Prophet (PBUH), with reference to the common grounds that unify rather than divide, converge rather than diverge, and reinforce rather than weaken the Islamic Nation. This endeavor is conducted within the framework of the Shari'a objectives and the universal principles of Islam that may not be overridden or bypassed, with a view to consolidating Islamic solidarity and strengthening the sense of belonging to the unified Islamic Nation.

The work performed by ISESCO towards bridging the gap between Islamic *Madhahib* has resulted in the present Strategy that was adopted by the 30th session of the Islamic Conference of Foreign Ministers, held in Tehran, May 2003, and the 10th Islamic Summit Conference, held in Putrajaya, Malaysia, 2003. We hope this Strategy will achieve its targeted objectives.

May Allah crown our efforts with success.

Dr. Abdulaziz Othman Altwaijri

ISESCO Director General

Introduction

The unity of Muslims is a prime noble objective of Islamic law, as it presents cogent evidence for the divine oneness of the Almighty Creator, the oneness of His *Shari'a* and the oneness of worshipping Him. It also provides proof for the mandatory nature of such servitude to Allah. Allah says in the Holy Book, [***Verily, this, your religion, is one religion, and I am your Lord, so worship Me.***]⁽¹⁾ He says in another verse, [***Verily, this, your religion, is one religion, and I am your Lord, so keep your duty unto Me.***]⁽²⁾. Hence, the meaning of the concept of rapprochement is bringing the Islamic Nation together under the umbrella of the universal principles and invariable precepts derived from the Holy Qur'an and the Prophet's Tradition (*Sunna*). It is also a practical and methodological call targeting the examination of the phenomenon of Madhahib schools differences, lest the imitators derail from its legal course, and for fear of the division of Muslims over their religion, so as to preserve the spirit of Islam, abiding by the saying of Allah, the most glorious and exalted, [***And obey Allah and His messenger, and dispute not one with another lest ye falter and your strength depart from you; but be steadfast. Verily, Allah is with the steadfast.***]⁽³⁾

In order to confirm the unity of authentic knowledge about Islam and Muslims, in line with the Islamic invariable principles derived from Islam's fundamental sources and frame of reference, and so as to narrow down the gap between the Islamic Madhahib, ISESCO has strived towards achieving the objectives of the Islamic World, implementing thereby its ultimate noble goals. In so doing, the Organization aims at standing up against the various ostensible reasons exploited by the enemies of the Islamic truth, so as to hold back the successive attacks launched and spread by the foes of Islam.

Within this framework targeting rapprochement between the Islamic Madhahib, the present Strategy has been prepared, based on scientific and intellectual foundations, free from emotional influences and doctrinal favoritism, with a flexible and coherent style, which would make it-once adopted- feasible, programmable and applicable, since the relevant conducive conditions and criteria have been observed in its structure. It has been laid down within an acceptable and feasible framework, drawing on the following foundations:

(1) *Al-Anbiya*, 92.

(2) *Al-Mu'minin*, 52.

(3) *Al-Anfal*, 46.

I. Validity conditions of the rapprochement Strategy:

These conditions can be seen along the following lines:

1. Good will and good intentions, since these constitute the basis on which objectives are founded and achieved, and the means through which are diagnosed the ways of bridging the gap between the different Islamic sects and Madhahib.
2. Dialogue is considered a crucial condition that can by no means be bypassed at any stage of the implementation of this Strategy, and a vital means to achieve rapprochement. For dialogue to be efficient and effective, it should be based on the following scientific assumptions and logical foundations:
 - a) The frame of reference for all issues should be the Holy Qur'an and the authentic Prophet's Tradition, since there is a general consensus that these constitute the original source of Islamic jurisprudence. They also constitute a common ground for any dialogue among Muslims;
 - b) The rapprochement dialogue should be based on tolerance, abjuring all forms of fanaticism and narrow doctrinal sense of belonging, except for the sense of adhering to genuine Islamic teachings;
 - c) The objective should be limited to rapprochement as the ultimate goal of Islamic jurisprudence, abjuring all causes of division and contrariety.
 - d) The agreed upon jurisprudence principles should constitute the basis of ruling in issues of worship and transactions, whose frame of reference is second to both the Holy Qur'an and Prophet's Tradition.
3. The implementation of this Strategy should benefit from the assistance of outstanding religious scholars of Islamic Madhahib and specialized academic researchers.
4. Islamic governments, institutions and organizations, as well as specialized religious scholars should be committed to supporting the plans and programs of this Strategy, as well as promoting its local and non-local activities.
5. Governmental and non-governmental Islamic organizations as well as the associations concerned with Islamic action areas should contribute to translating this Strategy into activities that would enable Muslims to achieve the objectives of Islamic law.

II. Intellectual and scientific foundations of rapprochement

The rapprochement Strategy, the first of its kind in this significant area, hinges on intellectual foundations and scientific assumptions, as well as logical and text-based indicators, chief of which are:

1. Emphasizing the fact that Islamic law is free from intellectual differences contradicting the essence of Shari'a and faith, and that the spirit of Islam, with its foundations and invariable principles, constitutes one entity, revealed by Allah, the most Wise, to one Prophet, through Gabriel, the Spirit of Faith and Truth, so as to be conveyed through one univocal constitution.
2. Emphasizing that the rulings on jurisprudence issues that unite Islamic schools, and where all instances of legal reasoning converge, are too many to list in the space devoted to the present Strategy. They are available in detail in jurisprudence sources and Islamic law references.
3. It should be pointed out here that historical studies and academic research have clearly confirmed a significant fact; namely, the issues of jurisprudential differences have constituted a highly valuable juridical and intellectual heritage, worthy of being studied, learnt and published. Though such differences are speculative and inference-based, they generally do not derail from the fundamental sources of Islamic law. They are rather the outcome of understanding and interpreting texts, or based on the Prophet's authenticated Sayings (*hadith*). It should be noted that the Companions of the Prophet who used to apply reasoning efforts while a text was available, in the presence of the Prophet (PBUH), would always make sure that evidence has been derived from the Qur'an and Prophet's Tradition. Their reasoning-based opinion used to be a very limited piece of legislation. It was nothing more than a speculative ruling rather than a conclusive one; hence they were not divided into different schools. As the expansion of Islam unfolded extensively, new developments arose in the Islamic arena and Muslims' life changed, it was mandatory for religious scholars and jurists to protect Islam from the spoiling acts of ignorant intruders. Indeed, they reacted by documenting Prophet's Sayings, collecting their juristic evidence, and expanding the scope of legal reasoning (*ijtihad*, i.e. the independent intellectual effort of Muslim jurists to reach independent religio-legal decisions).

This confirms the fact that the rationale behind such difference was based on seeking the truth. It has allowed a large margin for people to use evidence, in

conformity with the conclusions of leading scholars of jurisprudence (*Imams*), who did not seek to be imitated by others.

Hence, one of the objectives of the present Strategy is to bring to the fore the tendencies of Islamic Madhahib differences, to specify them and trace them back to their genuine sources. This is to achieve the ultimate goal of reunifying Muslims within the genuine framework of Islamic law. In so doing, we would allow the stakeholders in the Islamic world to delineate the practical methods and implementation procedures, with a view to establishing a practical Islamic vision, based on the prospects of knowledge, targeting the hearts and emotions of Muslims so as to unite them at the spiritual, academic, cultural and civilizational levels. The ultimate goal of rapprochement in this regard is to achieve the unity of the Islamic Nation, based on the unity of faith and law.

On this basis, it is clear that the rapprochement of Islamic Madhahib has far-reaching dimensions, great objectives and paramount importance.

III. Importance of the rapprochement of Islamic schools of jurisprudence

The importance of the rapprochement of schools of jurisprudence is based on the divine principles of Islamic law, the gist of legislation, and the juridical objectives aiming at unifying Muslims in conformity with the divine order expressed in the Qur'anic verse, [*And hold fast, all of you together, to the rope of Allah, and do not separate. And remember Allah's favor unto you: how ye were enemies and He made friendship between your hearts so that ye became as brothers by his grace; and how ye were upon the brink of an abyss of fire, and He did save you from it*]⁽¹⁾. The Holy Book contains other verses implying the necessity of adhering to the ways sparing division and disintegration, and complying with God's true guidance and valid approach.

The present Strategy is also founded on the requirements of Muslims' real circumstances, as well as their common interest, which requires cooperation and solidarity. This has called for placing this Strategy, in a well-organized fashion, within a civilizational framework, which derives its philosophy from a religious necessity, and an objective vision targeting the current and prospective interests of Muslims. This is because ISESCO officials are convinced that “civilizational

(1) *Al-Imran*, 103

projects can materialize only when based on effective plans and strategies.”⁽¹⁾ Given these assumptions and the great challenges facing the Islamic World, it is necessary to keep up the effort and action towards rapprochement. Muslims today are in dire need for this Strategy, which would enable Islamic action to reinforce the principle of harmony and rapprochement and to reject disagreement in the simplest ways and with the easiest methods, for Muslims to turn into what Almighty Allah prescribes for them, namely [*the best community that hath been raised up for mankind*]. That is, brothers who love each other for Allah's sake, who are not divided, who have no conflicts, who enjoy the unity of Islamic law and who revel in the blessings of the flawless religion.

Should the Strategy be subject to due implementation and follow-up, the issue of rapprochement outlined therein, in its entire organizational structure - introduction, objectives, foundations, contents and means - is not difficult to deal with, nor is it hard to handle, as long as such endeavor is based on the major foundations mentioned above.

The Rapprochement between Islamic Madhahib would bridge the gap between the followers of such schools, reinforce Islamic unity and instill it in the souls of Muslims. In the absence of such move, social problems multiply, intellectual disturbances increase, social and economic security becomes dysfunctional, and the gap of differences widens. Hence, rapprochement is considered one of the catalysts of global stability, of which Muslims are in dire need today, so as to achieve a better Islamic life and a more stable faith, in an atmosphere of complementarity, solidarity and mutual support. This would enable the Islamic Nation to secure a place in modern life and to preserve its identity through such rapprochement and complementarity. It would be able to protect itself, its assets and its future from any hegemony, since it is endowed with civilizational, historical, juridical and human foundations that other nations lack.

IV. Role of rapprochement in the stability and coherence of the Islamic Nation

The rapprochement of Islamic schools of jurisprudence is an important factor in bridging the gap of disagreement and curbing the expansion of the phenomenon of extremism that leads to division and unrest. It is also considered a solid bridge towards reinforcing the values of unity, tolerance and observance of the conditions

(1) *Strategy for Islamic Cultural Action outside the Islamic World* -ISESCO

conducive to the strong texture of the Islamic Nation and enhancing the elements of its unity. Such move is confirmed by the divine course of conduct by Almighty Allah, Who commands us saying, [*This is My straight path, so follow it. Follow not other ways, lest ye be parted from His way. This hath He ordained for you, that ye may ward off (evil).*]⁽¹⁾

V. Responsibility of rapprochement in the Islamic world

Supervising the rapprochement process requires the involvement of entities, institutions, councils and bodies, both governmental and non-governmental, where such work is entrusted to outstanding jurists and specialized religious scholars.

Some of these institutions and entities already exist, and they have been playing a great and efficient role in the area of rapprochement. Others will be created in the framework of the activities of the present Strategy, whether they are established in Islamic countries or within the organizational structure of ISESCO. It should be born in mind, however, that those actually existing need academic and technical complementarity and coordination with the new stakeholders, especially with regard to those interested in the issues of rapprochement.

At the level of performance, the responsibility of rapprochement of Islamic Madhahib should not be limited to the existing active entities and institutions, nor should it be limited to the councils and bodies to be established under the sponsorship of ISESCO. Rather, it requires the participation of governmental ministries and institutions involved in the areas of thought, culture, communication, and Islamic affairs, such as the ministries of endowment and Islamic affairs, culture and communication, including all their institutions and resources, as well as the ministries of education, higher education, and Islamic councils. This endeavor also requires the participation of other entities and institutes working in the area of religious and cultural guidance, together with specialized Islamic universities and institutes, bodies, and unions in the fields of religious and cultural literacy, and any other stakeholders involved in the implementation of the present Strategy, including Arab, Islamic and international organizations.

Foremost of these is the role of ISESCO, since the Organization is the prime responsible party for important academic and organizational considerations, and because it is the source from which this Strategy has been initiated. Hence, the

(1) *Al-An'am*, 153.

responsibility of rapprochement is collective, involving scholars, intellectuals, jurists, writers, preachers, journalists, in addition to the official and non-official institutions and bodies. Such responsibility requires the following.

1. Planning the operations of rapprochement and ensuring their implementation, adopting the local strategies emanating from the contents of the present original Strategy.
2. Preparing feasible programs and activities at the national level, relating them to similar activities in the countries of Member States, as well as developing and promoting such activities therein.
3. Developing cooperation and complementarity relations with similar bodies in brotherly countries, and with the relevant organizations and bodies at the national, Arab and Islamic levels.
4. Contributing to preparing campaigners for rapprochement and training them on disseminating its culture, in conformity with unifying Islamic foundations that are authentic and flawless.

VI. Difference in Principles and Ancillary Branches

The truth on which the whole Islamic Nation agrees - which is promoted by the present Strategy- is that Islamic jurisprudence is the science of ancillary branches (*furū'*), and that the entire set of the schools of Islamic jurisprudence, with no exception, have limited their legal reasoning endeavors, differentiations and disagreements to the ancillary branches of Islamic law. These juridical differences have represented a sign of divine mercy and wealth of juridical reasoning, embodying thereby the natural diversity in Islamic jurisprudence methods, and the appropriate receptiveness to the diversity of the realities and interests of the Islamic Nation in both time and space.

The experts of Islamic law, who founded these schools of Islamic jurisprudence, and those who developed such doctrines and enhanced their legal reasoning praxis, were students of religious scholars adopting different doctrines. This was the case of Abu Hanifa (80 -150 A.H / 699 -767 A.D), Jaafar Al-Sadiq (80 -148 A.H / 699 - 765 A.D), Al-Shaffi (150 - 204 AH/ 767 - 820 A.D), Malik (92-179 AH/ 712 - 795 A.D), Ahmed bin Hanbal (164 - 241 A.H / 780 - 855 A.D), Zayd bin Ali (79 - 122 A.H / 698 - 740 A.D) and tens of outstanding Islamic jurisprudence scholars. They have left for us a heritage which conclusively stands witness that

the criterion of their differences was either the “incorrect” conclusion, which grants the jurist a single divine compensation, or the “correct” conclusion, which involves double compensation. Such heritage also shows that these juridical differences and legal reasoning differentiations are not related to any causes of hostility and mutual exclusion, which uses “branding others as apostates” and “branding others as open sinners” as criteria for conflict and division.

Having said that such is the reality of difference and diversity in the schools of Islamic jurisprudence - which the present Strategy corroborates - they cannot constitute the object of the targeted rapprochement, without methodological and meticulous delimitation of the concept of the desired rapprochement. The Islamic Nation seems to need increasingly wider spaces of jurisprudential diversity, so as to mobilize legal reasoning praxis, which has slowed down, and to enhance jurisprudential creativity, which is rather underdeveloped and constrained.

No Jurist, scholar or user of Islamic jurisprudence, no matter how different their schools of Islamic jurisprudence may be, feels that there is a “problem” between these schools; nor do they believe that such “problem” harms the unity of the Islamic Nation. While the disagreement issues between these schools are limited, they have always constituted an aspect of divine mercy, wealth and diversity in the area of legal reasoning. No one has ever claimed it was the differences between the Jaafari jurisprudence and the Sunni jurisprudence that divided the Islamic Nation into Shiites and Sunnis. Likewise, the juridical difference between Zaydis and Sunnis did not prevent them from getting very close to one another within the framework of the unified Islamic Nation. The same holds for Ibadhi jurisprudence in relation to other schools of Islamic jurisprudence. More importantly, the juridical differences between the Jaafari Jurisprudence and Sunni jurisprudence are nearly the same as the differences between the four Sunni schools themselves.

The differences in these jurisprudence doctrines do not weaken the existence of the united Islamic Nation, because their area is the ancillary branches, the spaces of legal reasoning where people still disagree. The difference in such area is a divine law that may by no means be changed or transformed. It constitutes plurality, difference and diversity within the framework of a single Islamic law. That is, this difference represents diversity in legal reasoning within the setting of one Islamic law, which is an invariable divine entity. Overcoming these juridical differences is impossible. Narrowing down its space through rappro-

chement without methodical specification and meticulous delimitation of objectives is extremely harmful, because this would curb the graph line of mercy and margin of freedom, diverting it towards contraction instead of expansion.

When our specialized academic and jurisprudence encyclopedias as well as some Islamic States adopt the eight schools of Islamic jurisprudence -Hanafi, Maliki, Shafii, Hanbali, Jaafari, Zaydi, Ibadhi and Dahiri - and when Al-Azhar Al-Sharif, for instance, issues a legal ruling permitting worship according to the Jaafari school, as a doctrine of Islamic Jurisprudence, and adopts the teaching thereof in its institutes and faculties, then we have on our hands a valid model of embracing the rich diversity of Islamic jurisprudence. In such model, there is a need to increasingly widen the space of legal reasoning and difference -as long as it is motivated- rather than constraining the space of diversity, which is, in fact, a space for legal reasoning effort and creativity. We would need to generalize this model, for our Islamic encyclopedias and countries to adopt this jurisprudence diversity, and to benefit from both its inherited and contemporary rich heritage.

Hence, what we need with regard to the schools of Islamic jurisprudence is not rapprochement between such schools in the strict sense. Rather, we need to widen the scope of interaction and tolerance that would encompass all these schools and the diversity of legal reasoning within the unity of Islamic faith, law and Nation. Islam has prescribed unity with regard to principles, and has made of the difference in ancillary branches a blessing for the Islamic Nation to deal with the variables in the changing reality, and the new developments in various areas of interest at any time and in any place.

Such principles, which Islam commands to be unified, are “faith”, “law” and “Nation”. The Unity of Muslims, as to these three principles, has resulted in their unity with regard to “civilization” and “Islamic World”. Within the framework of each of these five inclusive entities, there is diversity, plurality and differentiation within one entity.

- Within the framework of the unity of faith, different conceptions arose concerning transcendence (affirming God's transcendent distance from humanity) and comparability (affirming God's closeness to humanity), due to economy, extension or moderation in reasoning and interpretation.
- Within the setting of unity of the Islamic Community, there are various and diverse peoples, tribes, colors, races, dialects, languages and ethnic groups.

- Within the framework of the unity of Islamic civilization, there are numerous and diverse traditions, customs and conventions that characterized the jurisprudential diversity, especially in Islamic Jurisprudence of Transactions.
- Within the setting of the unity of the Islamic World, there are many countries, states, counties and provinces- which was the case even under the unity of Islamic caliphate.

For the sake of the unity of the Islamic Nation, we need not exclude the diversity of languages, dialects, ethnic groups, peoples and tribes. We rather need to make of it a diversity that would enrich the unity of the Islamic Nation. For the sake of the unity of the Islamic World, we need not eliminate the differences between national, local and ethnic provinces and states, but we rather need to overcome the “narrow nationalistic system” which we borrowed from the western nationalistic state in Europe, for the territories of the Islamic world as well as its national and local states, to constitute a diversity within the unity of the Islamic World.

Considering that such is our condition as to the unity of the Islamic Nation and that of the Islamic World, we do not need - with regard to the unity of the faith and law - the rapprochement of the schools of ancillary branches (*furu'*) in the abstract sense. Rather, we are in dire need for expanding this space, wherein juridical reasoning, diversity and differentiation do not compromise the unity of the Islamic Nation in terms of principles (*usul*).

There is a pressing need for unifying the Islamic Nation with regard to principles, because it is the disagreement on such principles that tears apart the unity of the Islamic Nation, since the criteria of this disagreement on Principles are “belief and disbelief” rather than “right and wrong”. The danger threatening the unity of the Islamic Community - in the past, present and future- does not lie in jurisprudential differences but - if we adhere to the truth and we are courageous enough - in the disagreement on principles. Such difference has always resulted in hurdles concerning “branding others as disbelievers”, “labeling others as open sinners” and “denouncing others' opinions as unlawful innovations”.

No expert in Islamic Sciences, or even a researcher in the heritage of Muslims, can find any trace of branding others as apostates, declaring others as open sinners or denouncing others' practices as unlawful innovations, which could be

ascribed to the schools of Islamic jurisprudence. The area which involves “unity snags” is that of “theological schools”, the area of “principles”. Hence, efforts of rapprochement should focus on these theological schools, instead of ignoring them and wasting energy on the rapprochement of the schools of ancillary branches. The schools of Islamic jurisprudence do not transcend the unity of Islamic law; hence, they do not harm the unity of the Islamic Nation.

Rapprochement, and even unity, are required in the Islamic Nation, through the avoidance of branding the parties involved in political disagreement as disbelievers- which has been transformed by some into a conflict relating to faith and principles - about “Imamate” (successorship of the Prophet (PBUH)). This is the genuine area that should be granted priority in rapprochement.

Purifying the sources of theology - principles of religion- from “excluding others”, “branding others as disbelievers” “labeling others' practices as unlawful inventions”, with regard to all Islamic sects, rather than jurisprudence schools, constitutes the crucial area of rapprochement where energy should be invested, after the completion of the stages of the rapprochement of jurisprudence schools. Another fundamental area of rapprochement is the search for intellectual formulations that would shift the disagreement issues from the “field of principles”, the disagreement on which leads to “belief and disbelief”, to the “field of ancillary branches”, whose criteria of difference are “right and wrong”.

Juridical differences constitute a diversity in ancillary branches that does not spoil the unity of the Islamic Nation. The present 'Project' confirms this fact as indicated in many junctions of its content,⁽¹⁾ which show the following:

1. Historical and contemporary jurisprudential differences constitute a blessing, a freedom margin and a characteristic Islam is proud of. It is also a divine permanent norm that is here to stay as long as this world exists.
2. The sordid disagreement which tears apart the unity of the Islamic Nation is that which spreads rulings and accusations concerning “brandings others as disbelievers” and “labeling others as open sinners”, within the schools and sects of the Islamic Nation, through the division of the Nation as regards the principles and invariable essence of Islam.

(1) See pages 44, 77, 78, 101, 104, 125 and 135

Hence, the religious scholars of the Islamic Nation, together with its elite and wise members should work towards the following:

- Specifying the catalysts of unity between all schools of Islamic jurisprudence in the Nation;
- Determining the disagreement hot spots that have been dividing the Islamic Community;
- Planning for shifting disagreement on these issues from the sphere of “belief and disbelief” to the sphere of “correct and incorrect”;
- Planning for the purification of Islamic theological schools' heritage, as well as all sources of heritage of the various Islamic sects, making such legacy free from the rulings and accusations of “branding others as disbelievers” and “labeling others as open sinners”;
- Planning for a set of intellectual projects whose accomplishment would contribute to the formulation of the unified intellectual and cultural frame of reference of the Islamic Nation as a whole, with a view to achieving- in the medium and long terms- the unity of Islamic culture for all the schools, sects, doctrines and trends of the Islamic Nation.

Chapter One

Jurisprudential differences and the efforts towards the rapprochement of Madhahib

The Islamic Community is in dire need of unity and agreement in such difficult era, in which the enemies of Islam strive to divide Muslims, and trigger conflicts as well as disagreement among them so as to weaken them and make them divided and submissive. Hence, it is high time for the Islamic Nation to be aware of this threat and seek solidarity, concord, unity and agreement.

The conspiracy of enemies to divide Muslims

The enemies of Islam, who have conspired to fight this religion in various countries, have ignored their own internal and external differences, striving to destroy Islam and derail Muslims off the course of their religion, using all overt and covert means. They have agreed on all this while they are bound by neither valid faith, nor sincere spiritual brotherhood, nor a genuine divine book, nor a Prophet they believe in; only their animosity to Islam has united them.

We, Muslims, are united by a single true faith, one Holy Book and a unifying, guiding Prophet's message. However, some of us rift the unity of Muslims, weaken their strength, enhance their division, disintegrate their union and widen the gap of disagreement and discord between them, thinking that they promote a religion, preserve a truth or disseminate a law, while they are, in fact, destroying such concepts and ripping such ties apart.

Exacerbation of difference between Muslim sects:

“Difference” here means the developing disagreement whose rift deepens and overwhelms individuals in such a way that they forget the dimensions and common grounds that unify them as Muslims. Such difference also prevents individuals from considering any thing but the areas where points of view diverge. The advocates of this approach forget about the basics of Islamic ethics. Their standards get so disrupted that speculative opinions turn to conclusive, implicit ones become explicit, covert meaning is interpreted as overt and the general become special. Weak souls are then so fascinated by the disagreement areas that they fall in the abyss of branding Muslims as disbelievers, favoring polytheists over Muslims. This is the disagreement against which the Holy Qur'an has warned us, exemplifying it by what happened to the preceding nations because of such disagreement: *[And only those unto whom (the Scripture) was given differed concerning it, after clear proofs had come unto them, through hatred one of another. And Allah by His will guided those who believe unto the*

truth of that concerning which they differed. Allah guideth whom He will unto a Straight path] (*Al-Baqarah*, 213). The juristic reasoning opinions and the schools of Islamic jurisprudence, which are ascribed to those qualified to practice legal reasoning, may be transformed by imitators and followers into a sort of intellectual factionalism, political fanaticism, and social vandalism. Such fanaticism may get so intense that we would face the pre-Islam saying: “The liar from Rabi'a (Musaylima's tribe) is better than the candid from Mudhar (the Prophet's tribe)”.

The early generation of Companions (may Allah be pleased with them) disagreed, but their different opinions did not cause their division. They differed but did not divide, because the unity of their souls was too strong to challenge. They had ridden themselves of psychological illnesses, though some of them would make a mistake induced by his senses. The man whom the Prophet (PBUH) kindly introduced to the Companions, informing them that he was one of the dwellers of Paradise, and who investigated his case and behavior, turned out to be a person who would not go to bed while he had hard feelings towards a Muslim.⁽¹⁾

Prophet's sayings on the importance of unity

The importance of unity and agreement in upright Islamic law is quite obvious. Countless are the texts from the Holy Book, Prophetic Tradition, as well as the statements of the early generation of Companions and their followers, which urged Muslims to do so and warned them against division, disintegration and discord.

Imam Muslim (May Allah have mercy on his soul) reported in his *Sahih* (Authentic) “*on the authority of Abdullah bin Amr bin Al-Aas (May Allah be pleased with them), that a man asked the Messenger of Allah (PBUH): who is the best Muslim? The Prophet replied, “The one who avoids harming Muslims with his tongue and hands”.*”⁽²⁾

Imam Al-Nawawi (May Allah have mercy on his soul) explained this Saying of the Prophet: “*It contains significant statements, as it encourages refraining from verbal and physical behavior that hurts Muslims, directly or indirectly; it*

(1) *Sahih Muslim*, with explanation of Imam Al-Nawawi in the Chapter “*tafadul alislam a ayyu umurihi afdal*” (Islam preference and which of its matters is better).

(2) The man intended here is Saad bin Abi Waqqas (May Allah be pleased with him); and the Prophet Saying is narrated on the authority of Imam Ahmad's *Musnad*, 6:133.

involves abstaining from despising them; and it requires Muslims to intimately unite and support each other, using all means to achieve this.”

A significant statement in this regard made by Al-Kadi Ayyad runs as follows: “Intimacy is one of the requirements of religion and the pillars of Islamic law and the unifying system of Islam”. It is considered by the outstanding Islamic scholars a great element in Islamic jurisprudence.

Imam Ahmad (May Allah have mercy on his soul) reported in his *Musnad*⁽¹⁾ (*Collection of Prophet Sayings*) on the authority of Sahl bin Saad Al-Saidi (May Allah be pleased with him), that the Messenger of Allah Said: “*The believer is prone to intimacy; useless is he who cannot be intimate with people and whom people cannot be intimate with.*”

Al-Manwai (May Allah have mercy on his soul) stated in his explanation of this Prophet Saying: “*The believer gets along with people thanks to his good ethical behaviour, easy temperament, flexible character. The believer is intimate with blessed people; people are intimate with him thanks to his faith; the believer even represents the ultimate appropriate setting for intimacy, he represents the source and frame of reference for intimacy, and useless he who can not achieve mutual cordiality due to his weak faith, inappropriate ethical behavior and bad temperament.*”

Mutual intimacy leads to adherence to Allah, and results in the agreement of Muslims; otherwise, they are divided. It is achieved by the assistance of Allah who joins hearts in love, in confirmation of His saying: [***And remember with gratitude God's favor on you; for you were enemies and he joined your hearts in love, so that by His Grace you became brothers.***]⁽²⁾

In both *Sahih Muslim* and *Sahih Al-Bukhari*, it is reported on the authority of Abu Musa Al-Ashaari (May Allah be please with him) that the Messenger of Allah (PBUH) said, “*A faithful believer vis-à-vis another faithful believer is like the bricks of a wall, reinforcing each other; then the Prophet interlocked his fingers*”.⁽³⁾

(1) *Musnad* of Imam Ahmad, 5/335

(2) *Al-Imram*, 103

(3) *Sahih al-Bukhari*, 10:449 in the *Book of Manners*; *Sahih Muslim*, 16/139 in the *Book of Benevolence, Relations and Manners*.

Al-Nawawi (May Allah have mercy on his soul) said, “this Prophet’s Saying is explicit in giving paramount importance to Muslims’ obligation towards each other, enjoining them to have mercy on each other, to be polite to each other and to support each other, but not with regard to offensive or undesirable matters”.⁽¹⁾

Early Generation of Companions' respect for different opinions

The early generation of Companions (May Allah be Pleased with them) have undoubtedly disagreed on many practical issues and some faith-related academic issues. Difference still persists among the *Imams* who came after them, concerning juristic ancillary branches and a few principles. However, they always preserved the good manners of disagreement, mutual cordiality, concord, and respect for different opinions. They were cautious not to feel jealous towards each other or boycott one another. They impelled each other to be committed to unity and agreement, and to avoid disintegration and division.

Al-Tabarani reported on the authority of Abdullah Bin Masud (May Allah be pleased with him) who said, “You, people, should be committed to obedience and sense of community, as they constitute the rope enjoined by Allah. What you dislike in the sense of community is better than what you like in the sense of division.”⁽²⁾

Al-Hafid Al-Khatib Al-Baghdadi reported in his Book of Narrators on the Authority of Malik that Harun Al-Rachid Said to Imam Malik bin Anas, “Abu Abdallah, we write these books and we distribute them in the land of Islam to be attacked by the Islamic Nation. He said, “Commander of the faithful believers, the disagreement of scholars is a sign of mercy from Allah Almighty benefiting this Islamic Nation. Everyone follows what he deems correct; everyone is on the right path, and everyone acts for the sake of Allah.”⁽³⁾

Ibn Taymiyah, the Sheik of Islam, reported that a man wrote a book on disagreement, and Imam Ahmed told him not to call it “the Book of Disagreement”, call it, instead, the “Book of Diversity”⁽⁴⁾. That is, the book would have such title so as to show the diversity of what has been reported on

(1) Explanation of *Sahih Muslim*, 16:139.

(2) Reported by Al-Haythami in *Majma' Al-Zawa'id*, 7:328.

(3) *'uqud Al-Juman*, by Al-Hfid Al-Salihi, page 11.

(4) *Majmu' Al-Fatawa*: 30-79-80.

the Prophet (PBUH) and to indicate that the space of the Prophetic Tradition is wide enough.

He said: “That's why some scholars used to say, 'Their consensus constitutes cogent evidence, and their disagreement constitutes a great sign of mercy.’”(1)

Omar Bin Abdulaziz used to say, “I am pleased that the Companions of the Prophet (PBUH) did not disagree. If they agreed on a certain matter but someone disagreed with them, the latter would be misguided. If they disagreed and people accepted different opinions from different Companions, then this was considered a matter of diversity.”(2)

Hence the companions of Al-Shaffii, among others, the writers compiling issues relating to enjoining righteousness and prohibiting evil, stated that “Juristic reasoning issues are not rejected by force, and no one may oblige people to agree with his reasoning. Rather, such issues should be debated using scientific evidence. If someone finds out that one of two statements is correct, he may adopt it; but those who adopt the second opinion would not have their decision rejected.”

Preserving brotherhood despite different opinions

The history of the early generations of our Imams and scholars indicates that they used to preserve mutual love and brotherhood in spite of their different approaches and opinions. Much has been reported in this regard:

- 1- In his Biographies of Noble Scholars, in the section devoted to the biography of Imam Al-Shaffii, (May Allah be pleased with him), Al-Hafid Al-Dahbi reported on the authority of Imam Al-Hafid Abu Musa Yunus bin Abd Al-Aala Al-Sadafi Al-Misri, a companion of Imam Al-Shaffii, that “Al-Shaffii is the most sensible scholar I have ever seen. We once debated an issue, then we parted - He met me (later), took me by the hand and said, “Abu Musa, shouldn't we be brothers though we disagree on an issue?””(3) Al-Dahbi said that “this indicates the Imam's caliber in jurisprudence and self-understanding; equals still disagree.”

(1) ibid

(2) *Al-I'tisam*, by Al-Shatibi, 2:395.

(3) Biographies of Noble Scholars, 10:16

- 2- Likewise, in the same book, in the section devoted to the biography of Imam Ishaq bin Rahwih, Ahmed bin Hafs Al-Sa'di said: "I heard Imam Ahmed bin Hanbal say: "No one similar to Isaaq has crossed the bridge to Khorasan. Though he used to disagree with us on certain matters, people still disagree with one another"⁽¹⁾
- 3- In his *Jami' Bayan Al'im wa Fadlih* (Compendium of the Exposition of Knowledge and its Benefit), in the chapter devoted to debates and argumentation, memorizer and historian Imam Abu Omar bin Abdulbarr reported on the authority of Mohamad bin Utab bin Al-Murabba', who said: "I heard Al-Abbas bin Abduladhim Al-Anbari say: 'I was at Ahmed bin Hanbal's when Ali bin Al-Madini came riding an animal. They debated 'the profession of faith' so loudly that I feared they would stay away from each other. While Ahmed would see the evidence, Ali would refuse and give counterarguments. When Ali wanted to leave, Ahmed stood up and took his mount".

Such examples and many others clearly indicate that scholars' behavior is characterized by brotherly concord and cordiality, respecting each other, in spite of their different schools and interpretations. Holding symposia and conferences, as well as establishing academic centers to explain the idea of rapprochement, specifying its objectives, outlining its methods and overcoming the difficulties hindering its successful implementation, all constitute only one step towards achieving the ultimate objective, namely the unity of the Islamic Nation.

Below are some fundamental remarks relevant to understanding the rapprochement message that we all call for today.

Remark 1

The call for the rapprochement between the Islamic Madhahib does not mean reducing such doctrines to one school. It is rather a step towards unifying Muslims, promoting mutual intimacy and dialogue among them, as well as bridging the gap between them. It is also a move to capitalize on the achievements of Islamic jurisprudence and theological doctrines, so as to accomplish a fresh start of the Islamic thought, with a view to demonstrating the large margin of flexibility of jurisprudence and its capacity to face any trend rivaling Islam.

(1) Ibid, 11:37.

Remark 2

There should be a distinction between the nature of intellectual and scientific differences in ancillary branch-related issues among the *Imams* of Islamic Madhahib - as it is common among scholars in the past and present - and in understanding the Holy Qur'an and Prophet's Tradition, together with the impact thereof in inferring legal rulings, on the one hand; and the course of bloody events the Islamic Nation witnessed in the past, triggered by inflicting the sense of division upon Muslims, on the other hand.

Since the Third Century, large and small encyclopedias have been compiled in this regard. Some of this content was outlined towards the end of Shaffii's book *Al-Umm*, comprising treatises on the disagreement of the Companions, such as the disagreement between Ali (May Allah be pleased with him) and Ibn Mas'ud, or the disagreement of Islamic jurists themselves, like the disagreement involving Abu Hanifa and Ibn Abi Layla, or the disagreement between Malik and Al-Shaffii. Al-Muzani, one of Al-Shaffii companions, wrote a book abridging *Al-Umm*, showing the issues on which he differed with Al-Shaffii, in addition to similar matters reported by the authors of encyclopedias specialized in introducing *Al-Musannafat* (Compilation of Prophet's Sayings according to subject headings).

This amounts to saying that difference of opinion on ancillary branches -in spite of the disagreement of its jurisprudence and intellectual schools- is a normal situation that should be considered an aspect of the rich intellectual diversity. It should by no means constitute an obstacle hindering the unity and collaboration of the Islamic Nation with reference to the shared agreed-upon foundations. Nor should this disagreement affect Islamic brotherhood, and the need to preserve the integrity of all Muslims, abiding by Allah's saying [***And say not unto one who offereth you peace: Thou art not a believer***]⁽¹⁾. Suffice it for a Muslim, to be so, show submission to Allah, unless he behaves otherwise.

Remark 3

Inappropriate reporting about schools of Islamic jurisprudence has resulted in disintegrating the Islamic Nation, while wise people are promoting dialogue among civilizations. That ISESCO strives to bring doctrines closer to one another is an important Islamic requirement in order to unite the Islamic Nation and achieve its intellectual unity in terms of general foundations, while opening

(1) *Al-Nisa'*, 94.

up to the wide prospects of juristic reasoning that deal with ancillary branches, and represent a margin of rich diversity and a divine sign of mercy in Islamic jurisprudence.

Efforts for rapprochement between Islamic Madhahib

Talking about Islamic doctrines no longer raises a problem when it concerns jurisprudence schools, as it was the case in earlier historical eras. Attention is rather focused on the disagreements of doctrines that need rapprochement in terms of faith-based differences. The early signs of such differentiation in this regard appeared among the members of the Islamic Nation in the Second Century A.H. Political conflicts exacerbated disagreement, triggered fanaticism, and widened the gap between opinions; so much so that each sect established its own frame of reference, consisting of narrators, religious scholars and reference books.

Such page of Islamic history did not constitute the basis of relations between Islamic doctrines. There are several pages reflecting closeness, tolerance, and academic interaction; they were predominantly characterized by fairness, seeking the truth, and the belief that the existing difference does not involve the foundations of faith, and does not preclude the fact that all Muslims constitute one Nation.

The principle of Shiism is the belief that Ali (May Allah honor his countenance) was more entitled to the Caliphate after the Prophet (PBUH) than anyone else, followed by the Imams from the Prophet's Family. Even so, Ali paid allegiance to the Caliphs before him and provided them with sincere advice. When some Companions disagreed with him, and they were involved in bloody clashes in the Al-Jamal Battle, he bore no spite or enmity in his heart against them. It is reported that Amran bin Talha went to see Ali (May Allah be pleased with him) when the latter finished Al-Jamal Battle. Ali welcomed him, came close to him and said: 'I hope Allah makes me one of those He addressed by saying: [***And we removed the spite in their chests, brothers on beds facing one another***] (Al-Hijr, 47). My nephew, how is Mrs. such and such?' He asked him about his step mothers'. Two men sitting down, one of them was beside Al-Harith Al-Awar, said: 'Allah is more impartial than that. We kill them whereas they will be our brothers in Paradise? He said, "Who on earth would it be other than me and Talha?"⁽¹⁾

(1) Al-Kandalhalwi, Mohamad Yusuf, *Hayat Al-Sahabah* (The Life of the Companions), edited by Nayif Al-Abbas and Mohamed Ali Dawtat, Damascus, Dar Alqqlam, 2nd Edition, 1983, p. 461.

Narrated events are numerous in this regard in both *Shiite* and *Sunni* sources about Ali, his sons and his grandsons. It is reported on the authority of Yazid bin Ali (80-122 A.H) that he was sitting around with some people from Iraq, who mentioned Abubakr and Omar (May Allah be pleased with them) and attacked them, then they started abusing Othman and he stopped them saying: Tell us. Are you among the *Muhajirin* (emigrants) who have been driven out of their homes and belongings, who seek bounty from Allah and help Allah and His Messenger?" They said, 'No'. He said, "Are you among those who entered the city and faith before them, and love those who flee unto them for refuge?" They said, "No". Then he said, "You have admitted and testified that you belong neither to these nor to those; and I testify that you do not belong to the third group either, on whom Allah said [*And those who came (into the faith) after them say: Our Lord! Forgive us and our brothers who were before us in the faith, and place not in our hearts any rancor towards those who believe. Our Lord! Thou art Full of Pity, Merciful.*] (*Al Hashr*, 10). Then he expelled them saying, "Get up and leave May Allah not bless you, nor make you our neighbors ... You are scornful towards Islam, you are not qualified to be Muslims!"⁽¹⁾

In terms of knowledge, the very scholars who founded jurisprudence schools learnt from each other without any objection whatsoever. Abu Hanifa Al-Nu'man and Malik bin Anas were students of Abdullah bin Al-Husayn bin Ali. The relevant manuals mention that they both have a close relationship with Imam Jaafar Al-Sadiq. Abu Hanifa even supported Zayd bin Ali financially when the latter declared his dissension. Similarly, Abu Hanifa publicly expressed his support to Mohamad Al-Nafs Al-Zakiya and his brother Ibrahim, Abdullah bin Al-Hasan's sons, when they dissented from Abu Jaafar Al-Mansur.

With a view to keeping academic dialogue open, Malik bin Anas refused the opinion of Caliph Al-Mansur as to imposing the teaching of Malik's book *Al-Muwatta'* (the Approved) exclusively. This is because driving people to adopt one opinion, while knowledge has been disseminated everywhere, would be a source of unrest.

When Al-Sharif Al-Radiy wrote his explanatory book *Haqa'iq atta'wil* (True Facts of Interpretation), he would report on the authority of the *Sunnis*; so much

(1) Ibrahim bin Ali Al-Wazir, *Zayd bin Ali : jihad haq da'im* (Zayd bin Ali: a Chronical of Constant True Jihad), Publications of the Writers of Washington, 1999, pp, 82683.

so that the reader would find it difficult to characterize the book as *Shiite* or *Sunni*.

Imam Al-Bukhari and Imam Muslim did not find it embarrassing to report numerous Prophet's Sayings on the authority of *Shiite* narrators; so much so that Al-Sayuti said that Muslim bin Al-Hajjaj's book is full of *Shiite* content.

When academic assemblies became widespread in Baghdad in the Forth Century A.H, academic debates became renowned, as it set an example for the etiquette of dialogue and disagreement. The most famous of such reported debates are those conducted by the Sunni Imam of the time Abubakr Al-Baqalani and the famous Shiite Imam Shiekh Al-Mufid, who is, himself, a student of Ibn Isa Al-Karamani, the Sheikh of *Al-Mutazilites* (unorthodox sect) at that time.

In the Fifth Century A.H, one of the outstanding Religious scholars of the Islamic Nation was Abu Jaafar Mohamad bin Ali Al-Tusi, who died in 460 A.H. He was one of the renowned *Shiite* religious scholars of his time, thanks to his well-balanced, objective and fair method of exposing, discussing and criticizing issues. So much so that the Abbasid Caliph assigned him the most important academic chair at the time, which used to be attended by students from all doctrines. It seems that he was the first scholar who composed jurisprudence content staged in the deductive reasoning method, similar to the method commonly known in the Hanafi Doctrine.

Al-Fakhr Al-Razi (died in 606 A.H), a *Sunni* scholar, was a student of the most renowned *Shiite* jurists of his time, Sadid Al-din Al-Hali. Whereas Mohamad bin Makki Al-Amili "the Martyr", one of the outstanding *Shiite* religious scholars, was a student of more than forty sheikhs of Sunni scholars.

In the nineteenth century, Jamal Al-Din Al-Afyhani became famous, but there was disagreement as to whether he was *Shiite* or *Sunni*, and with regard to his shifting from one doctrine to the other. However, he undoubtedly called for Islamic unity, transcending the sense of belonging to any camp. His student Mohammad Abdu followed his unifying, rapprochement-oriented method.

Mohamad Rachid Rida, on the other hand, devoted his Magazine *Al-Manar* to the entire set of the Islamic Nation doctrines.

The ideas of the rapprochement between Madhahib turned into organized institutional work, when the successive endeavors of Sheikh Taqiuddine Al-

Qumma and his dialogue sessions with the religious scholars of Al-Azhar resulted in establishing the Centre for the Rapprochement of Islamic Sects in Cairo in 1940s. The Rapprochement Council published “the Message of Islam” magazine, the mouthpiece of rapprochement and the forum of the Islamic Nation’s religious scholars from various schools. The House also published a set of books which would enable students to know the principles and frames of reference of Islamic Madhahib.⁽¹⁾

In the Hashemite Kingdom of Jordan, the Royal Aal Al-Bayt Institute for Islamic Thought made valuable efforts in bridging the gap between Islamic Madhahib. Article 4 of the Law of the Institute provides for “enhancing dialogue and cooperation among the Islamic Madhahib (Schools of thought) and to bring them nearer together to achieve maximum rapprochement among their adherents”. The active members and correspondents of the Institute were selected so that they would represent the religious scholars affiliated to all doctrines and all Islamic countries. Hence, the meetings of these religious scholars have achieved a good deal of the objectives of mutual acquaintance, understanding and cooperation. This is partly because they engaged together in the debate of several topics, and partly because their meetings have been hosted by different institutions and countries affiliated to different schools of jurisprudence.

In 1991, the Institution for rapprochement between Islamic Madhahib was established in Iran, under the name of the World Assembly for the Rapprochement of Islamic Sects, whose members come from various schools and countries. The Assembly holds an annual conference and publishes an academic quarterly magazine dealing with the issues and research works of rapprochement entitled “the Message of Rapprochement”.

In 1984, Imam Al-Kho^ci Benevolent Foundation was established in London. It considered the issue of the rapprochement of jurisprudence schools a central component of its activities. It organized an international conference targeted at

(1) The Center for the Rapprochement of Islamic Sects, which was founded in the 1940s in Cairo, was chaired by Mohamad Alluba Basha, the Secretary -General was Mohamad Taqiyuddin Al Qumma. The outstanding founders were Sheikh Abdulmajid Salim, Sheikh Mohamad Mustafa Almaraghi, Sheikh Mustafa Abdurrazaq, Sheikh Mahmud Shaltut, Sheikh Mohamad Mohamad Almadani, Sheikh Ali Alkhafif, Sheikh Abdulaziz Isa, Sheikh Sayyid Sabiq, Ayatullah Aqahusayn Albarujradi, Mohamad Husayn Kashi Alghita, Sarafuddin Almusawi, Mohamad Jawad Maghniyya, Sadruddine Saharafuddin, among others. *Message of Islam* magazine was the mouthpiece of this Centre.

laying down a strategy for the rapprochement of doctrines in Damascus, the Syrian capital, in 1999, which was attended by tens of religious scholars and researchers from all Islamic schools.

ISESCO, in turn, which was established in 1982, has organized a number of conferences and meetings devoted to this purpose, such as the symposia held in Rabat in 1991 and 1996, and the expert meeting held in the Jordanian capital, devoted to reviewing the Project of the Strategy for Rapprochement between Islamic Madhahib, in 2001 A.D (1422 A.H).

Chapter Two

Concepts and Sources of
Rapprochement

Prelude

This Chapter is devoted to the definition of the concepts encoded in some fundamental terms contained in the present Strategy. Such terms express the basic meanings and specific objectives with regard to the rapprochement process. Focus is laid on specifying their terminological meaning in such a way that their meanings do not overlap so as to avoid unintentional ambiguity. The Chapter also outlines the sources of rapprochement and their terminological and linguistic nature. This can be seen along the following lines.

I. Concepts

1. The concept of “strategy”

The lexical meaning of “strategy” is the art of preparing and organizing the means that should be used in leading an army. As a common terminological meaning, it could be defined as an action plan for achieving results quickly and efficiently, including the working methods and specific means, so as to accomplish the targeted objectives, taking account of the available resources and surrounding conditions, potential obstacles, as well the alternative options to achieve such goals. On this basis, the concept of 'Strategy' here is the set of foundations, principles and guidelines governing the processes of rapprochement of Islamic schools, leading to the target objectives; namely, unifying Muslims and narrowing down the gap of disagreement between doctrines. This should be conducted within the frame of the divine Islamic Law, and working towards clarifying the foundations of juristic issues, to which the followers of Islamic schools have been committed. Scientific methods and appropriate practical approaches should be used, for the Islamic world to have its wishes fulfilled in terms of holding fast to the Holy Book and Prophet’s Tradition, which constitute the foundation of Islamic Jurisprudence sources.

2. The concept of “rapprochement”

The dictionary meaning of 'rapprochement' is equivalent to “bringing closer”, “saving rather than exaggerating”, “converging rather than diverging”, which constitutes one of the meanings intended in this Strategy.

'Rapprochement' is also intended to mean diagnosing the issues shared by the schools of Islamic jurisprudence, the matters agreed upon in the area of faith and

jurisprudence. It also means finding the ways of compromise as to the disagreement matters. From a perspective of mutual understanding, drawing a line between the disagreement matters relating to ancillary branches and those relating to principles, for the principles not to be lost in the interpretation of disagreements concerning branches. Another relevant factor is the use of cogent proof and authentic evidence, extracted from the authentic sources of Islamic jurisprudence. Moreover, one should not hasten to issue a judgment against other Muslims, using divisive rulings such as “branding others as disbelievers”, “labeling them as open sinners”, “accusing them of polytheism” or indicting them for breaching the principles of Islam. Rather, one should be committed to the principle of avoiding doctrine-based fanaticism and narrow sectarianism. One should seek the Islamic truth, and base judgment on authentic evidence.

On this basis, the concept of “rapprochement” in this Strategy by no means involves the exclusion of schools or difference. Nor does it mean the integration of one into the other or total preponderance of one on the detriment of the other. Rather, it signifies constituting common grounds, based on authentic evidence to achieve more unity, close complementarity, solid mutual understandings, avoiding extremism, removing ambiguity, eliminating doubt, and providing more clarification. Rapprochement in the intended strategic sense is a means to achieve unity, to bridge the gaps, and to accomplish mutual good-will and respect among the members of one Islamic religion, so as to preserve the unity of the Islamic Nation and protect the objectives of Islamic law, which confirm and preserve everyone's interest.

3. The concept of “doctrines” (Madhahib)

The lexical meaning of 'doctrine' is creed or belief, as well as method or principle. Adopting a doctrine means advocating an opinion. As a terminological entry, 'doctrine' refers to the intellectual action based on juristic evidence from the Holy Book, Prophet's Tradition, Consensus, Analogy or other evidence based on rules and principles stipulated by jurists and religious scholars, with regard to the issues of worship rituals and transactions, which they have studied and from which they have extracted the authentic and beneficial rules. Such rules are adopted by these jurists and religious scholars themselves in the first place. They are offered to be adopted by those who are convinced by the legal reasoning put forth. These rules constitute a heritage benefiting the generations to come, regarded as valuable treasures enhancing the diversity of Islamic thought.

Islamic Doctrines are the schools of thought adopted by those who adhere to them, based on the frame of reference of the legal reasoning work conducted by the religious scholars and jurists of the Islamic Nation. These religious scholars have reached such a high scholarly position that those who know them learnt from, then followed their speculative opinions, adopting their juristic reasoning and using it as evidence. Hence, they are called 'Islamic schools'. They are also called Jurisprudence doctrines because they are related to the ruling concerning the matters and issues of ancillary branches and the legislations thereof.

4. The concept of “disagreement” and “difference”

Since “disagreement” (*khilaf*) and “difference” (*ikhtilaf*) constitute fundamental terms in the present Strategy, it is important to outline their meanings. “Disagreement” means discord and disparity. Linguists and terminologists differed on the meaning of these terms, as to whether they are synonymous or different. Since “disagreement” in the sense of opposition and absence of compromise may not be used as an attribute of the juristic reasoning diversity of Islamic *Imams* and religious scholars, based on common principles, it is more appropriate to use the term “difference” to describe such diversity and plurality in juristic reasoning and speculative opinions, which *imams* and jurists inferred from the sources of Islamic Divine Law.

This is corroborated by some religious scholars, such as Al-Tahanawi who said that “difference is what is used in a statement based on evidence, while disagreement occurs in what is not based on evidence.”⁽¹⁾

Al-Kafawi says that “disagreement occurs when the way is different but the objective is the same, and it is a sign of mercy, whereas conflict occurs when both are different”.⁽²⁾

There is a subtle difference between difference and disagreement, though most religious scholars use these terms interchangeably. In the Holy Book, 'disagreement' seems to be mentioned with two meanings, one of which is 'diversity' (rather than conflict) and the other is 'disruption'. One of the verses where the term means diversity is [*And of His signs is the creation of heavens and earth, and the difference of your languages and colors*] (*Al-Rum*, 22).

(1) *Kashaf Istilahat Alfunun*, 2/220

(2) Abulbaqa' Alkafawi, *Alkuliyyat*, Section 1, 77680

The difference between the terms *khilaf* (disagreement) and *ikhtilaf* (difference) has been the subject of much discussion.⁽¹⁾ While some religious scholars tend to prefer the former, others prefer the latter. It would be appropriate in this regard to use 'difference' to describe the diversity of *Imams'* opinions, so as to soften the opposition undertone of the term 'disagreement', and to highlight the rich diversity understood from the term 'difference', playing down the sense of mutual opposition and contradiction.

5. Concept of “juridical issues”

A juridical issue refers to the required content demonstrated by evidence from the area of knowledge to which it belongs. Some publications in various arts were called 'issues'.

The publications of juristic ancillary branches called 'juridical issues' are subsumed under a succinct expression. The issues related to transactions look like the articles of Law. In the present strategy it refers to the ancillary branches of chapters, books and research works, as well as the answers provided through legal opinions on speculative juristic issues. As to the conclusive juristic issues, they are beyond the scope of this Strategy since they are not the subject of difference.

II. Sources of rapprochement of Islamic schools

A source is the fundamental reference that could be consulted to obtain a legal ruling, inferring it from such reference in general, taking account of the potential differences therein.

The number of jurisprudence sources used by jurists and religious scholars has reached twelve until now. However, in the early era of Islam during the life of the Prophet (PBUH) and his well-guided Companions, there was only the Holy Book and the Prophet's Tradition. Jurists and religious scholars used to derive Islamic legal rulings, and the laws regulating their social affairs and worship rituals, directly from the Holy Book, the Prophet's sayings, his acts and acknowledgement, without any mediation between such religious scholars and the Messenger of Allah who called for the divine guidance.

(1) Ahmed Bin Mohammad Al-Bushikhi, *ALKhilafu alfiqhi: dirassa fi almafhum wa alassbab wa aladab*, p. 5 onwards.

After the Prophet (PBUH) passed away, all religious scholars and jurists used to refer to the Holy Book and the Prophet's Tradition as well as the religious scholars among the noble hearted Companions, who learned the Holy Book by heart and observed the Prophetic Tradition, in addition to the analogical rules which they extracted.

With the development and expansion of the Islamic society, its circumstances have been changing and its civil life issues evolved. Hence, it was natural that many new issues and problems arose in the Islamic arena, and that new developments occurred in various areas of Islamic life. These new developments required the exposition of Islam's ruling about them, and adopting the legal ruling that confirms such developments. The wording of such ruling has an Islamic frame of reference so as to face the challenges of new developments with the spirit of Islamic civilization.

Evidence has been divided, according to its sources, to many categories, some of which are given below:

1. Scriptural/Rational proof

a) Scriptural proof

This is the evidence based on the Scriptures in which the legal reasoning practitioner does not contribute to its formulation or production, namely the Holy Book and the Prophet's Tradition, followed by the content confirmed by the Consensus of the Companions and that of their immediate followers, as well as previous laws.

b) Rational proof

It is the evidence based on opinion and juristic reasoning, in which the legal reasoning practitioner contributes to its formulation and production, such as analogical reasoning (*qiyas*), general public interest, juristic preference (*istihsan*), customary law (*'urf*), prohibition of undesirable ends (*sadd addara'i*), presumption of continuity (*istishab*) and exercise of reason (*'aql*). This distinction draws on the proof sources. In reality, each type of evidence needs the other. This is because scriptural evidence needs consideration and reasoning to fully understand the intended meaning of texts. Likewise, opinions and reasoning efforts constitute a juristic source unless they are founded on one of the scriptural sources, deriving its legality, credibility and existence therefrom.

2. Degree of consensus

- a) Agreed-upon legal evidence: the Holy Book and authentic Prophet's Tradition;
- b) Disputed legal evidence, relating to all other types of evidence.

There are as many jurisprudence schools as there are legal sources. However, it is more appropriate to assume that there are only two types of school: the school based on scriptural evidence and the school based on legal analogy and opinion. These schools were gradually expanded, and they were called 'doctrines', as many jurists, legal reasoning practitioners and academics assume. Within such plurality, other jurisprudence doctrines have emerged, where outstanding legal reasoning *Imams* excelled so much that they were icons of knowledge, guidance and insight. All these doctrines or schools focused on principles derived from jurisprudence texts, which each doctrine has chosen for itself according to its understanding thereof. Some other doctrines may share such principles. Hence jurisprudence books contain what is called 'issues', which each doctrine established according to its principles and sources.

According to the principles agreed upon by the jurists of Islamic doctrines, rational and legal reasoning sources of Islamic jurisprudence are not valid to adopt unless their issues find evidence from the Holy Book and the authentic Prophet's Tradition. Each source category should meet certain requirements to be adopted and considered a valid source, according to the jurists and *Imams* of knowledge and legal reasoning.

Hence, the sources for the rapprochement of doctrines basically hinge on the sound and insightful understanding of the sources of ruling issues, and the validity of juristic opinions. While doctrinal disagreement has developed concurrently with the development of understanding, and multiplied proportionately with the multiplication of issues and problems, it is considered a disagreement "of academic opinion between schools rather than an actual disagreement among Muslims."⁽¹⁾ Therefore, it should not be a cause of division and distance between the members of the unified Islamic Nation. To remedy such disagreement and to discover its dimensions, recourse should be made to dialogue and scientific research, with reference to the fundamental sources of jurisprudence. This objective should be

(1) Abu Ali Umar bin Qaddah Al Huwari Al Tunusi, *Almasa'il Alfiqhiya*, edited by Muhammad Abu Al'ajfan.

sought in line with the spirit of Islam, in terms of legal concessions and strict rules, focusing on the unity of Muslims, observing the guidance of the Prophet (PBUH), and holding fast to his venerated etiquette in dialogue and exchange of opinions. In so doing, it is required to accept the advice of religious scholars, and promote individual and collective legal reasoning, in conformity with the foundations and terms of Islamic jurisprudence, without denying any content whose validity has been proven. This objective can only be achieved through research, knowledge and follow-up, adopting the sense of Islamic tolerance and rejecting loathsome fanaticism. This would help jurists do their academic work in the areas of rapprochement with due integrity, seriousness and Islamic spirit. They would be able, in this era and thereafter, to re-launch the adoption of inference principles, and to restore for Muslims the freedom of jurisprudential activity and intellectual progress. To do so, they should gain enough input from jurisprudence sources, and benefit from the tolerance of the true Islamic religion, in line with the categorical legal texts, without any fanaticism favoring a single opinion or doctrine.

Considering the rapprochement sought by the present strategy, within the scope of its general rules and objectives, an in-depth understanding of the sources of disagreement, their historical and political motives, as well as their genuine components, is one of the most important sources of rapprochement. This endeavor should be founded on a high standard of scientific research and sense of tolerance. It should also be guided by the light of faith, acknowledging the conclusions of the studies that are free from personal motives and tendencies. It should hinge on recognizing the use of categorical evidence sources and the content inferred therefrom. These are the elements that are capable and qualified, from an Islamic perspective, to solve the pending problems involving the members of the Islamic Nation, whether such problems are political, doctrinal, social or economic.

Chapter Three

Evolution of Islamic Madhahib

This Chapter contains the main thematic topics on which the rapprochement Strategy, as the kernel element of the rapprochement process and the ultimate goal of its issues. Since there are several areas of rapprochement, this chapter is divided into three thematic topics, in line with a scientific and logical perspective:

Thematic Topic 1: Inception of Islamic jurisprudence schools and sects

Thematic Topic 2: Role of jurisprudence principles in the rapprochement of schools

Thematic Topic 3: Issues of Islamic jurisprudence

I. Inception of Islamic jurisprudence schools and sects

To understand the reasons behind doctrinal differences between Muslims, we should outline the circumstances that they experienced immediately after the Prophet (PBUH) passed away, which triggered problems relating to his succession, so as to preserve the unity of the Islamic Nation and to continue spreading the message of Islam. While Muslims continued the dissemination of Islam in the east and west, they all accepted what would guarantee the consensus of Muslims with regard to filling the gap of state leadership. However, this issue developed into conflicts that were raised on the Caliphateship, which jeopardized Islamic unity. Hence, the topic of doctrinal differences requires the analysis of three areas:

1. Political area

2. Faith-related area

3. Jurisprudential area

Political area

It is commonly known that the reasons behind the early political differences were related to the issue of the succession of the Prophet. Each sect tended to believe in the personal reasoning effort for which it established evidence. Imam Ali (May Allah be pleased with him) made a decision as to the conflict, by conceding to the other parties. He declared allegiance to the first Caliph, Abu Bakr Al-Siddiq, the second Caliph, thereafter, Omar bin Al-Khattab, then the third Caliph, Othman bin Affan (May Allah be pleased with them all), so as to preserve the unity and uniformity of Muslims. When he became leader of the faithful believers, he led them towards defending Islam and the common benefit of Muslims. However,

unrest broke out due to the insistence of those who claimed a swift punishment for the killers of Othman. This divided Muslims into discordant sects, which may be qualified as the major Islamic sects:

a) Al-Khawarij (dissenters)⁽¹⁾

They are those who dissented from Ali bin Abi Talib because he accepted the formulation of the arbitration and the results thereof. The main divisions of this sect are:

1. **Azariqa**, the followers of Nafi' bin Al-Azraq
2. **Najdat**, the followers of Najda bin Amir
3. **Ibadhiyya**, the followers of Abdullah bin Ibad, who refused to be considered dissenters because their leader refused to dissent from the Caliphate
4. **Safariyya**, the followers of Ziyad bin Al-Asfar

b) Shiites

They constitute a party that took doctrinal dimensions after the death of Imam Ali (May Allah be Pleased with him), and the events involving his sons Al-Hassan and Al-Hussayn, on the one hand, and Mu'awiya and Yazid on the other. The party is composed of those who believe that Ali and his sons are more entitled than anyone else to be the successors of the Prophet. They have numerous sects, chief of which are:

1. Imamiya

They explicitly claim that Ali bin Abi Talib should be the leader (*Imam*) of Muslims after the Prophet, on the basis of the fact that the Prophet (PBUH) was reported to have said at Ghadir Khum (Khum Lake) "whosoever I am his master, Ali is his master, too." They also draw on many reported Sayings of the Prophet praising Imam Ali (May Allah be Pleased with him). Imamiya has many branches, chief of which are:

- i) The Twelvers, who assigned leadership from Ja'far Al-Sadiq to his son Musa up to the Imam Al-Muntadar, who is the twelfth.
- ii) Ismailis, who assigned leadership (*Imamate*) to Ja'far and his son after him.

(1) Also called "Al-Hururia", Al-Muhakkima" and "Al-Shurat"

2. *Zaydis*, the followers of Imam Zayd bin Ali bin Zin Al-Abidin Al-Husayn bin Ali bin Abi Talib. They do not support the idea that Imam Mahdi will come back (*mahdawiya*, *rij'a*) after his death at the precept that certain concepts should be kept secret (*taqiya*), and they allow the Imamate of the preferred individual though a better one is available.

c. **Al-Murji'a** (Postponers), called so because they deferred the judgment of those who disagreed with them to God.

d. **Al-Sunna wa l-Jama'ah** (*Sunnis*) they claim that the Prophet left the issue of his successor to be settled by Muslims through consultation (*shura*). He did not state explicitly a specific successor. They believe that the best Muslims after the Prophet (PBUH) are the rightly guided successors and his chief companions with whom he was pleased before he passed away. It could be assumed that an independent Islamic theological sect developed after the compromise between Al-Hassan bin Ali (May Allah be pleased with him) and Mu'awiya bin Abi Sufyan in the Year of Unity (41 AH). Hence its leaders decided to avoid engaging in conflicts. They are represented in this regard by Imam Malik bin Anas who said, "Now that our swords have not been used against this community, let's not use our tongues against them." Hence, this sect's membership increased so much that it became the Islamic sect with the largest member of adherents.

Area of faith

This difference, which took on a political aspect, soon developed into a faith-related disagreement affecting the parties to the conflict, and seen from the perspective of who is more entitled to be the successor of the Prophet. Then the issue of belief versus disbelief was raised, in an attempt to specify their meanings. One of the contentions was whether or not belief is acceptance by the heart and articulation by the tongue, and whether or not action is part of belief.

In this context, the existing sects put forward their opinions as follows:

1. **Shiite**: They are the followers of Ali, as we have seen. Their main thematic research is the *Imamate*.

2. **Al-Murji'a** (Postponers): Faith, according to them, is valid simply by acceptance by the heart

3. **Mu'tazila** (Isolationists): Faith, they claim, is not valid merely by acceptance and declaration, action is required. The perpetrator of a major sin is placed halfway between belief and disbelief.
4. **Al-Khawarij** (Dissenters): Those who dissented from Ali. To them the perpetrator of a major sin is a disbeliever. This indicates that action is part of the nature of belief, like the Isolationists' opinion.
5. **Sunna wa l-Jamaâh**: Faith to them is observing the Holy Book and Prophet's Tradition, and abstaining from refusing or interpreting any part thereof, as well as being committed to the life style of the Prophet's Companions.

On the basis of these political attitudes, and due to the cultural development that Muslim had undergone, faith-related issues started being considered with a certain degree of interpretation. This led to the formation of a new Islamic science known as "*ilm al-kalam*" (Theology), which focused on theological and prophecy issues, inter alia. The most important issues on which Islamic sects disagreed are:

1. **Predestination**, whether humans are free or controlled in their actions

Three positions have emerged in this regard, each of which is based on texts from the Qur'an. The first assumes that humans are free to choose their acts, and they are held accountable for their actions. The second believes that individuals are determined to perform their acts, and that they have no free will over their actions. The third takes it that individuals are free in some of their actions, while they are predestined in others.

For the sake of explanation rather than argument, it could be claimed that it was within the setting of personal opinions and theological reasoning efforts on 'predestination' as well as the issues of 'promise and threat' that theology developed⁽¹⁾. It is one of the jurisprudential sciences, since it deals with the principles of Islamic faith, based on the content which is conclusive with reference to legal texts, and valid with reference to human reason, using a method hinging on evidence. It is also based on assuming some phenomena that resist explanation, or interpretation of legal texts, especially with regard to allegorical Qur'anic verses.

(1) It was also known as "*usul addin*" (principles of religion), "*attawhid*" (monotheism), "*maqalat*" Islamic discourses, "*milal wa nihal*" (sects and creeds), among others. The name may very well have appeared in the era of Al-Ma'mun (1986218 AH); it was coined by Al-Mu'tazila to denote the jurists who used to practice it.

2. Devine Characteristics

Two trends have emerged in this regard; the first confirms the characteristics, and the second denies them. At first some *Sunnis* (known also as “*Ahl As-Sunna wa Aljama'a*”) had a negative attitude towards theology. But subsequently, some of the late *Sunni* generation preferred engaging in theology. A case in point was the trend of Abu Al-Hasan Ali bin Ismail Al-Asha'ari (206 - 324 A.H.), who formulated faith in such a way that it was to the liking of the *Sunnis* who had a tendency to rational argumentation (dialectics). In so doing, he adopted a moderate attitude, shown, for instance, in his moderate opinion standing half way between the advocates of determinism and the proponents of free will.

Plurality of doctrines and sects

The doctrine consists of a set of principles and opinions related and coherent, belonging to a single intellectual or a school of thought. The meaning of “doctrine” in jurisprudence is similar to that of philosophy, science and literature.⁽¹⁾ The 'sect', on the other hand, is a group of people sharing specific beliefs. The sect requires a community bearing its assumptions and theories.

Muslims, as a community, have not disagreed on the principles of religion or the beliefs. The eternal facts and pillars of religion, as well as the eternal principles and limits of Islamic law, constitute the comprehensive frame unifying the Islamic Nation in terms of religious belief. Within this uniformity developed plurality. Diversity and different opinions in the jurisprudential ancillary branches -worship rituals and transactions- enriched jurisprudence schools -whether they became renowned or not, whether they survived or not- thanks to their rich legal reasoning and diversity, within the principles of jurisprudence and the sources of inference.⁽²⁾

The Islamic sects that represented diversity and plurality within the frame of religious principles did not invest their disagreement and plurality in the eternal principles of faith. Rather, their disagreement concerned the “categories”, that is the theories and conceptions relating to ancillary branches, or those touching upon principles, without being part of such principles.

(1) *Al-Qamus Alfalsafi* (Dictionary of Philosophy), Academy of the Arabic Language, Cairo.

(2) *Al-Islam wa At-Ta'addudiya: al'ikhtilaf wa at-tanawwu' fi 'itar alwahda* (Islam and Plurality: Difference and Diversity within Unity), Mohammad Amara, Dar Ar-Rachad, Cairo.

The thematic topics of the entity and characteristics of Allah constitute “marginal” issues appended to the topics of monotheism. They are not related to the essence of faith. Different opinions have been expressed by scholars as to issues such as distance or transcendence, succinct clarification or extraneous comments, rationalism and interpretation or merely the overt meaning of legal texts.

In this connection, Muslims witnessed diversity in jurisprudential doctrines, and plurality in theological sects.

In the exegesis of ancillary branches -jurisprudence, various juristic schools evolved, within the uniformity of Islamic law, such as the schools of the following *Imams*:

1. Abu Said Al-Hasan Al-Basri (21-101 A.H / 642-728 A.D)
2. Abu Hanifa Al-Nu'man bin Thabit (8-150 A.H / 699-767 A.D)
3. Al-Awza'i, Abu Amr Abdurrahman bin Amr bin Mohamad (88-157 A.H / 707-774 A.D).
4. Sufyan bin Said bin Masruq Al-Thawri (97-161 A.H / 716-778 A.D)
5. Al-Layth bin Sa'd (94-175 A.H / 713-791 A.D)
6. Malik bin Anas Al- Asbahi (93-179 A.H / 712-795 A.D)
7. Sufyan bin Said bin Uyayna (107-198 A.H / 725-814 A.D)
8. Al-Shafi'i, Mohamad bin Idriss (150-204 A.H / 767-820 A.D)
9. Ahmad bin Hanbal (164-241 A.H / 780-855 A.D)
10. Al-Dhahiri, Dawud bin Ali Al-Asbahani Al-Baghdadi (201-270 A.H / 815-883 A.D)
11. Al-Tbari, Mohamed bin Jarir (224-310 A.H / 839-923 A.D).
12. Al-Sadiq, Jaafar bin Mohamad (80-148 A.H / 699-760 A.D).
13. Abdullal bin Ibad (86 A.H / 705 A.D)

The Islamic Nation agrees on the fact that the phenomenon of diversity in jurisprudence schools is one aspect of the rich profusion of intellectual heritage with regard to Islamic ancillary branches. It is the creative application of the positive results of the diversity of legal reasoning works. This is because Islamic jurisprudence covers not only the area of “understanding Islamic rulings” - with the required diversity of the methods of study and inference - but also the area of “concepts regarding current issues”. Further, jurists would apply “rulings” to “reality” or relating them to one another. All these areas are characterized by the

plurality of conceptions, difference in priorities of importance in ordering the sources of inference, and the diversity of attitudes vis-à-vis the reported content handed down to scholars, let alone the diversity and difference of events, traditions and customs, and hence the interests which conditioned jurists' legal reasoning efforts.⁽¹⁾

Ibn Al-Qayyim said that “there were two types of jurisprudence: “understanding universal affairs Islamic rulings” and “understanding reality and people's current affairs ... then the jurist makes both types compatible; he would issue a binding ruling for reality, and should not make the binding matter different from reality.”⁽²⁾

With regard to understanding “rulings” and “reality”, there have been numerous legal reasoning endeavors, which led to the inception of open and flexible doctrines. During the era of legal reasoning, the doctrines did not turn into rigid creeds resistant to innovation, review and legal reasoning effort. To quote Abu Hanifa, “what we have on our hands is personal reasoning; we do not oblige anyone to adopt it ... It is the best we have been able to produce; if someone else comes up with a better opinion, we will accept it”⁽³⁾. These doctrines are open onto each other, since they accommodate the heritage of the Islamic Nation, and all of them hold fast to a uniform Islamic law. They did not disagree on the sources, principles and rulings of Islamic law. Their disagreement constituted a diversity of approaches to study such principles, which led to understanding the nature of principles and rulings at various degrees.

By way of illustration, Abu Hanifa's approach, which characterized his school, can be seen along the following lines. “I rely on the Holy Book; otherwise, I refer to the Prophet's Tradition; otherwise, I draw on the verdicts (*aqdiyah*) of Abu Bakr, Umar, Othman and Ali (May Allah be pleased with them); otherwise, I refer to the verdict of the Companions; then I adopt some of the sayings of the Companions and leave others; I do not adopt the sayings of other parties that run counter to the Companions' sayings; then I use analogy if their opinions differ, but I do not give priority to analogy over the legal text, because the text does not require analogy. If the (consultation) process reaches (jurists such as) Ibrahim,⁽⁴⁾ Al-

(1) *ibid.*

(2) *At-Turuq Al-Hikamiya fi As-Siyasa Al-Shar'iyah*, page 5. See also *I'lam Al-Muwaqi'ayn*, Volume 1, pp. 87-88.

(3) *Adab Al-Ikhtilaf fi Al-Islam*, page 75-93.

(4) Ibrahim Al-Nakh'i (46-69 AH/640-721 AD), contemporary of Companions, Jurist of Iraq, leader of one the schools of jurisprudence.

Shaabi⁽¹⁾, Bin Sirin⁽²⁾, Al-Hassan⁽³⁾, Ata⁽⁴⁾ and Said bin Al-Musayyib⁽⁵⁾, then I take it that they have used legal reasoning, so I do as they did, since there is no kinship between Allah and anyone of his creatures⁽⁶⁾.”

As to Imam Malik's approach, which characterized his jurisprudence school, it runs along the following lines:

- Reliance on the verbatim text of the Holy Book; otherwise,
- Reliance on the manifest meaning of the Qur'an when it is general; otherwise,
- Validation of evidence from the Qur'an of a divergent meaning; otherwise,
- Validation of a harmonious meaning; otherwise,
- Reliance on the Qur'an's warnings as the effective cause (*'illa*) for avoiding any immoral matter.

These five principles apply concurrently to the Prophet's Tradition. After these five principles, there are other principles that apply concurrently to the Prophetic Tradition. After these ten principles, there are other principles in the following order of priority:

- Consensus;
- Analogy;
- Practice of the people of the Madinah;
- Setting aside an established analogy in favor of an alternative ruling which serves better justice and public welfare;
- Blocking the means to wrongdoing;
- Consideration of public interest;
- Testimony by a Companion of the Prophet, if the chain of transmission is sound and he is an outstanding Companion;

(1) Al-Sa'bi, Amir bin Sharahil (19-103 AH/666-715 AD), jurist contemporary of Companions.

(2) Mohammad bin Sirin (33-110 AH/642-728 AD), jurist contemporary of Companions, Imam of his time.

(3) Al-Hasan Al-Basri (21-110 AH/642-728 AD), the most outstanding jurist contemporary of Companions; many sects and schools consider him their leader.

(4) Ata' bin Rabah (27-114 AH/647-732 AD), one of the outstanding jurists contemporary of Companions.

(5) Said bin Al-Musayyib (13-94 AH/634-713 AD), one of the outstanding jurists contemporary of Companions; one of the seven renowned jurists.

(6) Taha Jabir Al-Alwani, *Usul alfiqh alislami*, page 32, 1988, Washington.

- Consideration of disputed matters, where divergent evidence is strong.
- Presumption of continuity of what has been proven;
- Acceptance of some laws which existed before Islam.

Imam Al-Shafii School has a distinct jurisprudential methodology. The Quran and the Prophet's Tradition constitute the original source of Islamic jurisprudence; otherwise analogy is used. If there is a saying of the Prophet whose chain of transmission is sound, no other source shall be consulted. Consensus has more authority than the report transmitted by a single person. The interpretation of a saying of the Prophet should be based on its clearly apparent meaning. If such saying is open to many interpretations, preference should be given to the interpretation which is closest to its apparent meaning. If the Prophet's sayings have equal importance, preference should be given to the saying whose chain of transmission is sound. A saying whose chain of transmission is challenged should not be consulted, except those reported by Ibn Al-Musayyib. Analogy from a principle which has been deduced from a previous principle is not admissible. There should be no question as to 'why' or 'how' with regard to the original source. Such questions apply only to the ancillary branches of law. If analogical deduction from the original source proves to be sound, it should be accepted as such and as a basis for proof.

The principles of Imam Ahmad bin Hanbal are as follows:

- 1-** When evidence is available in the texts of the Holy Book and Prophet's Tradition, he does not consult any other source. If there is a Prophet's saying which has reached the level of authenticity, he does not give priority to any other source such as the practice of the People of the Madinah, independent reasoning, analogy, a Companion's saying, or consensus based on the lack of awareness of the opposite.
- 2-** If no text is available on an issue, Ibn Hanbal resorts to the juristic judgments of the Companions. If he finds a Companion's saying which is - to his knowledge not contested by any other Companion, he adheres to this saying, and he gives it priority over any other practice, opinion or analogy.
- 3-** If there is a difference of opinion among the Companions, he chooses the opinion which is closest to the Holy Book and Prophet's Tradition, and does not go beyond the scope thereof. If it is not clear to him which opinion is close to the Holy Book and Prophetic Tradition, he would report the disagreement and abstain from making a decision.

- 4- He takes as an authority any Prophet saying, whether its chain of transmission is sound or weak, provided that it does not clash with an established practice, a Companion's saying or consensus opinion. He would give such saying priority over analogical deduction.
- 5- In his opinion, analogy should be resorted to only when it is necessary to put forward evidence in the absence of the above mentioned sources and principles.
- 6- He would adopt the principle of 'blocking the means to excuses'.

The most important principles of Al-Dahiri School is its adherence to the manifest meaning over alternative interpretations, judgment and interests assumed to be targeted by legislation. The followers of this school do not apply analogy. They contend that the latter is applicable only when there is an effective cause in a text that can be applied to another case which, though not covered by the language, is covered by such cause or reason in the text. That is, the existence of a cause (reason) is a prerequisite for applying analogy. They prohibit the use of an established opinion for the sake of public welfare (*istihsan*). They only draw upon the consensus established during the time of the Companions. They do not adopt Prophet's saying whose chain of transmission is sound (*mursal*) or interrupted, unlike the Maliki, Hanafi and Hanbali Schools. They prohibit pre-Islam laws. They do not allow anyone to adopt individual reasoning, on the basis of the Qur'anic verse [*Nothing have we omitted from the Book.*] (*Al-An'am*, 38). They argue that disregarding the textual principles to adopt others amounts to transgressing the limits set by Allah Almighty. They also prohibit adopting evidence from the Qur'an of a divergent meaning. They believe that following the rulings handed down by a doctrine is prohibited to the layman and the scholar alike. Every adult Muslim is responsible for striving to learn the correct ruling by himself.”⁽¹⁾

Hence, the Islamic Madhahib did not disagree over the principles, nor did they differed over the priority thereof. They differ in the methodology of applying such principles, and they adopted different rules of inferring legal rulings from such sources and principles. They also ascribed different degrees of priority to jurisprudence sources other than the Qur'an and Prophet's Tradition. Therefore, the plurality of jurisprudence schools constituted diversity within a uniform Islamic law. Such differences epitomize the nature of human creation, which makes the plurality of methodologies proportionate to the plurality of legal

(1) *Adab al'ikhtilaf fi al-islam*, pp. 186-187.

reasoning. It is worth quoting one of the ancient scholars in this regard, “Doctrines are subsidiary sources of religions, while religions are the original sources of doctrines. Since difference in religions is acceptable (that is plurality in religious laws) as principles - why should it be not acceptable in doctrines, as ancillary branches? And since doctrines constitute the result of individual reasoning, and opinions are the outcome of intellect, and the minds are blessings offered by Allah to His servants, and since these results are different as they are either pure or impure, complete or incomplete, rare or profuse, implicit or explicit, then doctrines should be subject to the same methods as religions in terms of difference and divergence, though these are related to prophecy. And since people are different, have good and bad traditions, desirable and undesirable upbringing, plausible and far-fetched observations, then difference is unavoidable in terms of what people choose and avoid; it is unwise to expect agreement in the proceedings of doctrines and religions.⁽¹⁾”

Jurisprudence area

In the era of the Prophet (PBUH), jurisprudence used to draw on the revealed rulings. The Prophet would make laws through reasoning to deal with novel events in the absence of revelation. Revelation would come so as to corroborate or contradict reasoning, as long as it concerns legal principles. When the Prophet corrected the error, he would intend to teach Muslims. The Prophet (PBUH) used to present his personal reasoning with regard to secular issues to his Companions. By way of illustration, he suggested to them that they should not pollinate palm trees, but the latter did not yield fruit. When the companions referred back to him, he said, “I was simply speculating; if it is beneficial, you should do it. I am just a human being, like you. Assumptions may be right or wrong.”⁽²⁾ It was clear that this issue was related to an obvious benefit he was not aware of, which did not require revelation to correct it.

The Prophet (PBUH) also used to resort to legal reasoning to apply law, making sure not to err and make the disputing parties responsible for the evidence that

(1) *Al'imta' wa almu'anasa*, Volume 3, pp. 186-187.

(2) From a Saying reported by Ibn Maja in the Chapter on the pollination of palm trees, in the Book entitled *Arruhun*, on the authority of Musa bin Talha, on the authority of his father: “I was walking with the Prophet (peace and blessings be upon him) when he passed by some people at the tops of their palm trees. He asked, “What are they doing?” They answered, “Pollinating the male into the female.” He replied, “I do not think that this will be of benefit.” When they were told about what the Prophet said, they stopped what they were doing...”

they put forward. He said in this regard, “You have brought your case before me, and some of you may have more compelling proof than the others. If I make a ruling that deprives your brother from his right based on your statements, then I will have granted you a piece of fire”⁽¹⁾.

Following the Prophet's approach, the Companions used to resort to legal reasoning, though within a limited scope, as revelations would continuously come down, and since they did not use to refer to the Prophet, unless they lived far away. The Prophet would most of the time confirm their reasoning. By way of illustration, a group of soldiers, including Amr bin Al-As, had to wash to pray but they did not find hot water, nor could they warm up cold water; so they resorted to dry ablution and prayed but did not repeat prayer in compensation. They informed the Prophet (PBUH) who confirmed their reasoning as valid.⁽²⁾ The same matter arose with others, but they repeated prayer later. Even so, the Prophet confirmed their reasoning as valid as well.

After the Prophet's death, the Companions used to refer first to the Holy Book to deal with novel incidents, then to the Prophet's Tradition. When they did not find a text, they would resort to legal reasoning efforts. This was a plan that the Prophet showed through his attitude towards Mu'ad bin Jabal when he sent him to Yemen as a Judge. The Prophet said to him, “what is the basis of your rulings?” Mu'ad said, “My rulings are based on the Holy Book.” “What if you did not find evidence in the Holy Book?” said the Prophet. “I resort to the Prophet's Tradition,” replied Mu'ad. “What if you did not find proof in the Prophet's Tradition?” said the Prophet. “I draw on my personal reasoning,” said Mu'ad. The Prophet said, “Praise be to Allah who has granted success to the messenger of Allah's messenger.”⁽³⁾

Personal reasoning, as it was perceived by Mu'ad and confirmed by the Prophet (PBUH), was followed by the Companions. That is legal reasoning in so far as it is compatible with legal terms, which constituted the approach followed by Omar bin Al-Khattab (May Allah be pleased with him). It also means analogy as it was

(1) Reported by Al-Bukhari on the authority of Zaynab Omar, on the authority of Mu'ad's companions. mmu Salma, in the Book of *shahadat wa alahkam wa l'aqdiya wa ghayriha*. Reported also by Darami, Tarmidi, Nasa'I, Ibn Maja and Ibn Hanbal as well as Malik in *AlMuwatta'* (the Approved) (the Approved).

(2) Reported by Ibn Hanbal in his *Musnad*, on the authority of Al-Harth bin

(3) *Sunan At-Tarmidi*, 1249, *Sunan Abu Dawud* 3119, *Musnad Ahmad* 21000, *Sunan Al-Darami* 168.

defined by the *Usulis* (Islamic law theoreticians) later. They would compare an issue whose ruling is not supported by textual evidence to another issue corroborated by textual proof, since both issues have a common cause or reason. This approach was adopted by Imam Ali bin Abi Talib (May Allah honor his countenance). At any rate, the Companions after the death of the Prophet (PBUH), especially the Caliphs, used to cautiously engage in legal reasoning, without shying away from differences.

The examples in this regard are too many to list herein. However, they all indicate that Muslims, since the early generations, have always resorted to the rulings of the Holy Book and Prophet's Tradition. They have always engaged in legal reasoning and adopted it, be it individual or collective. When such reasoning was conducted collectively, it would turn to consensus. It is also commonly known that the sayings of the Prophet's Companions in this regard are added to the sayings of the Prophet so as to constitute the Prophet's Tradition and the Companions' Sayings.

The jurists who were contemporaries of Companions resorted to the same approach in terms of engaging in individual reasoning when required. They also interacted with the developing reality that the Islamic Nation was undergoing. This led to two trends in jurisprudence. The first would resort to individual reasoning in the absence of textual evidence, using a wide scope of assumption and discretion. This approach was popular among the jurists of Iraq, such as Ibrahim Al-Nukh'i. The second draws on the Companions' sayings and resort to individual reasoning only when necessary, taking account of public interest. This approach was popular among the jurists of Al-Madinah, such as Said bin Al-Musayib and Malik bin Anas.

The jurisprudence field extended proportionately with the expansion of the Islamic world, and the trends exerted various degrees of influence. This was enhanced by the recording of the Prophetic Tradition and the inception of the science of "Islamic Jurisprudence principles," as the science dealing with the evidence that constitutes the foundation of Islamic jurisprudence, or the philosophy of such jurisprudence with all its requirements, especially with regard to legal reasoning.

It is commonly known that legal reasoning, as it was specified by the scholars of Islamic principles of jurisprudence, means inferring rulings directly from their legal sources, which they referred to as "the complete". It also means applying

the principles of rulings on novel events, which they described as “chain -based” (based on tracing the chain of transmission) or “applied”.

Hence, Islamic scholars categorized the hierarchy of the practitioners of legal reasoning, some of them being independent, because they extract evidence directly from the scriptures. Others are adherent, because they choose what the *Imam* has decided with reference to the principles of inference, though they would differ with him on ancillary branches. Yet others are the doctrine's legal reasoning practitioners, because they draw on the opinion of the doctrine's *Imam* with regard to both principles and ancillary branches. They infer the rulings of novel issues in the light thereof. Others are *murajihun*, because they do not conduct inference; rather, they study the individual reasoning opinions put forward, and then they choose the most appropriate thereof. Other are called 'evidence - providers', because they weigh up various sayings against each other, they study them thoroughly, then they adopt the most valid among them.

Scholars required that legal reasoning jurists, especially 'the Complete' should be endowed with a set of academic skills, including knowledge of the Holy Book, and Prophet's Tradition and Arabic language, as well as knowledge of analogy, areas of consensus and disagreement, and the objectives of rulings.

Scholars of Islamic jurisprudence principles also distinguished between two types of followers: On the one hand, imitators who content themselves with scripture evidence, without being aware of the nature of evidence and who do not have the Capacity of argumentation and weighing up evidence. On the other hand, imitators who learn the doctrine's rulings by heart, so much so that they would provide text-based evidence. They have the capacity of decision - making and issuing legal opinions, as long as they meet the afore-mentioned requirements, and they are fully aware of reality and its various circumstances.

The expansion of the field of Islamic jurisprudence, in the era of the jurists who were contemporaries of Companions (*tabi'in*) yielded outstanding juristic scholars who elaborated doctrines that formalized rules for the practice of jurisprudence. They explained for Muslims everywhere its principles and delineated its issues, with a sound method of legal reasoning, which is not affected by disagreement, except for some ancillary branches that do not affect the essence of rulings. These doctrines have become well-known throughout the Islamic world. Their degree of expansion in various Islamic countries has depended on the political,

environmental and cultural factors. In what follows we will outline seven of these doctrines, given their importance, popularity and continuation up the present time.

1- Hanafi School

The doctrine's name refers to Abu Hanifa Al- Nu'man bin Thabit bin Zuti Al-Taymi (80-150 A-H)⁽¹⁾. He was originally Persian. His grand father, Zuti, converted to Islam in the era of the rightly guided Caliph Ali bin Abi Talib. He lived at the same time as four Companions of the Prophet: Anas bin Malik, Abdullah bin Abi Awfa, in Kufa, Sahl bin Saad Al-Saidi, in Al-madinah, and Abu Tofayl Amir bin Wa'ilah, in Makka.

Jaafar Abu Al-Mansur asked him once about the leading scholars who taught him jurisprudence. He answered that he adopted the content of Omar on the authority of Omar's companions, the content of Ali on the authority of Ali's companions, the content of Abdullah on the authority of Abdullah's companions, and the content of Ibn Al-Abbas who was second to none in terms of knowledge in his time."⁽²⁾

These leading scholars constitute the sources of knowledge which Abu Hanifa drew on to establish his trend. The juristic method of Omar is based on public interest. The method of Ali hinges on inference. The method of Ibn Mas'ud is founded on tracing the chain of transmission. As for Ibn Al-Abbas, his knowledge was based on the Qur'an and its jurisprudence.

He added to these sources of knowledge the content of the outstanding Islamic jurists of his time. He had a negative attitude towards official positions, which he used to refuse, as it was the case with the Amawids.

Though he supported the Abbasids, he had an Alawit tendency that he maintained. This explains the fact that he had a dispute with them over their attitude towards Ali's sons, as he declared his support to Ibrahim, Al-Nafs Al- Zkiya's brother. This dispute drove Al-Mansur to summon him to the hall of justice. He abstained, which subjected him to some difficult times. Numerous statements have been

(1) See his biography in many sources such as *tarikh Baghdad, wafiyat ala'yan wa anba' azzaman* by Ibn Khakan; *tadkirat alhuffad* by Abu Abdullah Ad-Dahbi, *manaqib Al-Imam ala'dam Abi Hanifa* by Al-Muwaffaq Al-Makki, and *tarikh almadahib alislamiyya* by Mohammad Abu Zuhra.

(2) He refers to Ibn Mas'ud, see *tarikh Baghdad*, Volume 13, page 334.

reported about Abu Hanifa, all of which praise him and highly appreciate his status.

He summarized his juristic method as follows: "I rely on the Holy Book; otherwise, I resort to the Prophetic Tradition; otherwise, I consult the sayings of the Companions; I adopt the companions' sayings that I like, and I leave what I don't like; but I do not override their sayings and adopt those of others."

His methodology is based on the Holy Book, the Prophetic Tradition and the Companions' Sayings. He does not adopt the sayings of the Companions' contemporaries. He used to resort to consensus, analogy, preference and customary law, as his juristic opinions indicate, including those where he differed with other jurists. He gives preference to a Prophet's saying whose chain of transmission is weak over analogy and personal reasoning (*ra'y*). He established his doctrine on the basis of these principles.

Abu Hanifa focused his academic study on jurisprudence and the extraction of legal rulings from the Holy Book and Prophetic Tradition, drawing on them and following the saying of the early generation of the Prophet's Companions. He would specify the areas of agreement and disagreement of the latter. He would not diverge from their sayings, but he would select content among them. In his studies, Abu Hanifa used to seek the crux of truth, and the underlying meaning of texts relating to the effective causes and rulings. If he wanted to extract a ruling from a Qur'anic text, he used to investigate its ultimate objectives and effective causes (*'ilal*).

Abu Hanifa was insightful. He would not content himself with the apparent meaning of texts. Rather, he would seek its underlying and immediate significance. He was also an independent intellectual. He would not adopt an idea or opinion without reflecting upon it himself.

Since he originally lived in Kufa - which Abu Hanifa was reported, on the authority of Jaafar Al-Sadiq, to have considered the town of Ali bin Abi Talib - he used to be in contact with the various *Shiite* sects, such as *Zaydis* and *Imamis*, though it is unknown whether he adopted the tendency of any of these sects, except for his love to the family and offspring of the Prophet (PBUH). Likewise, he learnt from the people of Iraq and Makka among others. He has an eclectic tendency comprising various trends, like someone who feeds on different types

of input, he processes all these elements, and then he produces out of such elements a highly efficient output⁽¹⁾.”

Abu Hanifa left a heritage consisting of guidance and theological treatises, in addition to the content that his students reported about him. Chief of these are Abu Yusuf Ya'qub bin Ibrahim bin Habib Al-Ansari (113-182 A.H), who left books where he reported the content of his leading scholar, some of which are *Al-Athar* (the Sayings of the Prophet's Companion), that is Abu Hanifa's *Musnad* (the Manual), *Al-Kharaj fi Nidam Al-Mal* (Land Tax in the Financial System). Another student is Mohamad bin Al-Hassan Al-Shaybani (132-189 A.H), who learnt from both Abu Hanifa and his student, Abu Yusuf, who wrote many books, some of which are *Al-Jami' Al-Kabir* (the Major Comprehensive Book), *Al-Jami' Al-Saghir* (the Small Comprehensive Book), *Al-Athar* (the Sayings of the Prophet's Companions), *Al-Siyar* (Biographies), *Al-Muwatta'* (the Approved) (the Compendium), *Al-Amali* (Praxis), *Al-Makharij Fi Al-Hiyal* (Ways out in legal ruses), among other many books.

These students of Abu Hanifa, and many others, played a significant role in disseminating his doctrine, which grew remarkably popular. It gained ground especially because it was based on inference. This school of jurisprudence reached all the areas which were under the Abbasid rule.

2. Maliki School

His school of jurisprudence was named after Malik bin Anas bin Malik bin Abi Aamir Al-Asbahi (93-179 A-H).⁽²⁾ He was raised in Al-Madinah in a home of knowledge and Prophet's sayings. Al-Dahbi said that “Malik was endowed with blessings that no body else had combined, to my knowledge. First, he lived for a long time and could establish long chains of transmission. Second, he had an insightful mind and a wide scope of knowledge. Third, the *Imams* agreed on the authenticity of the content that he reported. Fourth, they all agreed that he had an appropriate religious life-style; he was impartial and observed the Prophet's Traditions. Fifth, his jurisprudence and legal opinions are advanced and his principles are valid.”⁽³⁾

(1) Mohammad Abu Zuhra, *tarikh almadahib alislamiya*, page 350.

(2) See his biography in the following books: *hilyat alawliya'* by Abu Na'im Al-Asfahani, *sifwat assifwa* by Abu Al-Faraj Al-Juzi, *tadkirat alhuffad* by Ad'Dahbi, *tarikh almadahib alislamiya* by Mohammad Abu Zuhra, and other biographies.

(3) *Tartib almadarik*, Volume 1, page 136.

Malik learned a great deal of knowledge, which qualified him, due to his piousness, prestige and reverence, to teach and issue legal opinions as early as the age of seventeen. This is because his caliber was recognized by seventy leading scholars. He used to teach and issue legal opinions in the life time of many of his leading scholars and in their presence.

He would say that he did not know if he had no answers to certain questions, as many scholars have reported. For one, Ibn Abi Awis is reported to have said, “Malik was once asked on more than twenty issues, and provided answer to only one of them.”⁽¹⁾

He was so cautious that he used to say, “I am just a human being; I may be right and I may be wrong. Consider my personal reasoning, then adopt what is compatible with the Holy Book and Prophet’s Tradition, and leave what is not.”⁽²⁾

Hence, his jurisprudence is based on the following elements, with the order of priority therein:

- 1- The Holy Book and Prophet’s Tradition
- 2- Practice of the people of Al-Madinah
- 3- Prophet's Companions legal opinions
- 4- Analogy
- 5- *Istihsan*, which is based on public interest, which he considered “nine tenths of knowledge”, such as public welfare, which bear no proof for adoption or rejection, and which is adopted in the absence of textual evidence, provided that its adoption is well motivated and in line with Islamic law.
- 6- Preventing the means of wrongdoing, which amounts to saying that what leads to permissible acts is also permissible, but what leads to prohibited acts is also prohibited.

Malik's knowledge, attitudes and conduct relied so heavily on the Prophet’s Tradition that he used to recite the poetic verse:

*The best religious matters draw on the Prophet’s Tradition,
The worst religions matters draw on heretic inventions*

(1) Ibid, page 183.

(2) Ibid, pages 182-183.

He held a moderate opinion as to the disagreement on political and faith-related issues that Muslims had. To him, faith is achieved when it is declared, believed and practiced. He takes it that faith increases though he did not mention whether or not it decreases. He used to believe in fate together with the responsibility of humans for their acts. He thought that the perpetrators of a major sin would be punished in proportion to their sins, while Allah may forgive them if He wishes to. Concerning the creation of the Qur'an, he abstained from engaging in this topic. He confirmed the Caliphateship of the rightly-guided. To him, it was not a pre-requisite for the Caliph to belong to the Bani Hachim or the Alawi family, putting forward the proof that Abu Bakr and Ali did not belong to such families. He also believed that Islamic leadership (*Imamah*) is illegal in a country where justice is absent. As for the topic of allegiance (*bay'ah*), he thought that allegiance declaration of the inhabitants of Makka and Al-Madina is enough, without which the allegiance declaration of other provinces would be inappropriate.

Malik was one of the outstanding Scholars of the Prophet's Sayings and jurisprudence, which qualified him to be a leader in these disciplines. He was fascinated by Omar bin Abdulaziz's saying "The Prophet (PBUH) and the rulers after him enacted traditions. Adopting such traditions amounts to respecting the teachings of the Holy Book, supplementing obedience to Allah, and strengthening Allah's religion. No one may change such traditions or consider any content that opposes them. He who uses it for guidance is the rightly-guided. He who uses it for support is the one who would be granted support. He who ignored them and **[followed a path other than that of believers, we shall leave him in the path he has chosen and land him in Hell -what an evil refuge]** (*Al-Nissa'*: 115)

The scholarly position of Malik was so outstanding that the leading scholars of his time explicitly confirmed such position. Thanks to it, a huge number of leading scholars adopted his content, including his peers, their pre-decessors or their successors. A group of leading scholars reported on his authority, and he in turn reported on their authority. Further, besides the great school which consisted of those adopting his content, Malik left a written patrimony extremely important, including the following:

- 1- *Al-Muwatta'* (the Approved) (the Approved), reported on Malik's authority by Abu Muhamad Al-Laythi. It is said to be the first book recorded in the Prophet's Tradition, where he stated ordered Prophetic Sayings on the jurisprudential issues which were the subject of this

legal reasoning. He also discussed the practice of the People of Al-Madinah and the legal opinion of the Companions as well as the Companions' contemporaries.

- 2- *Risala Fi Al qadar* (Treatise on Fate), where he reacted to the Determinists (Al-Qadariyah). It is one of the best books standing witness to his scholarly excellence.
- 3- A book on astronomy and calculus of time and lunar motions. "It is such an interesting book that many people rely on it as a reference in this regard."
- 4- Treatise on Islamic legal issues, which he wrote in ten volumes, addressed to some judges.
- 5- Treatise to Abu Rhassan bin Mohamad bin Al-Mutrif, on the "Famous legal opinion".
- 6- Treatise to Harun Al-Rashid and Yahia Al-Barmaki, on manners and religions advice, which some scholars adopted while others denied that it was composed by him.
- 7- A book on the interpretation of the unusual content of the Qur'an.
- 8- The book of biographies.
- 9- Treatise addressed to Layth bin Sa'd on the traditions of the people of Al-Madina.
- 10- Treatise to Ibn Wahb on determinism.

This heritage, together with the generations of his students, allowed Malik's school to gain ground throughout many Islamic territories.

3. Shafii School

The Doctrine is named after Abu-Abdullah bin Idriss bin Al-Abbas bin Othman bin Shafii (150-204 A.H)⁽¹⁾. His origin is traced back to Hashim, who was the object of disagreement as to whether he was Hashim bin Abd Manaf, the Prophet's grand father or the latter's nephew.

(1) See his biography in the following books: *hilyat alawliya' wa tabaqat alasfiya'* by Abu Na'im Al-Asfahani, Volume 6, pages 355-361; *tartib almadarik wa taqrib almasalik lima'rifat a'lam madhab malik* by Al-Qadi Ayyad, Volume 1, pages 207-213; *tarikh almadahib alislamiya* by Mohammad Abu Zuhra, Volume 2, pages 175-224. Many works have been composed on the qualities of Malik.

He was born in Palestine (most probably) in Gaza or Asqalan. He was also reported to have been born in Yemen, though the latter was explained to mean one of the two Palestinian cities, because most of their inhabitants were Yamanis. His mother, from Azad, migrated to Mekka with him when he was at a young age. He sought knowledge and learnt archery and excelled at them both. He memorized the Holy Qur'an as well as Arab poetry, theology, traditions and literature. He was quick at memorizing, with a good memory and brilliant intelligence. He was endowed with a beautiful voice that influenced listeners when he recited the Holy Book or when he read at some length.

He was advised to study jurisprudence for his scholarly personality to be fully-fledged. He started with reading *Al-Muwatta'* (the Approved), which he learnt by heart. Then he sought to meet Malik to be his student and report on his authority. To do so, he requested the Governor of Makka to ask the Governor of Al-Madinah to arrange such contact.

Thank to his wide knowledge and scholarly qualities, he was qualified to issue legal opinions before he reached the age of twenty. He was so resolute in this regard that he was reported to have said, "Nobody shall be allowed to issue legal opinion in the divine religious matters unless they are well-versed in the Holy Book, its abrogating and abrogated passages, univocal and ambiguous, interpretation and revelation, its Makki and Madini content as well as its intended meaning. They shall be fully aware of the Sayings of the Prophet (PBUH), abrogating and abrogated passages thereof; they must learn as much about the Prophet's Sayings as they have learnt about the Qur'an; they should be excellent at language, poetry and any other skills required by the Qur'an and Prophet's Tradition. They should make use of such knowledge in an impartial way. Besides, they should be aware of the difference in opinion throughout the Islamic regions. Then, they should be skilful and intuitive. If the individual meets these requirements, he may engage in theological debates and issue legal opinions as to the permissible and forbidden matters in religion. Otherwise, one should not issue legal opinions".⁽¹⁾

Despite his wide knowledge, he used to be cautious with regard to the theological issues in which, to his mind, error would lead to disbelief. However, he used to express his opinion on political issues. He assumed that Islamic leadership (*immah*) was a religious imperative that had to be implemented; and that the

(1) *I'lam almawqi'ayn*, Volume 1, page 46.

leader (*Imam*) had to be from Quraysh even by force. He also assumed that the rightly-guided Caliphs were five, adding Omar bin Abdulaziz to the other four.

With regard to his jurisprudential orientation, which is characterized by a critical compromise between the school of legal opinion and the school of Prophet's Tradition, it is based on methodology hinging on the assumption that knowledge is composed of five categories: "the first is the Holy Book and Prophet's Tradition if the latter is authentic; the second is consensus with regard to the matters not assessed in the Holy Book or Prophet's Tradition; the third is the sayings of the Companions that are not known to have been uncontested by any of the Companions; the fourth is the disagreement of opinion among the Prophet's Companions, the fifth is analogy drawing on some of the categories. No source shall be consulted in the presence of the Holy Book and the Prophet's Tradition. Knowledge is derived from the highest sources."⁽¹⁾

In the light of this methodology, Shafii relies on the Qur'an, based on its surface meaning as long as interpretation is unnecessary. Next, the Prophet's Tradition is drawn upon since it explains the Qur'an. He tended to give precedence to singular narrations over analogy, though he believed that both of them apply to the Qur'an in general.

Ibn Hanbal assumed that Shafii observed the Prophet's Tradition more closely than anyone else. He said, "No writer has ever followed the Prophet's Tradition more closely than Al-Shaffi."⁽²⁾ He once asked Al-Shaffi about analogy, and answered, "if need be."⁽³⁾ Ibn Rahwih assumed that Shafii knew and applies opinion more than anyone else. He said, "Shafii has always followed legal opinions more closely and made fewer mistakes therein than anyone also who has addressed the issue of opinions - mentioning Al-thawri, Al-Awzaii, Malik and Abu Hanifa."⁽⁴⁾

Unlike other imams, he did not rely on *istihsan*, which he considered as a kind of legislation, while he gave some importance to customs and *dra'ii*. Unlike Malik, he did not draw on public interest. As for *istishab*, he adopted only the part relating to description.

(1) *Al-Umm* (Master Book), Volume 1, page 130, where content is detailed according to his methodology.

(2) *Tarikh Baghdad*, Volume 2, page 65.

(3) *Ibid*, Volume 2, page 57.

(4) *Mu'jam al'udaba'*, Volume 17, page 316.

These characteristics, inter alia, made Shafii an outstanding scholar, clearly influencing many aspects that could be summarized as follows:

a) The students who reported on his authority, such as Al-Baghdadi,⁽³⁾ Sulayman bin Dawnd Al-Hashimi and Ahmad bin Hanbal. Al-Hamudi stated that “they were more than a hundred, inspite of his young age, compared to his dellow Imams (master scholars). While the number of reporters on the authority of scholar increases when the latter's age exceeds sixty or seventy, Shafii's age was only fifty four.”⁽¹⁾

b) His debates and publications:

His debates are contained in his books. His publications contain many books, which Al-Hamawi exposed its contents. He composed some of these books, while he dictated others in Al-Hijaz, Iraq and Egypt. It seems that the publications that have reached us constitute only what he wrote or rewrote in Egypt, namely:

- 1- The seminal Treatise (*Al-Risalah*): it seems that he wrote it through dictation to one of his students, apparently Al-Rabii, according to the revisor of the Treatise. This book is considered the first one ever written on the principles of jurisprudence, setting the rules and limits regulating Islamic legal rulings and specifying the basis of recognizing the evidence for such rulings.
- 2- *Al-Umm* (Master Book), which contains ten books
- 3- Differences of Prophet's Sayings.
- 4- Shafii Tradition in the Prophet's Sayings.
- 5- *Al-Musuad* (collection of authentic Prophet Saying) Imam Mohammad bin Idriss)
- 6- Shafii Anthology, which contains poetic verses, stanzas, poems showing creative capacity, expressive skills, rhetorical excellence, rhyming and tendency to wisdom.

Thanks to his rich heritage in jurisprudence, Prophet's Sayings, language and literature, Shafii was highly praised. Ibn Hanbal praised him so much that he said, “Jurisprudence was closed to people until Allah opened it to Al-Sahafii. We could not distinguish the general and special texts, nor could we differentiate the

(5) *Tarikh Baghdad*, Volume 2, page 57.

abrogating texts from the abrogated ones in Prophet's Sayings before we attended Shafii's seminars.⁽¹⁾" He also considered him the renovator of the second hundred years, stating that "Allah Almighty provides to people at the beginning of each period of a hundred years someone to teach them the traditions, and denies that the Messenger of Allah may ever lie. We found out that Omar bin Abdulaziz was at the beginning of the hundred year period, and Shafii was at the beginning or the two hundred year period. May Allah be pleased with them."

4- Hanbali School

This Doctrine was named after Abu Abdullah Ahmad bin Muhammad bin Hanbal Al-Shaybani Al-Baghdadi (164-241 A-H)⁽²⁾.

He was highly knowledgeable. His areas of interest were Prophet's Sayings and jurisprudence. He learnt from Abu Yasuf, Abu Hanifa's companion. He moved to Basra and Kufa in 186 A.H. The following year, he moved to Yemen and Syria. Wherever he went, he would look for scholars, learn from them and report content on their authority. He met Shafii for the first time in Makka, and then he met him in Baghdad. He also met Abdurrazzaq bin Hamam, the famous knowledgeable narrator of the Prophet Sayings. Al- Hanbali was well-known for his academic travels; so much so that when someone criticized him for his excessive travel, Al-Hanbali answered him, "I will be with the inkwell all the way to the graveyard."

Some of the content he learned was based on reading books of scholars and listening to others. Such scholars are too many to name⁽³⁾. At the age of forty, he started reaching and issuing legal verdicts. His teaching sessions were characterized by serenity and respect. In his teaching method, he did not use to dictate what he had memorized. Rather, he used his composed content and instruct his students to write. However, he would discourage his students from recording his legal verdicts.

In spite of the predominant theological issues of the time, he was not interested in them. He even abstained from engaging in such issues, which caused him

(1) *Tarikh Baghdad*, Volume 2, page 62.

(2) See his biography in *hilyat alawliya'*, Volume 9, pp- 161-233; *tarikh Baghdad*, Volume 4, pp. 412-423, *assifwa*, Volume 2, pp. 212-234. Recent writers have compiled his works, such as Abdullah bin Abdulmuhsin Al-Turki in *usul madhab Al-Imam Ahmad*, Second edition, 1397 A.H.

(3) *tarikh Baghdad*, Volume 4, pp-412-413; see also *tadkirat alhuffad*, Volume 2, pp-431

some trouble with the Abbasids, especially Caliph Ma'mun. Besides Ibn Hanbal's opinion on the issue of the creation of the Qur'an, he was an advocate of the Prophet's Tradition and a proponent of the methodology of the early generation of Muslims (*salaf*).

He assumed that belief is uttered by the tongue and implemented by action; it is increased through good deeds and decreased through bad deeds. Some of his other assumptions can be seen along the following lines. Muslims derail from belief if they practice polytheism or deny one of the religious requirements. Those who have not performed their duties properly shall be submitted to Allah's judgment. He may, as He wishes, punish them or He may forgive them. Likewise, perpetrators of major sins can only be judged by Allah. Ibn Hanbal admitted the necessity to believe in fate with consent and submission to God. He accepted the characteristics of God as such without any interpretation thereof. With regard to politics he asserted the Caliphate of the rightly-guided, who should draw on Consultation (*shura*). He also assumed that Quraysh should be in charge of leadership.

His work on the Prophet's Tradition was based on the preference of the chain of transmission (*riwaya*) over legal opinion (*fatwa*). This made his jurisprudence work characterized by a predominant reliance on Prophet Sayings. It draws on five principles, one of which is textual evidence. If the text is available, he would issue the relevant legal opinion, ignoring any other source of difference whatsoever and whosoever. To him, an authentic Prophet Saying is second to no action, reasoning opinion, analogical deduction, Companion saying; nor is it second to any lack of awareness of disagreement, which many people call consensus and give it precedence over an authentic Prophet Saying. Ahmad did not admit the validity of such consensus, and found it difficult to grant precedence to such consensus over authentic Prophet Sayings. The second source is the opinion of the Prophet's Companions. If he found such verdict and was not aware of any disagreement raised by anyone of them, he would not seek evidence elsewhere. However, he did not describe such operation as consensus. The third source is that in the event the Companions expressed different opinions, he would choose among their sayings the closest to the Holy Book and Prophet's Tradition, and would not go beyond the scope of their statements. If he was not convinced by any of such statements, he would state the difference between them, but would not issue a final statement in this regard. The fourth source is adopting "hurried"

sayings of the Companions (mursal) as well as the Saying with a weak chain of transmission, as long as no counterarguments are available. To him, this source is preferred over analogical deduction. If the relevant issue does not involve any text, saying of one or many Companions, a “hurried” saying, a saying with a weak chain of transmission, Ibn Hanbal would recourse to the fifth service, namely analogy, which he would use out of necessity ...”

This methodology, together with the related opinions, resulted in a rich heritage translated into the knowledge of students and the content of compilations that Ibn Hanbal left behind.

Ahmad Ibn Hanbal was an advocate of the Prophet’s Tradition, through which his jurisprudence work took shape. However, many critical opinions have been leveled about his beliefs, though he did not engage in jurisprudential argumentation. Some of which are his opinion on faith, his opinion on fate and human acts, his opinion on the perpetrator of a major sin and the issue of the creation of the Qur'an.

His students are represented by a huge number of scholars who adopted his content. Some of his scholarly masters reported on his authority, among others such as his two sons Salih and Abullah, his cousin Hanbal bin Ishaq, Al-Hasan bin Al-Sabah Al-Bazar, Mohamad bin Ishaq Al-Saghani, Abbas bin Mohamad Al-Duri, Mohamad bin Abdalmunadi, Mohamad bin Islamil Al-Bukhari, Muslim bin Al-Hajjaj Al-Nisaburi, Abu Zar'ah, Abu Hatim Al-Razyan? Abu Dawud Al-Sijistani, Abu Bakr Al- Athran, Abu Bakr Al-Marudi, Yaqub bin Shiba, Ahmad bin Abu Khaythama, Abu Zar'ah Al-Dimshqi, Ibrahim Al-Harbi, Musa bin Harun and Abdullah bin Mohamad Al-Baghwi.

His publications comprise:

- 1- Book of Prayer
- 2- Treatise to Imam Musaddad bin Msarhad bin Masarbal
- 3- *Al-Musnad* (Collection of Prophet Sayings) which includes thirty thousand Sayings. His son, Abdullah, organized them with reference to the Companions, and he may have added content to such sayings. He required that only authentic sayings be recorded, though he was criticized for including sayings with a weak chain of transmission (*da'if*).

He also wrote *Kitabu Al-Tafsir* (Book of Interpretation), *Kitabu Al-Nasikh wa Al-Mansukh* (Book of Abrogating and Abrogated texts), *Kitabu Al-Taariikh*

(Book of History) *Kitab Al-Muqaddam wa Al-Mu'akhar fi Al-Qur'an* (Book of foregrounded and back grounded Texts in the Qur'an) *kitab Al-Manasik Al-Kabir* (Major Book of Rituals), *kitab Al-Manasik Al-Saghir* (Small Book of Rituals), *Kitab Jawabat Al-Qur'an* (Book of Qur'anic Answers), *Kitab Hadith Shu'bah* (Book of Shu'bah's Sayings) *Kitab Al-Zuhd* (Book of the Detachment), *Kitab Al-Rad 'ala Al-Jahamiya and Zanadiqah* (Book of Answers to Rationalists and Infidels). *Katab As-Salah* (Book of Prayer) *Kitab As-Sunnah* (Book of Prophetic Tradition), *Kitab Al-wara' wa l'iman* (Book of Piety and Faith), *Kitab Al'ilal wa Rijaal* (Book of Effective Causes and Scholars), *Kitab Al-Ashribah* (Book of Drinks), a volume on the sources of Prophet's Tradition, and another on the merits of the Companions. He also wrote many poems. He composed some volumes on certain sources and issues, chief of which are the issues of Imam Ahmad, a set of answers to certain jurisprudence issues reported by Abu Dawud As-Sijistani, the Issues of Ahmed to his son Abdullah, where by he gives guidelines to his son Abdullah, and the Issues of Imam Ahmad and Ishaq bin Ibrahim, reported by Ishaq bin Mansur Al-Maruzi. In fact, it was his students, including his sons Abdullah and Salih, who reported his narration and jurisprudence works. This helped in the dissemination of his school. It was thanks to them that his work was arranged and divided into the following categories:

- 1- The narration works ascribed to Ibn Hanbal
- 2- Connotations, the statements which do not contain an explicit opinion, but involve certain hints and implicit reference.
- 3- Aspects, the statements that are not reported on his authority verbatim or through connotation. The statements made by legal reasoning practitioners who recorded statement based on the principles of the Doctrine.

While these scholars strived to relatively spread the jurisprudence school, its scope of expansion was limited, apparently because of its late inception compared to the preceding schools, which people had been used to in many regions of the Islamic world. This seems to be due also to the lack of support from the authorities through the Islamic historical eras, which led in the past to the lack of appointing Hanbali judges. Even so, Ibn Hanbal was highly praised by his contemporaries, thanks to his merits and the useful knowledge he used to hold and teach.

5. Jaafari school

The Twelver Jaafari school is one of the most famous Imami Shiite doctrines, and the most outstanding in the Islamic arena. It is ascribed to Imam Jaafar bin

Mohamad bin Al-Husayn bin Ali bin Abi Talib (May Allah be pleased with him). The term 'Shiite' was predominantly used after the era of the Prophet (PBUH) to designate those who pay allegiance to Imam Ali and his family, and believed in his leadership and successorship of the Prophet. This is quite clear in the accounts of historians and writers.

Birth, upbringing and master scholars of Jaafar

It was reported that the birth of Jaafar As-Sadiq most probably took place in 80 A.H. He was also said to have been born in 83 A.H. in Al-Madina Al-Munawarah, the same year when his student Imam Abu Hanifa An-Nu'man bin Thabit, the Jurist of Iraq, was born.

He grew in Al-Madina Al-Munawwara, the place of his birth, upbringing and learning. Al-Madina was characterized by the influence of the Prophet's Companions (May Allah be pleased with them), and it was home to the greatest number of the most outstanding Companions' contemporaries.

He learnt from the greatest Companions' contemporaries, as well as the jurists of his time. He also benefited from the knowledge he acquired from his father Imam Al-Awah, nicknamed as Al-Baqir bin Zin Al-Abidine. He also learned from his uncle Imam Zayd son of Ali. Since historical accounts confirmed that he lived at the same time as his grandfather, Zin Al-Abidin, he must have learnt more knowledge from him. This made of him a role model and a scholarly reference. He was known to have preserved the narration works of the Prophet's Family. He also benefited from the knowledge of Al-Qasim bin Mohamad, the holder of the knowledge of Aicha, mother of the faithful believers (May Allah be pleased with her), among other scholarly successors. Though he did not reach the zenith of knowledge, he was knowledgeable enough to serve as scholarly role model. He left valuable knowledge heritage to the following generations.

Jaafari Imami's jurisprudence evidence

The Jafari Imami scholars and jurists limit jurisprudential evidence to four sources; namely, the Holy Qur'an, the Prophet's Tradition, consensus, including the consensus of their infallible leaders, and the mind, in the sense that the specialized learned scholar would use his mind seeking legal evidence from the three legal sources above.⁽¹⁾

(1) Editing Committee, Al-Balagh Institution, *ahl albayt: maqasiduhum wa manhajuhum wa masaruhum*, page 84.

Jaafari jurisprudence school

It is not easy to claim that the Jaafari doctrine scholars used to have jurisprudential or legal reasoning or intellectual issues beyond the scope of the invariable principles of Imam Jaafar jurisprudence. Nor can it be safely claimed that such issues were entirely at variance with the standards of the rest of Islamic sects, except for the authentic legal reasoning of Imam Sadiq Jaafar bin Mohamad. The consulted references indicate that most of the authentic jurisprudential and reasoning issues of Imam Jaafari school are close to the Sunni jurisprudence methodology. There are not significant jurisprudential differences between such doctrine, on the one hand, and the Sunni schools as well as the other Shiite sects, on the other, except for the legitimate speculative reasoning and inferences, which do not affect the essence and invariable principles of Islam, if they involve difference.

Since some of the most authentic reports indicate that Imam Jaafar taught Imam Abu Hanifa, Imam Malik, Sufyan Al-Thawri and Sufyan bin Ayniya, the jurisprudence of the two *Imams*, Abu Hanifa and Malik, masters of the two famous doctrines, must be close to the jurisprudence of Jaafari School, drawing on its sources. This corroborates the fact that the issue of rapprochement between doctrines is not only possible to implement, but easy to achieve as well. This is especially true in the framework of the principles of the present Strategy, which hinges on invariable Islamic foundations. It is assumed in this strategy that Islamic doctrinism and intellectual plurality is platform for the development of Islamic thought, conducive to enhancing, spreading and renovating it in the light of the renewable spacio-temporal parameters. It is the appropriate platform to confirm that Islamic thought is suitable to confront all new developments in Muslims' life, as well as to ensure its developments. It should be born in mind, throughout this research, that jurisprudence difference does not involve two contradictory parties, Sunni and Shiite. Rather, it is a difference between schools of jurisprudence,⁽¹⁾ with one single approach. It is a scientific disagreement; it even constitutes the only academic difference among Muslims.⁽²⁾

Thus, the Imami Shiite school is not at variance with the other juris-prudence reasoning schools spreading all over the Islamic Word, except for certain speculative rulings and issues contained in the ancillary branches of jurisprudence

(1) Al-Balagh Institution, *ibid*, page 147.

(2) *Ibid*, page 147.

rulings and a few issues relating to principles. Most, if not all, of these issues could involve a wider disagreement among Sunni schools themselves. It was disagreement issues that led to the inception of Islamic schools of jurisprudence, and the branching of legal concepts into groups and sects. However, such divine laws in essence are not subject to branching or division, since they were revealed and required as a uniform entity by one Almighty God. On this basis and with reference to the uniform source of Islamic law, the Holy Qur'an which was revealed through the Prophet Mohammad (PBUH), the means of rapprochement of all doctrines are not difficult to achieve. They are not out of reach, as long as all schools agree and converge with regard to the essence and objectives, though they apparently differ with regard to methodology. This confirms that the number of issues constituting a common ground among jurisprudence schools is far larger than that of disagreement issues. It also confirms that the ties of unity are stronger than otherwise.

With reference to the *Shiite* Jaafari jurisprudence sources, we find that their schools converge, in part or in whole, with one of the Islamic *Sunni* schools with regard to most contentious issues. Besides, there is no full contradiction or variance between a school and another.

One of the jurisprudence difference issues that has predominated the academic arena lately is the question of accepting legal reasoning as a binding requirement with certain conditions, according to the *Shiite Jaafaris* among others. However, the conception continuously inherited by the late followers of Sunni Imams is that they are committed to the assumption that "the practice of legal reasoning came to a halt when the era of the four jurisprudence *Imams* came to an end". A close investigation of such opinion has revealed that there is no evidence to this effect, in the form of a reported text or a narration on the authority of any of these outstanding *Imams*. Since there is no evidence for the prohibition of legal reasoning, such opinion is ascribed to an era following that of the renowned Imams. And because it is merely a personal opinion with no evidence, it is not binding to any school. It is even at variance with the Islamic approach; hence it is not acceptable due to its negative effect on the development of Islamic thought. Such opinion encourages jurisprudence stagnation and constrains scientific development which characterized Islamic thought and jurisprudence. From this perspective, imitation does not meet the requirements of the new development of our time; nor does it make Islamic jurisprudence principles and the Islamic Law sources appropriate every time and every where.

One of the most significant converging points between the *Shiite Imami* Jaafaris and Zaydis, on the one hand, and the *Imams* of the famous *Sunni* schools, on the other hand, is their call for maintaining the practice of legal reasoning at all times. It was demonstrated that they actually practiced legal reasoning relentlessly, and they make of it a requirement in conformity with certain principle-based conditions relating to jurisprudence sources, which are well-known and adopted in the major references of jurisprudence principles, in both *Shiite* and non-*Shiite* reference books. This is because legal reasoning, in as much as the legal text can bear, involves significant benefits, chief of which is tolerance, which has made Islamic law dynamic, growing and adaptable to any new development, as Islam is suitable for all times and places.

The most important references of *Imami Shiite* school are:

- b. *Al-Kafi*, by Al-Kulayni
- c. *Al-Tahthib*
- d. *Al-Istibsar*
- e. *Man la Yahduruhu Al-Faqih*
- f. *Wasa'il Shi'a*
- g. *Jawahir Al-Ahkam wa Sara'ir Al-Islam*
- h. *Mustamsak Al-Urwathqa*
- i. *Sharh Al-Lum'ah Ad-Dimashqiyah*

There are other references, books and dissertations compiled or composed by theologian jurists. The school also has a body of legal opinions, too many to name herein, which the imitating followers of this doctrine refer to.

An investigation of this school sources of deduction has revealed that they first rely on the books of the Prophet's Family, containing the 'Prophet Sayings, and they give a secondary importance to the books of narration and compilation, such as the two *Sahihs* (Authentic compilation of Prophet Sayings by Muslim and Al-Bukhari), *As-Sunan* (Traditions) and *Musnads* (Collections of Prophet Sayings).

This also clearly indicates that the issues and principles of jurisprudence differences are uniform and highly overlapping. They are almost coherent, and hence they are easy to bring closer to one another, within the framework of an objective constructive perspective, and an implementation plan targeting the goals of the present Strategy.

6. Zaydi School

The Zaydi Doctrine is ascribed to Imam Abu-Husayn Zayd bin Ali bin Al-Husayn bin Ali bin Abi Talib (May Allah honor his countenance), born in 73 AH, most likely. In the tradition of Zaydi scholars and jurists, this name refers to the followers of the Imams of the Prophet's Family and the scholars affiliated thereto, with regard to the issues of justice, oneness of Allah, and the recognition of the Imamate of Imam Zayd bin Ali.⁽¹⁾

Hence, affiliation to this doctrine is that of “belonging”⁽²⁾ rather than doctrinal “commitment” in the common sense of the term, as many people assume. Nor is it an affiliation of imitation in all the sayings, actions and ideas of the Imam, due to the following theological considerations:

- a) The Zaydi school prohibits imitation for any scholar who is capable of extracting and inferring rulings from the sources of Islamic law.
- b) This affiliation name was not used by Imam Zayd to refer to his followers and supporters. Nor did his followers use it at first to refer to themselves. It was the Umayyads that used it to refer to anyone who revolted against them, after Imam Zayd (May Allah be pleased with him). It seems that reference to this school as “Zaydi” was originally a political rather than a doctrinal jurisprudential name.⁽³⁾ The advocates of this school would prefer ascribing this sect to the school of the Prophet's Family, since they are committed to the pure Prophet's jurisprudence, and since it is the doctrine at which all the other jurisprudence schools converge.

With regard to the specification of this school, it can be seen along the following lines. It was founded by Imam Al-Hasan bin Mohammad bin Ismail bin Al-Husayn bin Zayd bin Al-Husayn in *Al-Jil wa Al-dilm* (Tabaristan) in 252 A.H.. Also, the founder of the Zaydi School in Yemen was Imam Al-Hadi-'ilalhaq Yahya bin Al-Husayn bin Al-Qasim bin Ibrahim bin Al-Hasan bin Al-Hasan bin Ali bin Abi Talib. The Zaydi school is known for academic research, as well as

(1) Husin bin Ahmed Al-Sayaghi, *Usul almadhab azzaydi wa qawa'iduh*, maktabat rhamda' li 'ihya' athurat alyamani, Ikrima Press, Damascus, 1984. The scholar Ahmad bin Salah Abu Ar-Rijal states in his book *matla' albudur wa majma' albuhur*, Edited Manuscript, that his origin is traced back to Ali bin Abi Talib, his sons and their mother.

(2) Ali abdulkarim Al-Fadil, *azzaydiya nadariya wa tatbiq*, page 12, Jordan 1405 A.H.

(3) Ibid, page 143.

the common points it shares with other Islamic Sunni and Shiite doctrines. Some of their characteristics are as follows:

- a) They adopt the authentic books on the Prophet's Tradition, and they use them as sources to deal with the theological, juristic and intellectual issues.
- b) They accept the narration of those who have disagreed with them if these are impartial. They do not disagree with authentic narrations put forth by other schools.
- c) They do not draw a divisive line between their narrations and those of other parties, except for the narrations deemed derailing from the Islamic frame of reference, or the narrations which have been proven to be invented.
- d) They adopt all the principles of Islamic law adopted by most jurists in most schools of jurisprudence.
- e) The Prophet Sayings narrated in both *Al-Majmu'* Books, the Book on Prophet Sayings and the Book on jurisprudence, reported on the authority of Imam Zayd, do not differ from the Prophet Sayings narrated in *Sunni* Books. Nor do they contain any idiosyncratic Prophet Saying therein.
- f) Imam Zayd's jurisprudence is characterized by its remarkable closeness to the jurisprudence of the four Imams, especially the Hanafi school, not only with regard to the solutions it concludes, but also the premises on which such solutions are based.

Origin and upbringing of Imam Zayd

He is the honorable martyr Imam Abu Al-Husayn Zayd bin Ali Zin Al-Abidin bin Al-Husayn, father of martyrs, son of Imam Ali bin Abi Talib (May Allah be pleased with them all).

With regard to his upbringing, Sheikh Mohammad Abu Zohra says, "Zayd was born to honorable parents and was brought up in an atmosphere of good manners and tolerance. The *Imam* was well-bred, coming from a virtuous lineage. His knowledge and work belong to these values and virtues."⁽¹⁾ Many historians accounted for the virtues of Zayd bin Ali, including the Scholar Nashwan bin Said Al-Hamri (deceased 573 A.H.)⁽²⁾

His students

Zayd's biography shows his scholarly caliber and virtue. Those who learnt from him were also renowned for knowledge, detachment and jurisprudential

competence. One of these is Abu Hanifa Al-Nu'man bin Thabit, who was loyal to Zayd and supported him financially in his endeavor. He even suffered much trouble because of his loyalty to Imam Zayd and the Prophet's Family. Scholars and reporters state that knowledge seekers would come to learn from him when he was retreating to focus on the reading of the Qur'an and prayer in Al-Madina.

Other students of Imam Zayd are his nephew Imam Jaafar bin Mohammad, Imam Abu-Hanifa, and the well-known narrator Abu Khalid Omar bin Khalid Al-Wasiti, a Hashemite by allegiance, who accompanied Imam Zayd for a long time, among many others.

Zaydis sources of jurisprudence

The Zaydi school relies on eight sources in general. The first is the Holy Book. The second is the Prophet's Tradition; that is the Prophet's sayings, acts and approvals. These are followed respectively by consensus, logical analogy, presumption, preference and pre-Islamic divine law. Most of Zaydi jurist scholars composed outstanding works in various disciplines of science and arts. They are characterized by the virtues of tolerance and the tendency to rely on evidence, as well as the acceptance of the other scholars' conclusions.

7. Ibadhi School

The Ibadhi school is ascribed to Abdullah bin Ibad Al-Tamimi⁽¹⁾. He was famous for his boldness and courage and for his attitude towards Yazid bin Mu'awiya so as to protect Makka. He expressed some of his jurisprudential views in a treatise addressed to Abdulmalik bin Marwan, where he discusses immoderation in religion, while he was not an *Imam* with his own doctrine. He assumes that the Ibadhi school relies on the authentic explicit legal orders and it follows the traditions of the rightly guided Caliphs Abu Bakr and Omar bin Al-Khattab (May Allah be pleased with them).

Reference sources mention that the first leader to be known in Hadramout is the truth seeker, Abullah bin Yahya Al-Kindi. Some history books describe him as a

(1) Khayruddine Al-Zarkali talks about him at length in *Ala'lam*, Volume 4, pages 184-185. He says that this scholar's date of birth and death are unknown, but he is Iraqi. The writer compiled for him *asdaq almanahij fi tabi'ati alIbadhiyyah min alkhawarij*, page 20. He also states that Bin Ibad was contemporary of Mu'awiya bin Abi Sufyan and Abdulmalik bin Marwan, the founder of the Second Umawid State, *ibid*, page 3.

pious jurist, courageous, generous and articulate, as his speeches indicate. He dissented from Marwan bin Mohamad Al-Amawi. He conquered San'a on his way past Abin and Lahaj. He was also reported to have conquered Hijaz and Greater Syria after the number of his supporters had increased.

Recent publications about the Ibadhi history indicate that contemporary Ibadhis adopt a moderate doctrine, which does not reflect the features ascribed to them in some history and theology sources. They are not extremists. Moreover, the moderation that they show seems to have stemmed from jurisprudential efforts, intellectual opinions that are promising for achieving the objectives of the present Strategy. Such elements also confirm that the rapprochement of Islamic schools is neither impossible nor difficult to materialize.

The truth about the Ibadhi school should be sought in the history and jurisprudence works and references of this school. The real image of the school should also be sought in the statements of scholars and jurists affiliated to it, rather than from the accounts of other parties. Regardless of the source of such statements by others, it is merely a description likely to be correct or incorrect. There is no doubt that the enemies of Islam would invent inadequate statements about Islamic sects and doctrines. They have been active down the ages in many regions. They have made up texts and stories which were mostly unreasonable, whether these were narrated out of ignorance of true facts about Islam, or with the intention to spur disorder and division among Muslims, so as to weaken their resolve and destroy their entity and tarnish their noble religion. However, the serious researcher who fairly investigates sources and scrutinizes references would find out that the negative accounts involve encroachment of the truth. He would also be aware that the Ibadhi school is one of the Islamic doctrines. The scholars affiliated to this doctrine limit themselves to the sources rather than imitate blindly. They rely on the truth rather than invention.⁽¹⁾ The rulings are established in conformity with the Holy Book, the Prophet's Tradition, consensus, analogy, reasoning, preference and presumption. These are all part of Islamic Jurisprudence sources in force within the other *Sunni* and *Shiite* doctrines. Hence, they deny and reject any allegation that would drive them outside the Islamic Nation. They also hate to be considered a sect derived from the Kharijites (Khawarij, Dissenting Sect). Their heritage works indicate that they distance themselves from immoderate sects wherever they are.

(1) Salim bin Hammud bin Shas, *asdaq almanahij fi tamyiz alibadhiya min alkhawarij*, page 20, Publication of the Ministry of Culture, Muscat, Oman.

They consider the Kharijites as dissenting from Islam. Early and contemporary Ibadhi jurists and historian explicitly state that their doctrine is Islam, based on the Holy Qur'an and the noble Prophet's Tradition. They also claim that they have always chosen moderation. They have always aimed at establishing the teachings of Islam, in theory and practice. Sheikh Salim bin Hamud says,⁽¹⁾ "the Ibadhis did not intend to set up their own doctrine, since Islam is their doctrine and religion. The Ibadhi opposition to the policy of Caliph Othman bin Affan after the first six year of his Caliphateship, and their opposition to Imam Ali bin Abi Talib, after he accepted arbitration, were not motivated by personal reasons or material interests. Rather, their opposition was motivated by their opinion with regard to the Islamic faith". The Ibadhi school was not ascribed to any of its jurists other than Ibn Ibad who lived at the same time as Mu'awiya bin Abi Sufyan and Abdulmalik bin Marwan⁽²⁾.

The works of Ibadhi scholars and jurists clearly indicate that the issues relating to the foundations and plans of rapprochement are not too far from the positions of scholars affiliated to the other Islamic doctrines. The dimensions of such issues would be elucidated, their scope delimited, and the horizons of their common grounds would be opened up through in-depth research. The ultimate goal of this endeavor is to provide a comparative study and to delimit the adopted jurisprudence references as well as the relevant legal reasoning issues contained therein.

II. Role of jurisprudence principles in the rapprochement between Islamic Madhahib

The importance of the science of principles (*usul*) in the rapprochement of schools is twofold. On the one hand, it highlights the principles agreed upon by the leading scholars (*Imams*) of the Islamic Madhahib. Such principles should be formulated in a special manual that would serve as a basis for records organized in a modern fashion. These records would be committed to the provisions of principles agreed upon in terms of theory and practice. Such work requires a detailed study that would be conducted by a group of specialized experts.

(1) Salih Bajih, *alibadiya biljarid fi al'usur alislamiya*. History PhD dissertation, Tunisian University, Supervised by Ali Shabbi, preface by the Omani Ambassador Mohammad Mohammad Al-Harithi.

(2) *Tarikh Baghdad*, Volume 4, pages 412-413. See also *tadkirat alhuffad*, Volume 2, page 431.

Secondly, this discipline allows to use basic principles as the starting point, which would guide the process of rapprochement so as to strike a balance between, on the one hand, strict adherence to the orders and prohibitions of Islamic law, ensuring the choice of practical solutions which take account of the interest and honor of the Islamic Nation, and, on the other hand, the personal benefits of all individuals, accomplishing their legitimate wishes.

One of the most outstanding principles is the assumption that such solutions are part of the divine worship rulings. This assumption does not imply following permissions or specifying inappropriate statements or and far-fetched interpretations. Rather, it hinges on the foundations stated in the Holy Book. Allah says, [*Allah has not laid upon you any hardship in religion*] (*Al-Hajj*, 79). He also links piety with the feasible degree. The Prophet (PBUH) always chose the easier of any two options. He is reported to have said, “Announce the good news [about religion], and do not make it hated”.

Assuming that these principles are quite popular among the scholars of the science of principles, they have always stated that jurisprudence is based on rules and universals. Some of these are “harm shall be removed”, “hardship calls for alleviation” “Habits shall be legally observed” and “the intentions are more important than the acts themselves”. Shihabuddin Al-Qarafi listed the pieces of evidence put forward by jurists such as “public “welfare”, “preference”, “benefits”, and “adoption of the easier of two options”.

What should be emphasized here is the need to take account of the current developments of our world. It is required to preserve Islam in terms of both worship and interaction. The scholars of the Islamic Nation should carry off their duty of providing the relevant guidance. This would enable them, through collective legal reasoning, to renovate jurisprudence principles with regard to all issues subsumed under legal analogy. They would also set up what could be called “absolutely modern action”. This type of work can only be achieved through expanding the scope of legal reasoning, capitalizing on the four sources: the Holy Book, Prophet’s Tradition, consensus and analogy, which constitute the means to achieve the interest of the Islamic Nation.

We present below a preliminary conception of such capitalization, highlighting its necessity.

Foundation 1: Collective legal reasoning efforts

1. Necessity of legal reasoning

It should be emphasized first that no capitalization on principles may be fruitful without practicing a certain degree of legal reasoning. This is because opposing imitation to legal reasoning is not always true. Those who have chosen to imitate have actually practiced legal reasoning. The individual may be considered an imitator unless he is exposed to various tendencies in many schools. The individual born in an environment where there is only one school of jurisprudence, and he is not aware of any other school, is an imitator. However, once he has been exposed to other doctrines and he decides to remain adherent to his school, he has in fact practiced a kind of legal reasoning. If the individual remains committed to the statements of his doctrine, which may involve disagreement in terms of ancillary branches, then he adopts some of such statements and rejects others, he has also behaved like any other practitioner of legal reasoning in any other school. If, on the other hand, he chooses some statements based on evidence from the sources, he has dealt with the relevant issues based on preference through legal reasoning.

A look at the current condition of the Islamic Nation would reveal that most researchers tend to derive rulings from their sources, taking account of the accessibility of the sources of rulings in the Holy Book and Prophet's Tradition. Within the framework of the Strategy on rapprochement between the Islamic Madhahib, it is important to benefit from such tendency, trying to organize it and to delimit the requirements for practicing it.

2. The necessity and requirements of legal reasoning

As mentioned above, the rapprochement of schools can only be achieved through practicing a certain type of legal reasoning. This is because when we stick to pure imitation, we will keep sustaining the old disagreement in a static fashion. The theories of the science of principles require the scholars to practice legal reasoning in proportion to their qualifications and the degree to which they satisfy the requirements thereof; The majority of principles theoreticians (*usulis*) agree that it is a duty imposed on the Islamic Nation collectively. Al-Shawkani, referring to Ibn Salah, points out that the books of *Imams* indicate that such collective duty may not be materialized by constrained jurists. He comments on this position, saying that the fact that legal reasoning is a duty requires that jurists should be

available at all times. He cited as evidence the authentic sayings of the Prophet (PBUH), “there will always be a group of my Islamic Nation who would seek the truth until Resurrection Day”.

The conditions that should be met by the independent jurist can be seen along the following lines. He should be fully aware of the texts of the Holy Book, Prophet’s Tradition and issues of analogy. He should master the Arabic language and should be well-versed in the principles of jurisprudence. However, none of these skills means the capacity to memorize content. Rather, the jurist should know the verses of rulings and the thematic issues of legal statement. He should have insightful methods of inference and rules of reasoning. An Islamic law historian once said, memorizers are “pharmacists” and jurists are “physicians”. Hence, the requirements of aptitude for legal reasoning hinge mostly on mental skills rather than memorizing information. This finds support in the saying of Omar bin Al-Khattab, “One should indeed understand what one has learnt by heart”. Such saying implies the role of the character of the jurist who is committed to observing the general objectives of Islamic law and selecting rulings on the basis thereof.

3. Evidence of legal reasoning

Most jurists have agreed on four sources of evidence; namely, the Holy Book, Prophet’s Tradition, Consensus and Analogy.

a) **The Holy Qur'an:** It is the Holy Book that [*Falsehood cannot come at it from before it or behind it. (It is) a revelation from the Wise, the Owner of Praise.*] (*Fussilat: 42*)

The Holy Qur'an is the master source of all other sources. It is the message in which Al-Mighty Allah orders His servants to worship Him alone, obey Him, His Messenger and the Muslim *imams* in charge of leadership. Allah revealed it in Arabic and entrusted his Messenger (PBUH) with the task of explaining it to people.

Using the Holy Book as a jurisprudence source requires observing specific rules. For one, extracting rulings directly from it should be limited to the scholars who distinguish univocal from allegorical texts, abrogating and abrogated texts, independent and dependant passages, general and specific rulings.

Any attempt by a non-specialist expert - whose work would be used as evidence in jurisprudential matters - may lead to serious mistakes that would increase disunity in the Islamic Nation and widen the gap among its members. To avoid such mistakes, scholars should issue an agreed-upon document on the rulings of the Qur'an, which would expose the rulings based on Qur'anic texts, such as the issues of duties, marriage and rituals of pilgrimage. Further, this document should make it clear that any question other than such issues is considered part of the set of questions that should be considered by the jurists who are qualified to infer rulings in conformity with other types of proof such as Prophet's Tradition, consensus and analogy. This document should constitute the beginning of a set of simplified records targeted at collecting the agreed-upon issues. This approach would replace the tendency currently adopted, which focuses on difference issues, though such emphasis purports to highlight the rationale behind disagreement and to specify the limits thereof. Such tendency leads, though inadvertently, to the consolidation of disagreement. Hence, we should adopt a different approach attaching more importance to the issues constituting common grounds, which should be disseminated, so as to create the foundations of the culture of rapprochement.

b) Prophet's Tradition

Prophet's Tradition purports to explain the content of the Holy Book and to detail the wisdom revealed to the Prophet (PBUH). While scholars have not disagreed with regard to its use as proof in Islamic jurisprudence, they have considerably differed with regard to the ways of reconciling its potentially conflicting texts. The examples below illustrate some of the reasons behind such difference:

1) Disagreement with regard to the authenticity of Prophet's Saying.

The majority of Prophet's saying scholars agree that the conditions of the authenticity of sayings are:

- Continuous chain of transmission
- Narrator's truthfulness
- Precision of the report
- Lack of contradictions
- Lack of defects

While applying these conditions, they differed as to whether the saying with a broken chain of transmission is authentic or not. Concerning the condition of narrator's truthfulness, it involves many studies exposed in the Books of Assessment of Narrator's Soundness (*Jarh wa Ta'dit*). Such studies also contain extensive accounts on the reasons behind the disagreement of *Imams* as to the adoption of Prophet's Sayings. Each *Imam* has his own approach to the evaluation of authenticity.

Listing examples here would take us too far afield. From the perspective of rapprochement, suffice it to point out that all *Imams* have a positive attitude of flexibility and a sense of investigating the validity of evidence. Imam Shafii is reported to have said to Imam Ahmad bin Hanbal "You know Prophet's saying and men better than I do. Notify me as to the source of Prophet Sayings, whether it is from Kufa, Basra or Greater Syria, for me to adopt it if it is authentic. This attitude is illustrated by many examples of modesty and reliance on evidence as long as it is authentic.

2. Difference as to the meaning of authentic texts

There is difference on the semantic nature of the material used for ablution, in the absence of water. Some jurists assume that such material include any material that comes from the ground. Whereas others require that it should be sand.

Disagreement also involved the waiting period after divorce, as well as the appointment of the guardian who is entitled to waiving dowry. Another example of disagreement relates to the imperative form, whether it indicates obligation or other functions. Further, there are differences in phrasing a text, which has direct consequences on the relevant ruling. For instance, the saying reported by Abu Hurayra is phrased to mean "he who performed the funeral prayer in the mosque has not done anything wrong", but in another narration it is phrased to mean "he who performed the funeral prayer in the mosque does not gain anything". This is due to the fact that each time the saying contains a different preposition in Arabic.

3. Conflicting pieces of evidence

This type of disagreement is exemplified by the Prophetic saying concerning "conditional sale", the incompatibility of order and prohibition piece of evidence, or those of negation and affirmation. This led to inconsistency in

jurists' opinions with regard to preponderance methods, where there are conflicting pieces of evidence at a single level meaning.

Two pieces of evidence may also be conflicting as to order and prohibition, concerning, for instance, the mosque greeting prayer during the Friday Sermon. Negation and affirmation may be in conflict. Most jurists give priority to affirmation, as in the prayer in the cube-house (*ka'bah*) in the saying reported on the authority of Usama. Other jurists use the technique of preponderance. Yet others tend to combine both conflicting elements; otherwise, the jurist would look for the most recent item, considering it as abrogating text. The Prophet's companions used to adopt the most recent acts of the Prophet, while some of them used to seek the preferred pieces of evidence, contained in a large number in the books of Islamic jurisprudence principles.

While the reasons underlying this type of disagreement are well-understood in their relevant historical context, today we need to address the proof of the Prophet's Tradition within a new approach, which is now available thanks to the scientific progress and the possibility of using communication media. We need to study disagreement issues in such a way that we provide jurists with comparative procedures in the authentication process. This would pave the way for the role of "collective legal reasoning" in selecting and adopting legal rulings on the basis of general principles that would guide the implementation of the rapprochement Strategy, for the benefit of the Islamic Nation.

This objective calls for preparing a new collection of Sayings relating to rulings, taking account of the content agreed upon by the imams of schools in terms of both meaning and the recording process. This operation may be based on specific well-known references, such as Imam Malik's *Al-Muwatta'* (the Approved), Al-Zayla'i's *Nasb Al-Rayah*, Imam Shafii's *Ikhtilaf Al-Hadith*, Imam Zayd's *Al-Majmu'*, among other references of Islamic schools.

This endeavor requires the investigation of the issue of criticism concerning the authenticity of Prophet's Sayings, taking account of the authenticity of their chain of transmission as well as the validity of the content thereof. While the proof-value of the Prophet's Tradition is no longer the subject of dispute, as mentioned above, one of the issues still pending for settlement is the authenticity of the Sayings themselves and the problem of rectifying them. The dispute over this issue is an old one. Its implications arise remarkably from time to time. One such implication of this dispute is the question relating to the rulings of rectifying the Prophet Sayings today.

Within the Strategy of rapprochement, a new document should be prepared to lay down the methodical principles of accepting the relevant Saying or judging it as weak in terms of its chain of transmission. It would also show the application context of the saying, taking account of the rules of criticism adopted by Prophet's Saying terminologists, and investigating the various opinions of the scholars working on the Prophet's Tradition, so as to obtain the principles that are accredited by most jurists.

After the validity operation, the issue of meaning is raised. One of the issues that cause disunity among Muslims is their disagreement with regard to the interpretation of the texts denoting a legal ruling.

Given the disagreement among the scholars on a few principles, we propose certain programs as part of the rapprochement contract within the Strategy. An element of such programs would be the organization of a symposium on specifying the criteria for the interpretation of legal texts, adopting the principles of preponderance, taking account of the general objectives of Islamic law, and correcting some concepts in certain Prophet Sayings whereby it is wrongly understood that the disunity of the Islamic Community is a predestined fate.

To select evidence from the Prophet's Tradition, it is necessary to focus on authentic sayings, which confirm the call for unity stated in the Holy Book, [*And do not be like those who separated and disputed after the clear proof had come unto them. For such there is an awful doom*] (*Al-Imran*, 105), [*Verily, this, your religion, is one religion; and I am your Lord, so worship Me.*] (*Al-Anbiya*, 92) and [*Verily, this, your religion, is one religion; and I am your Lord, so keep your duty unto Me*] (*Al-Muminun*, 53).

The Prophet Sayings which show the need to observe such unity are numerous, some of the most famous and authentic of which are:

“A believer to another believer is like a building whose different parts reinforce each other”.

“The believers in their mutual kindness, compassion and sympathy are just like one body. When one of the limbs is afflicted, the whole body responds to it with sleeplessness and fever”.

“A Muslim is the brother of another Muslim. He neither oppresses him nor humiliates him”.

“Do not be jealous of each other, do not hate each others, do not boycott each other, as Allah ordered you. A Muslim shall not boycott his Muslim brother more than three days.”

All these Prophet sayings are authentic. They are agreed upon by the scholars of Prophet's Tradition, as their meaning is quite clear. They are compatible with the content of Qur'anic verses mentioned above. These sayings also set a good example of using the Prophet's Tradition in the interpretation of God's discourse, through which He issues orders to all Muslims.

A viable approach towards achieving rapprochement is to make these pieces of evidence override any statements opposed to them. That is any content whose authenticity or meaning is subject to discussion. At the second symposium of rapprochement between Islamic schools of jurisprudence, organized by ISESCO, Dr Yusuf Al-Qaradawi gave a relevant example while dealing with this issue. He mentioned the potential confusion that could affect the saying, "the division of the Islamic Nation into more than seventy two sects, all of which in fire except one".

4. Consensus

Consensus is one of the foundations that could be used in the rapprochement between Islamic Madhahib. This is because the advocates of the doctrines agree on its proof-value, though they differ with regard to the conditions of conducting it.

However, such disagreement has some impact on achieving consensus today. Jurist's difference is limited to the opinion of *Dahiris*, who assume that consensus is restricted to that of the Prophet's companions.

The Malikis assume that the consensus of the votaries of Al-Madinah concerns the theory of "action", taken into account in specific issues. The consensus of the Imams of Prophet's Family is taken into consideration by *Imamis*. This is not at variance with the content agreed upon by the jurists of the Islamic Nation today, with regard to the rulings concerning new developments and seeking the common interest of the Islamic Nation.

The conception of consensus has now become accessible because scholars find it easy to communicate with each other, and they could be brought together to study some current issues, thanks to the availability of academic and Islamic organizations that may organize their meetings. Hence, it would be convenient to hold sessions for Jurisprudence Councils so as to address the issues of "Legal reasoning Consensus" or "Collective Legal Reasoning". Such sessions would

deal with renovating procedures in contemporary jurisprudence, through new types of proof, chief of which is the benefit of the Islamic Nation. Renovation in consensus is a matter adopted by Islamic law theoreticians.

5. Role of analogy in rapprochement

The proof-value and role of analogy are undeniable in innovating the procedure of jurisprudence amenable to legal reasoning. However, the abundance of ancillary branches' rulings issued by Imams has constrained its role currently. This is because the votaries of each school prefer to follow the rulings and legal opinions stated in their own adopted records. The sense of imitation is still widespread in jurisprudential thought in general. The current reality, however, requires the use of new types of analogy for new issues addressed by scholars in jurisprudence councils. More importantly in what could be called the philosophy of rapprochement, we should re-establish what is known as “the occasion” in the old works of analogy. The four pillars of analogy are: the ruling, the principle, the branch (substantive detail) and the cause. The latter is the corner stone in the analogy process. “The occasion” is a kernel notion that defines such process. It includes common interest, which constitutes the second foundation of the rapprochement approach.

Foundation 2: Common interest

Considering common interest a piece of evidence according to Islamic law theoreticians:

We have seen that Islamic law theoreticians considered common interest one of the pieces of evidence in legal reasoning. In fact, legal reasoning is a means to achieve the common interest of the Islamic Nation, which constitutes the ultimate objective. Allah has revealed laws for people so as to materialize their secular and religious interest. He created for them all what exists on earth. He sent them His messenger's good tidings and warnings. They would allow goodness and prohibit evil. They would alleviate pressure and hardship on people, and confirm to them that they should not harm themselves or others.

The motivations of the details of rulings in the Holy Book and Prophet's Tradition are too many to list here. For example, Allah says after the verse on ablution, [*Allah would not place a burden on you, but He would purify you and*

would perfect His grace upon you.] (*Al-Ma'ida*, 6). On prayer he says, [*Verily, worship preserves from lewdness and iniquity*], on fasting, [*O you who believe! Fasting is prescribed for you, that you may ward off evil*] (*Al-Baqara*, 182), on the direction of prayer, [*And wherever you may be, turn your faces towards it (when you pray) so that men may have no argument against you*] (*Al-Baqara*, 150), on *jihad*, [*And there is life for you in retaliation, O men of understanding, that you may ward off (evil)*] (*Al-Baqara*, 179).

If these readings provide proof for these issues, and turn out to be academically significant, there should be no objection to using the same procedure for all the details of Islamic law.

a) Types of common interest

The *Imams* of all schools of Islamic jurisprudence have agreed to take account of the common benefit of the Islamic Nation. They consider respecting it a duty of every Muslim. They explained that any matter which is crucial to carry off a duty is itself a duty. They divided common interest into three types.

Type 1: Essential matters

Essential matters are given priority over any other duty. They also permit the forbidden matters that prevent them. These essentials are the protection of self, mind, religion, offspring and property. While these essentials are confirmed for the entire Islamic Nation in the first place, the community should preserve its religion safety and security, social duties, dignity and property.

Type 2: Needs

Needs include the means required for a decent life, as well as the practice of the activities needed by the Islamic Nation, such as commercial and industrial professions, along with all the means of development, with regard to individual Muslims. As for the Islamic Community as a whole, such activities become part of the universal needs which turn into essential matters, though considered as a collective duty.

Type 3: Desirable matters

The third type of common benefits is what Islamic law theoreticians call “desirable matters”, which serve as a supplement to type 1 and 2. It consists

of any matter that would raise the rank of the Muslim. With regard to the Islamic Nation in general, this interest includes whatever would make of it the best nation raised up for mankind in terms of its religion.

These three types constitute in principle a common ground for all existing Islamic Madhahib today. Hence, it is one of the central axes of rapprochement. What we need here is to put forward the legal proof demonstrating that common benefit is an essential foundation in the rapprochement policy. This endeavor requires reviewing the positions of the votaries of Islamic schools in some detail.

Islamic law theoreticians added to the typology given above another categorization dealing with the position of the legislator concerning the types of common benefit. They explained that benefit does not mean libidinal desires and fancies. Rather, they define it as whatever brings a reasonable interest and prevents a real harm. If a matter involves both benefit and harm, they require that we should adopt only the matter which involves more benefit than harm rather than the other way round, as in the case of alcohol and gambling. Allah says, [*They question thee about strong drink and games of chance. Say: In both is great sin, and (some) utility for men; but the sin of them is greater than their usefulness*] (2: 219).

b) Types of benefit to take into account

The second categorization of the types of benefit involves three elements. The first type was adopted by the legislator textually. The second was abrogated explicitly. The third was neither adopted nor abrogated by the legislator, and it is termed “public interest”.

Type 1: Text-based benefits to take into account

The type for which the legislator provides textual evidence involves the domains mentioned above. It is motivated by well-known pieces of proof. The Holy Book contains the motivation of many rulings such as forbidding alcohol because it harms the mind and religion, forbidding usury because it involves wrongfully taking other people's money, order of bearing witness in transaction, order of honoring contracts and promises, ruling with justice and giving *Zakat*. This domain is large enough to contain the entire set of commands promoting goodness and all prohibitions against unacceptable, evil and rebellious acts.

Such are the general principles outlined in the Holy Book in a general but comprehensive fashion. The Prophet's Tradition has detailed the explanation of the general content of the Qur'an, detailing its rulings for both individuals and the entire Islamic Nation. In the area of the general common benefit of the Islamic Nation, the Prophet's Tradition focused on the need for solidarity and mutual sympathy, which would be materialized in the unity that Allah upheld in His Saying, [*Verily, this, your religion, is one religion, and I am your Lord, so worship Me.*], and [*And hold fast, all of you together, to the rope of Allah, and do not separate*]. The Prophet's Tradition illustrates that the Islamic Nation should be "like one body, if one limb suffers, the whole body responds with sleeplessness and fever."

Type 2: Considerations abrogated by the legislator

The second type consists of the considerations abrogated by the legislator. It is true that certain matters are thought to be beneficial while they are legally forbidden. However, a close scrutiny of such matters would reveal that they do not in fact constitute a benefit. For example, some people believe that wine is beneficial to them. The reality; however, is what Allah states in the Holy Book; that is, its harm is greater than its benefit. This has also been affirmed by the majority of medical doctors, who admit the danger of alcoholic drinks.

Another example is the assumption that eating pork is beneficial though it is forbidden. Modern science has confirmed the presence of parasites therein, which are dangerous to human life. This is life-threatening to the majority of people, who are unaware of these dangers and do not know the means of prevention thereof. Forbidding pork has come to protect people and to prevent any reason to do any harm.

It would be a mistake to use the ostensible reason that some forbidden matters involve benefits, so as to claim that Islamic law was not established for public interest. This position, claimed by Ibn Hazm, is at variance with the opinion of the majority of scholars. It involves a fallacy, as it does not differentiate between the benefit of the law and the wish of Al Mighty Allah with regard to the fate of his servants. Allah generously guides whom He wills and impartially misguides whom He wishes; it is up to Him to choose what to do with His servants in His kingdom. "He is not accountable for what He does, but they are accountable". It is true that disbelievers have no interest in misguidance. However, this does not constitute evidence with regard to laws. This is the fallacy committed by the

Mu'tazili theologians when they require the best interest from the Creator while explaining the principle of divine justice. There is a difference between the two matters; the fate of an individual is exclusively up to Allah, and the divine law is for the benefit of all His servants.

Type 3: Public interest

The third type, which Islamic law theoreticians call “public interest”, is not explicitly detailed by the legislator. It is widely known among scholars to be one of the characteristics of Maliki jurisprudence. In fact, it is available in the other schools. Al-Qurafi states in *Al-Tanqih* (Revision), “if you review the schools of jurisprudence, you will find that when they draw an analogy, combine or differentiate between two issues, they do not require evidence for the consideration of the meaning used in combination or differentiation, but they contend themselves with the absolute occasion; and this is public interest, which is then available in all schools.”

Within the operation of rapprochement between Islamic schools, outlined below are some opinions of the votaries of Islamic Madhahib on the consideration of common interest.

Maliki School

It is true that Malikis adopted this type of benefits, while analyzing analogical matters based on “the occasion”. They put forth many pieces of evidence, most of which are based on the acts of the Prophet's Companions, such as the compilation of the Qur'an in the form of a Book, the destruction of the mosque so as to widen it, reference to *Ahl Al-Shura* (Councilors) and the use of prisons. The companions came up with these rulings through legal reasoning without reference to legal texts from the Qur'an or Prophet Sayings. This is what drove Malik to adopt this type of proof as one of his principles. He took it into consideration in conformity with certain conditions. This is, it should be compatible with the objectives of Islamic law, without being at variance with any of its pieces of evidence or principles. The benefit to be taken into account should be feasible and reasonable. Its adoption should purport to alleviate pressure and eliminate harm.

Some of the legal opinions based on public interest are the acceptance of the eye-witness statements of children before mixing with adults, and authorizing allegiance to the better leader.

Hanbali school

Islamic law theoreticians say that the Hanbalis, like the Malikis, rely on this type of interest. One of the most outstanding positions is that of Najmudine Al-Tufi, who assumed, in his explanation of Al-Nawawi's forty sayings, that public interest is given priority over consensus, based on the Prophet's Saying "do not harm yourself or harm others". He argued that the jurists who do not acknowledge consensus promoted the observance of public interests. Since consensus is subject to dispute, adopting what is agreed upon is given priority over what is subject to dispute. He also stated that texts are different and conflicting, while the consideration of interest is an objective matter per se and is not subject to disagreement. It is the reason behind the required agreement; hence it has attracted more followers.

The Hanbalis undoubtedly considered public interest one of the proofs they relied on. Many legal opinions have been reported on the authority of Imam Ahmad, based on public interest, such as obliging the owner to accommodate the homeless in his house and holding the professionals to accept similar fees.

Shafiis

It is widely held that Imam Shafii does not consider public interest one of his principles. He believes that any novel event involving humans is accounted for in the Holy Book through a text or general meaning. In particular, Shafii does not accept whimsical desires that look like benefits. This is part of a type of preference that he does not accept, describing it as "pleasure". He who claims preference has engaged in legislation; however, the only legislator is Almighty Allah.

Nonetheless, Imam Shafii considers as relevant the interests compatible with the objectives of Islamic law, through texts or meanings. The Shafii School put forth legal opinions confirming public interest, such as permitting taking plants from Al-Haram to feed animals when necessary, and consuming the spoil of war before sharing it out at the house of war (areas outside Muslim rule at war with the Muslim State).

Hanafis

While Imam Abu Hanifa does not explicitly take public interest to be part of his evidence, his support of "preference" has driven him to base most of his preference

opinions on the grounds of public interest. He is reported to have said, “Bani Hachim may receive charity, because they no longer receive the fifth”. This position was explained by Al-Tahawi in *Sharh al-Athar*. The Prophet (BBUH) is reported to have said, “Charity should not be allowed for Mohamad's family; it cleans people's dirt”.

Abu Yusuf is reported to have allowed, in the ruling of *Jihad*, the destruction of the property of the spoil of war if Muslim are unable to carry it with them, for fear that the enemy would use it to their advantage. Abu Yusuf also preferred allocating heritage to the husband of an apostate if she has declared apostasy during the agony of her death. The interest herein is to treat her through the opposite of her intentions. Muhammad bin Al-Hassan believes that the reception of merchandise is forbidden on a land whose owners would be harmed. “But if things become abundant and this does not cause any inconvenience to the owners, then it is allowed, Allah willing.”

Summary of Zaydi opinion

The position of Hanafis with regard to public interest is close to that of Zaydis', who adopt most of the statements of the former in jurisprudence. The Zaydis, however, are characterized by leaving the door of legal reasoning open, and entrusting Imams and jurists with the practice of inference without limiting themselves to imitating a specific doctrine. They believe that legal reasoning is obligatory - with certain conditions - even in a single issue whose evidence has been preferred by the jurist. This makes their opinions, with regard to principles, flexible enough to qualify them for the consideration of the public interest of the Islamic Nation. They also base their reasoning on another principle of religion, namely the principle of obliging the Islamic Nation to promote goodness and admonish evil. They would invest all their available resources to achieve this objective. Hence, they are advocates of the best interest of the Islamic Nation.

Summary of Imami opinion

Before adopting the “governance of the Cleric”, the Jaafari doctrine contended itself with evidence from the texts composed by the irreproachable Imams. However, Imame Khumayni renewed the school's thought on principles. That is, the interest of the Islamic system has now become one of its main foundations with regard to principles; It has been observed that their leaders today are

interested in working towards the rapprochement of the opinions of schools and sects. We have shown that the tools of rapprochement include adopting legal reasoning and public interest as two fundamental pillars.

Summary of Ibadhi opinion

Cotemporary Ibadhis follow quite the same trend. Early Ibadhis, however, held an opinion that does not differ much from that of Sunni schools. In *Sharh tal'at shams al-usul* (Explanation of the Rise of Principles), Abdullah bin Hamid Al-Salimi says, “public interest constitutes a source of evidence, which is an appropriate description resulting in people's benefits, preventing inconvenience. The legislator, however, did not consider that description per se and does not prefer it in any ruling; nor is he aware that it is dismissed. It was called mursal (incompletely transmitted); it is as though this description was used to refer to both consideration and dismissal.”

Conclusion

It emerges from this discussion that all the jurisprudence schools involved in the rapprochement operation use the interest of the Islamic Nation as a source of evidence, except for the Dhahiris who no longer constitute an organized school. The consensus of all these schools on considering public interest one of the principles of jurisprudence is very promising for finding “common grounds” between the different parties of the Islamic Nation. Establishing the present strategy is an action required to teach noble objectives in a specific formulation, before the adoption of legal reasoning so as to rely on all sources of jurisprudence and issue ruling on new developments on the basis thereof.

The rationale behind exposing these pieces of evidence for the consideration of the interest of the Islamic Nation is to underscore the necessity of such interest, for the Islamic Nation to regain its position and dignity in a world where the fittest, rather than the best, survives. If the doctrines of the nation remain divided, exchanging negative criticism and branding each other as disbelievers and sinners, they will fail, lose strength and remain subject to the threats of many enemies.

To confront the new challenges, ISESCO is committed to playing an effective and efficient role for the sake of the Islamic Nation interest, through the

preparation of the Project of this Strategy on rapprochement between Islamic Madhahib. Relying on the assistance of Allah to crown this endeavor with success, the present Strategy hinges on public interest as an ultimate goal, and on collective reasoning initiatives as a means for rapprochement so as to reach the target objectives.

We trust that the efforts of the Islamic Organization itself will come to fruition, as the entire set of operations of its cooperation with all the parties involved will run smoothly. Its endeavor will not be hampered by the sensitivities of disagreement or the problems that would compromise the unity of the Islamic Nation.

III. Aspects of difference among Islamic Madhahib

Introduction

The jurists and scholars of Islamic schools agree that jurisprudence science has a paramount importance and a noble objective; so much so that no Muslim can do without it. It is through jurisprudence that the rulings on people's acts are clarified. It brings to the fore the ancillary branches of their interaction with each other as well as with their Creator. Hence, it cannot be ignored by Muslims to meet the requirement of their religious and secular matters. Islamic jurisprudence in legal terminology has many denotations:

1. It is synonymous to Islamic law, relating to faith, morals as well as physical acts.
2. It is the knowledge of rulings of ancillary branches, derived from detailed evidence other than the main sources, which deal with beliefs. This definition includes also the legal rulings related to physical acts. It deals with legal rulings on feelings, such as forbidding showing off, snobbishness, destructive envy and negative bewilderment, as well as promoting modesty and feeling happy for other people.
3. The definition widely accepted by scholars is that jurisprudence is the knowledge of practical ancillary-branch legal rulings, derived from detailed pieces of evidence. A special discipline has been devoted to the ancillary-branch legal rulings relating to feeling-based acts. It is known as mysticism, morals and heart-softening rituals. There also are other definitions, chief of which are:

- a) Recording a set of practical legal rulings available in the Holy Book and Prophet's Tradition, or those subject to consensus, or those inferred through reasoning analogy, based on legal and jurisprudential considerations, or on any other evidence with reference to the sources of jurisprudence, from which the meaning of rulings are derived, whether such rulings are recorded with or without their relevant proof. Hence, the jurist, according to this definition, does not have to practice legal reasoning, as Islamic law theoreticians believe.
- b) Jurisprudence refers to the set of practical legal rulings and issues.
- c) It is the knowledge of legal rulings with regard to the acts of accountable adults, concerning obligation, prohibition, recommendation, detestability, permission and so on. It is conducted through inferring such rulings from Islamic legal texts. In a nutshell, it refers to extracting practical rulings from its detailed evidence.

As the evidence adopted in the process of inference is in the form of linguistic rhetorical texts whose terms sometimes require interpretation and may have more than one meaning, disagreement arose among the jurists conducting legal reasoning through inference, for the reasons mentioned before in the present Strategy. Further, part of the Prophet's Tradition which is not agreed upon is held to be speculative in general. Besides, the finite texts do not account for some novel events. All these factors have given rise to disagreement and discrepancy in the understanding of the meaning of texts. This led to the inception of Islamic schools of jurisprudence, which came to be known as "jurisprudence doctrines". Many reasoning initiatives emerged in successive historical periods, accounted for in detail in a special discipline recently known as "the history of jurisprudence".

There are many records and works containing books, treatises and studies covering most issues and all jurisprudential rulings needed in the life of Muslims at that time. The development and expansion of legal reasoning initiatives as well as the adoption of legal opinions where evidence is unknown have given rise to a beneficial tradition that has served both Islam and Muslims down the ages. It has provided reference sources for researchers, and evidence benefiting imitators and followers. Though it is sometimes used to express fanatic opinions, no jurist has ever produced a statement that is at variance with the spirit of legal texts. It should be pointed out here that Islamic scholars, jurists and practitioners of reasoning initiatives have agreed that the sources and principles of Islamic jurisprudence consist of two categories:

Primary sacred sources: the texts of the Holy Book and the authentic Sayings of the Prophet (PBUH).

Secondary sources: the remaining sources, from which the ruling of reasoning issues have been inferred, contributing to the formation of jurisprudence schools, whether or not legal reasoning *Imams* and leading scholars agree on them in part or in whole.

Jurists and scholars have come to the conclusion that the most popular contemporary Islamic doctrines, whether they are called *Sunni* or *Shiite*, have always had strong relations, and their followers have had no conflicts with each other, as the poetic saying goes:

*All of them quote from the messenger of Allah,
Sipping up from the sea or sipping from the drizzle.*

Divisions of jurisprudence

Early jurists divided jurisprudence in terms of its aspect and issues into two categories: the first is the set of laws dealing with humans' duties towards Allah (*ibadat*), and the laws governing human relations (*mu'amalat*). In terms of the frame of reference and meaning, jurisprudence is divided into two types:

- a) Jurisprudence relying on conclusive proof in terms of authenticity and denotation, such as the necessity of the five pillars of Islam, obligation to avoid forbidden and harmful matters, and permission of the good things provided by Allah.
- b) Jurisprudence relying on speculative proof, such as delimiting the space allowed for wiping the head during ablution, type of Qur'an recitation during prayer, among many other issues.

In conventional terms, jurisprudence consists of the following categories:

- a) Laws dealing with humans' duties towards Allah, whether such worshipping practices are physical, such as prayer and fasting, purely financial such as charity, or both such as major and minor pilgrimage.
- b) Jurisprudence of family affairs, which deals with the rulings that regulate family life, such as marriage, divorce, duty of support, custody, guardianship, lineage and related matters.

- c) Jurisprudence of transactions, which includes the rulings that regulate people's interactions, such as jurisprudence of civil law or commercial law and related matters, such as sale, purchase, partnership, mortgage, guarantee, power of attorney, transfer, lease and rent. It also includes the jurisprudence of legal procedures, the issues and rulings that regulate the judiciary. It involves the rulings regulating the relation of the rulers and their subjects, which may be called constitutional law. It includes the rulings regulating the relation of Muslims and non-Muslims, called international law. It contains the rulings that deal with human conduct, such as the issues of permission and prohibition. It also involves the ruling that specifies crimes and punishments, called criminal law.

Jurisprudence is further divided into two categories:

- a) Logical rulings, called also motivated rulings;
- b) Worshipping rulings, where the relation between the act and the ruling resulting thereof is not perceived⁽¹⁾. No matter how names and definitions differ, they remain jurisprudential issues whose rulings must draw on Islamic law sources; otherwise, they would be positive laws that can hardly find support in the upright Islamic law sources, which target human interest at large.

The ruling of jurisprudence differences

The best saying of the Prophet (PBUH) in this regard was reported by Ibn Abbas, “the difference of opinion in my Nation is [a manifestation of Divine] mercy”.⁽²⁾ By the same token, Talha bin Masraf Al-Tabi'i said, “do not say “difference”, but say “mercy”. Ibn Taymia's Majmu' Al-Fatawa (Collection of Legal Opinions) reports that a scholar who wrote a book called “Disagreement” was advised not to use such title, and he changed it to “Book of Mercy”. In his Al-Mawahib Al-Laduniya, Al-Qastalani assumes that difference in opinion is one of the characteristics of the Nation of Islam. He said, “their consensus constitutes evidence, while their difference in opinion, is [a sign of Divine] mercy.” Ibn Taymiya, the scholar of Islam, reports on the authority of his master scholars in his Collection of Opinions that “their consensus constitutes a cogent proof, while their difference

(1) *Almawsu'a alfihiya*, Volume 3, publication of the Ministry of Waqf Endowment and Islamic Affairs, Kuwait, 1983.

(2) Jalaluddin As-Sayuti, *Jazil almawahib fi ikhtilaf almadahib*.

in opinion is [a sign of Divine] mercy.” On this basis, the great members of the early generation of the Prophet considered the Imams' difference in opinion as a sign of Divine mercy granted by Allah to His liable subjects.⁽¹⁾

The foregoing exposition clearly indicates that the difference in opinion with regard to the ancillary branches of Islamic law is permissible, since there is no evidence that forbids it. The most outstanding proof for the fact that it is logically allowed and that it has been confirmed through transmission, is that it is a fact of life. It is practiced overtly in the realm of jurisprudence. It is confirmed that it occurred in the early era of Islam. It also did happen during the time of the Prophet's Companions and afterwards. It has continued up to date and will be sustained until the end of this world. What is important is that the schools of jurisprudence founded on authentic evidence are not subject to the preference of one over another. Likewise, the followers of one school are on the same footing with those of another school. Despite the differences on the ancillary branches of certain issues, or the formalities of some questions that imitators may adopt, this by no means indicates any breaching of the principles and sources of jurisprudence. Nor would such differences motivate the claim that disagreement in jurisprudence ancillary branches constitutes a difference in principles. Many scholars and jurists tend to believe that the diversity characterizing Islamic schools of jurisprudence is a merit and unique feature of the Islamic religion, compared to other religions. It is also “a great blessing and virtue, and it enshrines a gracious secret perceived by the knowledgeable and unperceived by the ignorant.”⁽²⁾

The confirmation of difference in opinion and the motivations of its existence do not mean that its occurrence is a necessity. It would be preferable if we manage to combine the types of proof and opt for preferring the more authentic one. Likewise, we would rather compromise the opinions of scholars and jurists and practitioners of legal reasoning. This would constitute a more cogent proof.

While difference of opinion is permitted, as a sign of mercy which constitutes a unique merit of Islam, such difference undoubtedly is subject to rational regulation, and conforms to certain conditions that have made of disagreement one of the causes behind alleviating constraints on Muslims. Al-Dahbi reported on the authority of Al-Hujja Al-Tabi'I Yahya bin Said Al-Ansari that “the votaries of

(1) Taha Jabir Al-Alwani, *adab alikhhtilaf fi alislam*, page 2, Alma'had al'alami lilfikir alislami, page 29.

(2) Taha Jabir Al-Alwani, *adab alikhhtilaf fi alislam*, page 2

knowledge are votaries of mercy”, and “the learned scholars would still differ, some of them permit certain matters, while others forbid them, but they are all on the same footing.”⁽¹⁾

Regulations and requirements of jurisprudence differences

Two elements are required for the acceptance and confirmation of difference in the ancillary branches and jurisprudence rulings:

Element 1: It is what Islamic Principles theoreticians call 'the object of legal reasoning', that is the topic on which legal reasoning is permitted. Both scholars of Principles and scholars of ancillary branches agree that the object of legal reasoning is “any legal ruling which does not involve definite textual evidence.” That is, definite proof, such as the Holy Book, the Prophet’s Saying with authentic chain of transmission and definite meaning, is not subject to legal reasoning or opinion. It may not be subject to counterargument. Otherwise, the jurist would be breaching the Islamic principles in force, and transgressing the Divine Law.

Element 2: The jurist qualified for formulating different opinions should meet certain requirements. He should be an academically qualified good Muslim. Anyone who wishes to formulate opinions on the issues of speculative science should be learned jurists who master the rulings of the Holy Book, the authentic as well as widely accepted Prophet’s Tradition. He should have an extensive knowledge of the issues of consensus. He should also be a jurist who has conducted extensive studies with regard to the other sources of Islamic legislation, such as analogy, public interest, presumption of continuity, arguing on the basis of the doctrine of the Prophet’s Companion, laws before Islam, prevention and all other branches of the science of principles. The jurist should be knowledgeable in the general branches of Prophet’s Sayings and the conditions of discrimination and commendation (*al-jarh wa al-ta’dil*). The jurist also should master Arabic linguistics and be qualified to practice legal reasoning, so as not to engage in an area beyond the scope of their competence. The pious scholar may also

(1) Ibid, page 29.

engage in this discipline provided that he has good faith and fears Allah. Otherwise, his statements in this regard would not be accepted. This position is corroborated by a statement reported on the authority of Ali (May Allah be pleased with him): “I said, O Messenger of Allah, if a new event occurs on which there is neither order nor prohibition, what shall we do?” The Prophet (PBUH) said, ‘Seek the advice of the jurists and the pious scholars.’” Hence, those who do not meet these requirements should not engage in theology, since they would promote ignorance and do harm to Islam. Such parties, who were described by Al-Khattabi as “those who do not possess solid religious knowledge, and are notorious for silliness and immorality in their doctrine”, may not have their work accepted, as they would promote ignorance or harm Islam.

Motivations and causes of jurisprudence differences

Like intellectual, faith-related and political differences, jurisprudence differences may occur. The reasons behind jurisprudence difference vary according to circumstances and motivations. Some of the causes are shared by both specialists and the general public, others relate to differences in the opinions of jurists and scholars. Numerous differences are stated in the literature of the science of principles and ancillary branches. Detailing such differences here would take us too far afield. However, two elements are worth noting:

- a) The differences in jurisprudence issues do not involve the essence of religion.
- b) The differences in faith-related and political issues that lie beyond the scope of legal texts are not worth dealing with. Moreover, disagreement for fanatic motives whatever their source may be, or for selfish reasons, which may lead to destabilizing Islamic thought and widening the gap between Muslims, are all prohibited by law, reason and method.

Disagreement issues

The sources and references of the seven jurisprudence schools that the present Strategy has reviewed agree that most of Islamic jurisprudence issues of worship rituals and transactions, which involve disagreement and different legal opinions, derive their principles from the sources of Islamic law. Further, they are not

limited to a single legal opinion or a single intellectual school. Rather, they overlap in terms of quantity and quality with other legal opinions stated by other jurisprudence schools.

With reference to the sources of jurisprudence difference and disagreement, an objective investigation would clearly reveal that the common opinions shared by all jurists are greater in number than the matters they disagree upon. Therefore, the implementation of the rapprochement Strategy is feasible.

In the framework of the present Project, the Strategy hinges on the following practical steps:

1. Promoting academic and intellectual dialogue based on the authentic reference of Islamic law;
2. Encouraging scientific research, especially in the entire set of disagreement issues, and working towards relating it to the needs of the modern Islamic world, particularly in Islamic jurisprudence.
3. Promoting individual and collective legal reasoning, in conformity with its requirements and sources agreed upon by jurists today and in the near future. the Islamic World is in dire need of new jurisprudence reasoning practice, compatible with the current circumstances and the available material resources, without derailing from the invariable principles of Islam, and without ignoring or breaching the fundamental sources of Islamic legislation.

Previous jurisprudence endeavors came successively according to Muslim's circumstances down the ages, and it has been proved that legal reasoning and differences in opinion constitute a normal matter and healthy phenomenon, with legal motivation. Therefore, future Islamic generations cannot do without learning the issues contained in Islamic jurisprudence works. The content of such works is too large to list in the present Strategy; suffice it to present its headings, according to the conventional division adopted by all Islamic jurisprudence schools:

First: Worship rituals issues

This category includes rituals and their rulings such as obligation, prohibition, and permissibility, commendability and undesirability. They are organized according to the method of jurists and writers, and in conformity with the ordering of the adopted rules, sources and chain of transmission, without dealing with any

ancillary branches of jurisprudence issues that are recorded and explained in jurisprudence books. Since this would take too far afield, and for the purposes of the Strategy, reference will be made only to the issues in the books of (1) Purification, (2) Prayer, (3) Funeral, (4) Charity, (5) Fifth (of the booty), (6) Fasting and (7) Pilgrimage.

Second: Transaction Issues

This category contains the transaction issues among people, ordered according to the organization adopted by most jurists as follows:

(1) marriage, (2) divorce, (3) financial support duties, (4) selling, (5) pre-emption, (6) lease, (7) share-cropping, (8) rectification and quarrying, (9) silent partnership and micro-finance, (10) company, (11) share, (12) mortgagee, (13) loans, (14) gifts, (15) trust deeds, (16) endowment, (17) deposits, (18) unauthorized use, (19) manumission, (20) oaths, (21) rows, (22) lost property, (23) hunting and butchering, (24) victims, (25) food, (26) drinks, (27) clothes, (28) leave-taking, (29) law suits, (30) attestation, (31) testimonies, (32) empowerment, (33) transfer, (34) guarantee and bail, (35) bankruptcy, (36) restraining, (37) reconciliation, (38) acquittal, (39) coercion, (40) racing and archery, (41) judiciary and sentencing (42) punishment prescribed by revelation, (43) crimes, (44) indemnities for bodily harm, (45) allotment, (46) wills, (47) rules of inheritance, and (48) relationship between Muslim and non-Muslim communities.

Third: Ethics and virtues

The issues of ethics and virtues constitute one of the branches of Islamic jurisprudence. They derive their impetus from the sources of legislation. They have a great Islamic objective, targeted at redressing the conduct and values of Muslims, due to the need of individuals and the community for such noble values and sublime virtues. This could be called the ruling of achieving improvements and “the characteristics of Islamic identity”. Muslims would be rewarded if they abide by them and punished if they breach them. Some jurists call this research topic “the science of behavior and mysticism”, because it is related to the conscience and soul. Other jurists and scholars include it in jurisprudence books because it contains rulings and chapters involving legally prohibited and undesirable conduct, such as the ruling of arrogance, dissimulation, pompousness, boasting, jealousy,

spite, suspicion, loyalty and antagonism in religion. Other relevant issues are the definition of zealotry, flattery, advice not to love secular life since it is a prime cause of any sin, definition of cowardness and greed, commendable joy, limit of sorrow, virtue of knowledge and the harm of ignorance, among other ethics. Such ethics were all explained in detailed in jurisprudence works, based on legal evidence, such as the Holy Qur'an and Prophet's Tradition textual evidence, for Muslims to adopt commendable conduct and avoid undesirable behavior, with a view to optimizing purity as well as in this world and the Hereafter.

Chapter Four

Areas of Rapprochement

Areas of the rapprochement of Madhahib

This chapter briefly deals with the following question: where will the implementation of the Strategy on Rapprochement between Islamic Madhahib be implemented? Where will the practical implementation programs and activities start? Where will the plans of rapprochement between Islamic schools be conducted? The importance of the present chapter comes from the fact that it constitutes the central basis on which the actual integrated implementation methods of the Strategy programs and activities will be elaborated.

The stakeholders in charge would ensure the implementation of such programs and activities, in line with the schedules outlined by the Strategy, with a view to achieving the rapprochement objectives in general, and the goals of such programs in particular. The areas below constitute the means to achieve such objectives:

I. Intellectual dialogue

Islamic intellectual dialogue, based on the Islamic legal principles revealed by the Prophet (PBUH) as a mercy to humanity, observed by the well-guided Companions in their sayings and acts, and by the *Imams*, scholars and jurists who followed them, is of paramount necessity. It is crucial because it constitutes the prime basis for establishing the rules of agreement, and the fundamental element for accepting scientific argumentation that would lead to one of the great objectives of Islam; namely, unity, rapprochement, and mutual advice.

While our Islamic religion legally stipulates good dialogue and compelling argumentation with heretics and polytheists, as Allah says [***and reason with them in the better way***](*An-Nahl*,25), such dialogue would rather be mandatory for the dialogue of Muslim brothers, especially with regard to current and future issues. One of such issues is preserving the Muslim civilizational identity. The verse on dialogue and argumentation in the Holy Book is known to involve the necessity of appropriate dialogue in all issues of Muslims' life, especially those related to religion. However, such dialogue should be characterized with the highest degree of soft language, cogent proof, good sense of judgment, and objectivity, with a view to consolidating unity and rapprochement and strengthening the brotherly ties among the members of the unified Islamic Nation.

In the present project, intellectual dialogue means exchanging knowledge and accepting logical proof supported by authentic legal evidence, without any

negative resistance, or doctrinal or ethnic fanaticism that is at odds with Islamic principles. The practice of dialogue and argumentation, as well as the exchange of authentic scientific evidence based on textual and logical evidence, is limited to the scholars and jurists who are knowledgeable enough to engage in this important field.

Dialogue among the members of the Islamic Nation should be conducted in conformity with its conventional regulation, within the setting of a specific well-defined methodology, hinging on the principles of Islamic dialogue. The delimitation of the scope and theme of such dialogue as well as the implementation thereof will be entrusted to the sponsor of this strategy - ISESCO - with a view to ensuring its success and continuity, achieving thereby the goals of dialogue. Such dialogue involves the following:

- a) Intellectual and academic meetings of jurisprudence leaders, scholars and jurists, with the participation of the relevant official, governmental, non-governmental institutions working within the area of Islamic action. This would expand the grounds of dialogue so as to involve the largest possible number of Islamic actors. This would also ensure participative action, exchange of expert advice and the dissemination of dialogue across the Islamic world. Further, this would facilitate the circulation of information about the activities targeting intellectual and doctrinal rapprochement and cohesion among Muslims.
- b) Forums of Muslim youth should be organized on a cyclic seasonal basis, in the form of retreat camps at local and regional levels. Such meetings should be exploited to present to young Muslims the true Image of Islam, to introduce them to the life of the well-guided Companions and to sensitize them to Islamic unity. This would be an opportunity for them to acquire authentic knowledge of Islamic Madhahib, and grasp the facts of jurisprudential differences. Such meetings are of paramount importance, and constitute one of the best opportunities for academic exchange to explore the correct information about Islamic schools.
- c) Venues of science and culture should include in their activities thematic issues relating to the circulation of information on the demerits of doctrinal differences, explaining the causes thereof, so as to consolidate the understanding of Islam, and clarify its goals and complementarity for a better life.

The relevant activities would exploit the rooms of cultural centers, classrooms, the premises of the dissemination of knowledge, the offices of associations

and professional unions. This is because such places constitute available resources. They play a positive role in public consciousness-raising and they are endowed with the capacity to help participants unlearn incorrect concepts about Islamic Madhahib. These activities would be accompanied by recursive organization of local and national conferences on the areas of rapprochement. Such activities would be concurrent with the effective participation in regional and international conference on the issues of Islamic doctrinal differences, which would allow the specification of the means and methods of rapprochement.

- d) There should be an exchange of knowledge, books and information bulletins which contain topics targeted at rapprochement. Such exchange should also involve the scientific research studies that provide information about Islamic jurisprudence schools, as well as their imams and jurists. Focus should be laid on expanding the scope of writing and publication. More interest should be attached to jurisprudence schools, showing their sources adopted in their jurisprudential efforts, with a view to debating them so as to enrich them to achieve the goals of spiritual unity required by Islam. This could be achieved through the exchange of printed materials or modern means of communication, such as the internet or other effective media ensuring direct dialogue, for the stakeholders to be aware of the positions of various schools. Through the presentation of the works of the jurists affiliated to such doctrines, and the exposition of their opinions based on the sources of Islamic law, this would ensure the development of knowledge, the opening up of scientific horizons, and the uncovering of the latent facts about various schools.

II. Research and study premises

This area, with its various fields of study and effective influence on educating generations, should contribute significantly in transferring and translating the content of Islamic jurisprudence, in a civilized style. It should also play a leading role in enriching the Islamic library with new publications in the fields of rapprochement. This would benefit the Islamic society, and allow individuals and groups to continuously keep up with the rapprochement process, adopting it in their verbal and physical behavior.

The responsibility of this area is entrusted to religious and cultural research centers and universities, for the following considerations:

a) Universities, institutes and schools, individually and collectively, are the premises where young Muslims build their minds, develop their perception, and learn religious and secular matters. They are the places where the youth open up their intellectual horizons and develop their scientific competencies. Therefore, they constitute the greatest hub for disseminating the culture of rapprochement in the generations of young Muslims, and raising their awareness of the ideas of Islamic unity. On this basis, within the setting of the objectives of the present Strategy, it is important to revise educational programs, especially the subjects of Islamic education, with a view to unifying their source, correcting their concepts on the structure of Islamic schools of jurisprudence. The programs and teaching methods should be adapted to their target objectives, taking account of the relevant local specificity. The flaws in such programs and their references, subjecting other Islamic doctrines to insult and abuse should be removed. Also, specialized programs of graduate studies should be supported, through building their capacity to produce graduates in legal reasoning and qualified scholars in the areas of Islamic jurisprudence, the science of the critical study of the content of Prophet Sayings (*dirayah*), and the constituents of personal legal opinion based on the flawless Islamic approach. Science and knowledge should be consolidated with the principles and precepts of legal reasoning, as well as the relevant required auxiliary sciences. The talented individuals in this area should be encouraged to engage in graduate and post-graduate studies.

b) Centers of research and specialized studies

Beside their fundamental tasks of the integrated coordination of scientific and religious research works, as well as the analysis of information, these centers constitute one of the most important premises of rapprochement, where research expertise could be exchanged, and information on Islamic schools could be acquired and transferred to users and trainees in a scientific, credible and effective style. Such centers could spell out the areas of jurisprudential differences in a credible and objective fashion. They would limit such differences within their strictly narrow area, and work towards analyzing their intellectual and jurisprudential dimensions. They would then compare them to the sources from which they have been derived. This endeavor would lead to scientific comparative studies that would benefit the members of the concordant Islamic Nation; and the activities of such studies would ensure the accomplishment of the objectives of the present Strategy.

c) Mosques and worship houses

Historical evidence as well as the biographies of reformers, imams, scholars and jurists has shown that worship houses, regardless of their form and size, whether they are mosques, university mosques or seminaries of traditional Shiite Islamic studies (*hawza*), constitute the sole venue where outstanding imams, jurists, preachers, and intellectual were trained. They served as a catalyst for shaping the conduct of trainees, students and the general public alike. They also played a crucial role in consolidating faith, promoting Islamic ethics and reinforcing Islamic unity. They are still endowed with a considerable capacity to effectively contribute to the rapprochement operation with a view to achieving the goals of its strategy. Since they constitute the hub of academic excellence that produced jurists, scholars Imams and intellectual leaders, they remain highly qualified to train the scholars who are capable to implement the objectives of the rapprochement strategy. Benefiting from such institutions in the area of rapprochement is easily accessible; however, this endeavor hinges on the following:

1. Reviving their mission, providing support to the scientific work of their scholars so as to benefit from their missions of promoting the sense of tolerance among school affiliates, consolidating Islamic virtues, reinforcing the sense of solidarity, enhancing brotherly cooperation and goodwill, on the basis of Islamic affinity and unity.
2. Training competent Islamic thought imams, preachers and orators on the culture of rapprochement, building their capacity of balanced academic performance, based on authentic conclusive evidence, in an Islamic space conducive to hard work in the areas of rapprochement between Islamic Madhahib, with a highly tolerant and objective Islamic spirit.
3. Equipping the libraries of mosques and university mosques and public libraries with the Islamic books and other publications dealing with the issues of rapprochement, and encouraging the use thereof, so as to contribute to rectifying the content of the history of Islamic schools. This would have a positive effect on updating Muslims' knowledge and guiding them towards the authentic Islamic lifestyle. It would also consolidate the sense of solidarity and brotherly agreement, which constitutes one of the objectives of Islamic law that the Prophet (PBUH) called for. It is a point of strength of the upright religion and one of its principles on which the upswing of Islamic thought and sempiternal civilization were based.

d) Cultural centers

They constitute a space for the implementation of the activities and programs of the culture of rapprochement. They are endowed with various means of information about jurisprudence schools. They are a catalyst to disseminate and exchange information on intellectual, scientific and religious activities. Hence, their role complements the roles played by other areas for the implementation of rapprochement. They are endowed with modern qualities that qualify them to constitute one of the target areas that can not be overlooked in this respect. They can contribute to the implementation of the goals of the present Strategy as well as the consolidation of its objectives. On this basis, they could be entrusted with a considerable share of the responsibility of disseminating the culture of rapprochement and information about doctrines, besides their fundamental mission of disseminating Islamic thought, and epitomizing its civilizational aspects, which constitute a source of pride to Muslims everywhere.

For these centers to perform their supplementary role, they should be rehabilitated and supported to meet the requirements for their prospective responsibilities in the area of rapprochement of jurisprudence schools, within the plans and programs of the present Strategy.

III. Information and means of communication

There is no doubt that modern and old mass media play an outstanding role in delivering information and consolidating its meaning quickly and effectively. This indicates that they have an unrivalled effective role to play in the rapprochement arena.

Hence, they constitute one of the extremely important areas that would benefit the various phases and operations of implementing the rapprochement Strategy, from the phases of awareness-raising, organization and planning to the phases of implementation, follow-up and evaluation. The means of communication are equally valuable in terms of their effectiveness in assuming a share of the relevant responsibility. Each means involves interesting performance with an effective role complementing the role of another means. This is because each means of communication has its own audience and users. Bringing them all together constitutes a wide communication space. From this perspective, the media constitute an important and effective area for the implementation of the programs and plans of the present Strategy.

To reach the objectives of rapprochement and the ultimate goals of its strategy, there is a pressing need to seek the assistance of the means of communication. It is crucial for rapprochement because it is involved in education, culture, publishing, preaching. It is a modern tool widely used by everyone everywhere. Hence, a top priority of the Strategy programs is to provide support to this sector, and train its scientific and technical executives. This is because it would deliver the programs and activities of the present Strategy to the target population, in line with its plans, the requirements of each phase and the resources of the programs and the cooperating institutions.

IV. Writing, editing and publishing

From the general perspective of this Project, this area would help in launching the Strategy and achieving the targeted rapprochement. This is due to the positive effects it has on permanently documenting the historical truth about the dimensions of intellectual and jurisprudential differences as well as the motives and causes thereof. It consolidates the clear facts and true image of Islam and Muslims. It is an area of sustainable guidance, hence, like the other rapprochement areas; it is of paramount importance for the benefit of generations and the stake holders of the unity of Muslims. This area is also effective in reacting to the dubious comments made up by the enemies of Islam and their attacks against the Islamic Nation.

To benefit from this area and to activate it with a view to implementing the rapprochement Strategy, Islamic governments, scientific and cultural institutions, Islamic cultural action associations, as well as the organizations concerned should all contribute to performing the following actions:

- 1.** Promoting and supporting the co-authorship of books involving scholars from various schools, on the science of interpretation, transmitting juridical content, comparative jurisprudence. Such activity would also include rewriting Islamic history, eradicating incorrect information about jurisprudential differences among schools, so as to expose the clear authentic facts about Islam and uncover the false allegations of the enemies of this religion. This would be achieved through the following:

- a) Objective reference to the sources of Islamic law, using the insightful mind within the Islamic unity, in spite of the differences in jurisprudence ancillary branches and the diversity of legal reasoning perspectives.

- b) Republishing the references of interpretation and Islamic jurisprudence which relate to the objectives of rapprochement, such as, *Majma' Al-Bayan* (Exegesis) by Tusi, adopted by a committee of Al-Azhar Scholars, in the area of interpretation, and *Kitab Al-Bahr Al-Zakhar* (Book of the Bountiful Sea) by Imam Mahdi Ahmad bin Yahya Al-Murtada, in the area of comparative jurisprudence, and other sources whose authors have complied the sayings of the imams and jurists of Islamic doctrines.
2. Re-launching the publication of “*Al-taqrib*”(rapprochement) magazine which used to be published in Cairo, for which the rapprochement institution would be in charge, on the condition that it should be considered the magazine of all schools. It should deal with the issues of rapprochement, and it should be under the supervision of a specialized scientific committee, established by ISESCO and composed of selected jurists from the famous Islamic jurisprudence schools.
3. supporting the editing and publication of Islamic heritage books and ancient works published by various Islamic schools, especially the references dealing with rapprochement, as well as emendating such works from any content that could harm other doctrines, through the following:
- a) Setting up practical scientific committees composed of selected representatives of the entire set of jurisprudence schools, so as to ensure the operations of editing, publication approval and evaluation, as well as encouraging researchers and guiding them in the rapprochement processes.
- b) Appointing learned, moderate and impartial scholars to edit, compile and write content on selected topics targeting the accomplishment and application of rapprochement.

V) Caring for Islamic immigrants

The importance of this area and its potential to contribute to the dissemination of the culture of rapprochement are motivated by the fact that a considerable section of Muslims living abroad needs such culture. Hence, enriching and capitalizing on this area would contribute to the unity of fellow Muslims. This would also acquaint them with the authentic content of the everlasting Islamic heritage; it would equip them with authentic information about Islam and its Madhahib, making them aware of the motivations underlying the differences and trends of such doctrines. It would expose them to such schools' sources and principles

derived from Islamic legislation. This would lead to endowing Muslim immigrants with a standardized knowledge of the principles of their religion. Such authentic knowledge would enable them to face the challenges in their host countries, to adhere to their religion with good faith, and to avoid any factor that would divide their unity or weaken their strength.

A top priority of the rapprochement process in this regard is providing support to the areas where Islam and rapprochement-culture illiteracy are widespread. This support should especially benefit those who live under the effects of Christianization and Judaization or those who live in circumstances that are at odds with the behavior and faith of the Islamic religion. Hence, though the circumstances of this area are complex, its responsibility is greater and it includes - besides Islamic States- most places where Muslim immigrants live. It is one of the top areas for the implementation and application of the Strategy, due to its paramount importance. Therefore, this area needs intensive Islamic effort to be granted priority because of the specificity experienced by Islamic immigrants in terms of legal opinions and the Islamic legislative frame of reference.

Chapter Five

Objectives of rapprochement

Introduction

Based on the well-established belief that Islamic unity is a sacred Qur'anic characteristic, a divine duty commanded by almighty Allah, an objective of His purified law, and one of the requirements of Islamic civilization complementarity;

Considering that the Islamic Nation would lose its identity or even its entity if it loses its unity, its strength would weaken if it disregards such unity, it would fall prey to other nations if it relies on the size of its population rather than its faith and the source of its legislations;

Aware of the need to work towards unifying Muslims, with a view to consolidating the sense of solidarity in intellectual, scientific and practical fields;

Aware of the need to achieve the objectives of Islamic law with regard to solidarity, cooperation and complementarity, based on the rapprochement and interconnectedness of the members of the united Islamic Nation

Implementing Allah's command that calls for unity, [*Hold fast to the rope of Allah and do not divide*] (*Al-Imran*, 103);

The rapprochement strategy has sublime goals, in conformity with its prime reference and fundamental source, namely, the Holy Book and the purified Prophet's Tradition and the objectives thereof as the need to be committed thereto, as a pure divine law and flawless religious way. This makes the Strategy comprehensive and noble for the values it involves, such as love and tolerance. The Strategy is thereby as great as its enlightening horizons and its wide constructive contents.

Due to its comprehensive and insightful character, the Strategy implementation phases are divided into short-term and long-term objectives. In its organization framework, the Strategy involves concurrent and complementary goals. Because the objectives of the Strategy complement the goals of rapprochement, which is the ultimate goal, such objectives are especially important. They constitute an implementation mechanism comprising organization and procedural work, which would involve Islamic action plans, outlining rapprochement issues, as well as the areas, methods, means and mechanisms targeting the implementation of the rapprochement Strategy objectives. From an organizational perspective, the definition of the rapprochement objectives is in order. This is partly because it constitutes the crux of the target goal of this Project, and partly because such

objectives involve potential development and expansion within the framework of the rapprochement principles and goals concurrent with the developing circumstances, availability of resources, and changing conditions. Therefore, these objectives are as follows, in the present Project.

I. Rapprochement Objectives

The foregoing exposition of the importance of the rapprochement of Islamic Madhahib and the need to work towards achieving it indicate that the following objectives should be met:

1. To seriously and systematically seek to narrow the disagreement gap between the Islamic schools of jurisprudence, which has been shaped into matters and issues whose rulings have been inferred from legal sources, and developed during the historical period following the eras of the Prophet Companions and their contemporaries;

Such differences do not in fact constitute disagreement, since they have derived their impetus from legal reasoning speculative concepts, which were motivated by secular reasons. It should be emphasized that they were speculative opinions on the formalities of religious matters. Hence, they were described as differences of mercy, in conformity with the Saying of the Prophet (PBUH): “The difference in my Nation is a [sign of divine] mercy”⁽¹⁾.

2. To demonstrate that the differences between Islamic schools and sects of jurisprudence do not mean disagreement on the essence of invariable legal texts in the Holy Book and authentic Prophet’s Tradition. Rather, such differences are merely the outcome of personal reasoning, and scientific opinions formulated by jurists, imams and subsequent practitioners of legal reasoning. Hence the *status quo* of Islamic schools is merely a pluralistic aspect of speculative sources in understanding the texts of various rulings and diversity of disagreement issues, triggered by the developments of that era. The rulings of such issues are derived from speculative texts, in line with human individual and collective perceptions and flexibility of Islam, without breaching its invariable principles and laws.

(1) Reported by Sheikh Nasr Al-Maqdisi in *Alhujjah*, on the authority of Al-Daylami in *Musnad alfiridaws*, quoted from Ibn Al-Abbas, in *sharaf alummah almuhammadiyya*, page 29, by Mohammad bin Alawi Almaliki Alhasani, Annajah Aljadida Press, Casablanca.

3. To raise awareness of the fact that rapprochement does not mean conflating the existing Islamic Madhahib into one school or into other schools. Nor does it purport to call for contenting ourselves with the common grounds and refusing disagreement issues. Nor does it aim at abandoning some or all Madhahib and adopting a new Islamic opinion, which some jurists call for. Rather, the purpose of rapprochement, as mentioned above, is to highlight the elements of convergence among all schools, and to consolidate the legal links thereof. It also aims at raising awareness to the fact that Islamic rulings are based on the main sources, the Holy Book and Prophet's Tradition, and that the remaining sources of legislation derive their impetus from their references and the sources of legislation.

However, merging or conflating schools is farfetched because it is unlikely to occur and difficult to envision. It is also refused by the Islamic mind and it is at odds with the logic of wisdom. Imam Malik (May Allah be pleased with him) says in this regard, "Ibn Hatim said that Malik said: 'then Abu Jaafar Al-Mansur told me: I intend to unify this science, I would write it to emirs and judges to use it as a guide, and I would cut off the head of anyone who breaches it'. Then I said: Commander of the Believers, the Prophet (PBUH) was within this Nation, and the difference between scholars is a sign of divine mercy for this Umma (Nation). Each one adopts what he deems correct, but everyone is well-guided and acts for the sake of Allah". This indicates that conflating ideas of legal reasoning or marginalizing any school is not required.

4. Raising awareness of the fact that all disagreement issues, jurisprudence schools' rulings and legal reasoning opinions was not limited to one specific school. Most legal reasoning matters were put forward and adopted by more than one imam and school jurist. Therefore, they are not totally different from all other schools. Also, some of these schools converged with one or more other doctrines with regard to certain rules of controversial ancillary branches, and in more than one jurisprudence rule relating to principles. Because they are numerous, we mentioned only their relevant books in this Project.
5. Bringing the members of various schools of Islamic jurisprudence closer together and compromising their points of view should constitute a fundamental goal that ISESCO would be invited to accomplish, through taking organizational and operational measures, including the adoption of the present Strategy, laying down its operational plans and implementing its programs in conformity with

the available intellectual and material resources. The contribution of Islamic States is also required to achieve the objectives of the Strategy.

6. Underscoring the fact that the common grounds of jurisprudential issues shared by all schools are far much greater than the matters on which they differ. This constitutes one of the fundamental factors of rapprochement, as well as a benchmark of the unity of the Islamic Nation. Emphasis should be laid on preserving the principles of schools as intellectual and jurisprudential foundations dictated by Islamic interests, without breaching their invariable principles. Should be observed also is the principle of mutual respect between jurisprudence schools, considering such principle of paramount importance. In so doing, scholars would follow the tradition of outstanding imams, scholars and jurists since the inception of Islamic Madhahib.
7. Specifying the objective and historical reasons behind jurisprudential differences, as well as the inception and demise of certain Islamic sects. This would allow all Muslim youth and the Islamic Nation to be aware of the underlying facts of controversial issues. This would also facilitate remedying the sources of such controversies and devising practical solutions to the relevant problems, which involve the aspects of life of all Muslims.

Therefore, the objectives of the rapprochement Strategy, can be seen along the following lines:

II. Objectives of the Rapprochement Strategy

For any work to be successful and reach its objectives, it should have clear goals. To ensure the success of the rapprochement programs and activities, the present project targets the accomplishment of the following:

- 1- Making of the rapprochement of Islamic Madhahib a renewable Islamic objective that all Islamic States should seek to achieve;
- 2- Specifying the scientific and practical methods and insightful approaches to understand the dimensions of Islamic message, and delineating the concept of “doctrinal differences”, relating to both jurisprudence and principles; raising awareness to the fact that the fabricated doctrinal disunity triggered by dubious conflicts, and the illegal intellectual strife, which has breached the limits of differences that are healthy and acceptable from an Islamic perspective, do not have any Islamic motivations or any Islamic legal frame of reference. This

would drive Muslims to avoid them, so as to preserve Islamic unity. It should be emphasized that jurisprudential differences other than those are merely legal reasoning efforts and speculative judgements, which grow in proportion to the growth of authentic Islamic awareness, and diversify in proportion to the diversity of the course of life. The dimensions and objectives of such endeavors are reflected in the framework of implementing this Strategy and achieving its goals.

- 3- Enhancing the culture of doctrinal and jurisprudential rapprochement for Islamic generations, and preparing them to understand the issues that have arisen in the academic arena, rectifying the intended meaning of what is called 'intellectual and jurisprudential differences', containing the argumentative conflicts, as much as possible, and benefiting from intellectual diversity within the framework of Islamic law.
- 4- Highlighting the foundations of the complementary strong relations between the existing Islamic Madhahib, promoting the principle of legal reasoning action and opening its horizons and disciplines, in conformity with the principles and rules adopted by Islamic jurisprudence.
- 5- Limiting controversial issues to speculative matters, and explaining them in terms of authentic sources, with a view to removing all doubts about faith-related differences, elucidating thereby the authentic aspects of faith and lofty Islamic principles.
- 6- Working towards the eradication of fanaticism and extremism, wherever they may be, and promoting the true objectives of jurisprudential differences, bringing them back to their authentic sources, without any favouritism or fanaticism, with a view to providing solid grounds for the exchange of knowledge, and setting up intellectual Islamic units interacting with new developments in various aspects of life, taking account of the new challenges facing the Islamic World.
- 7- Making more constructive efforts to effectively confront the trends hostile to Islam, with unified Islamic resolve, particularly the Christianization bodies targeting the destruction of the Islamic texture or shedding doubt on its authenticity. Attempts should be made to confront the intellectual hegemony threatening Islam and Muslims. Should also be confronted the prostration of knowledge promoted by contemporary temptations. Advanced technology and

mass media with positive impact should be geared to serving the interests of all Muslims, with a view to preserving their magnanimous faith and their Islamic identity, which constitute the corner-stone of their life.

Chapter Six

Implementation Mechanisms of the Strategy for Bringing Muslim Madhahib Closer Together

I- Implementation Mechanisms of the Strategy for Bringing Muslim Madhahib Closer Together

When considering the mechanisms to implement the **Strategy for Bringing Muslim Madhahibs Closer Together** a whole lot of ideas come to the mind about the means to take at the national, regional and international levels to achieve its goals. These can be summed up as follows:

- 1. Setting up a supreme consultative council for bringing Muslim madhahibs closer together.**
- 2. Activating the academies of rapprochement as well as existing associations and those pending creation.**
- 3. Incorporating rapprochement of madhahibs into the agendas of fiqh academies on a permanent basis.**

Endorsing the following means on which action aiming towards rapprochement of Muslim madhahibs should be based:

1. Taking all the necessary and key measures in order to carry out objective and scientific researches on the realities of each Islamic school of jurisprudence. The aim is to get at its truths and jurisprudential positions from the sources and references of the Islamic school of jurisprudence itself, and not from secondary sources because each Islamic school of jurisprudence has its own characteristics and specificities which are to be derived only from its approved and accredited sources - whether these sources deal with matters of the creed, the theoretical foundations of Islamic law, the branches of Islamic law, and even the area of historicism itself. The rationale here is that what has been written or narrated about a given rite or school, from outside the very structure and sphere of the school, has been mixed with residues attributed to this or that school. As such, these claims or charges are not unacknowledged or even deemed to be correct by the school itself.
2. Given that rapprochement between schools must observe credibility and objectivity, the aforementioned qualities and facts must be obtained from the pronouncements of the members of the Islamic school of jurisprudence itself, or from the sources approved by its members and followers. Judgements from outside must be handled with great caution, for they may be accompanied by falsehoods and machinations may be thrust in them by detractors. Such

statements may be falsely attributed to this or that school, inducing doubt and dubiety. Thus, when researches are carried out, the following criteria should be observed:

- A-** Distinction between preponderant opinions and odd ones, within any of the Islamic schools of jurisprudence. When the researcher attributes a given opinion to a given school, he should take into account the odd opinion, making sure that he ascribes it to the person who expressed it, and not to the school itself. This is because the school consists in a set of rules and ideas, and not individuals.
- B-** Giving weight to opinions and to counter-opinions, for both are important and necessary for dialogue and exchange of view. The process of rapprochement should be governed by unbiased scientific criteria, even if this entails differences. Difference is natural and not reprehensible within the framework of the etiquette of difference. Each scholar is entitled to duly defend their opinion on the basis of proof and evidence, just as any respondent is entitled to counter that opinion on the basis of scientific criteria. While this process is taken for granted in dialectical exchanges, it becomes a priority in dealing with the branches and independent judgements.
- C-** Agreeing on the fundamental and established source of arbitration between any contending opinions: the Holy Quran and the veracious Prophetic *Sunnah* (or Tradition). This also constitutes the prime source of all *Madhahibs*. Muslims are agreed, in theory at least, on this single frame of reference. Nevertheless, owing to the lure of material things, the urge to achieve worldly renown, as well as other external drives, Muslims sometimes fail to abide by the commands of this frame of reference. In any event, the reference used in the process of rapprochement is the Noble Qur'an and the genuine Prophetic Tradition, which have established themselves as the foundation of argumentation amongst Muslims, regardless of their schools of jurisprudence.
- D-** Striving to highlight common points amongst the various Madhahibs because they are far more important than the points of divergence. Such commonalities constitute the common denominator binding various *Madhahibs*. This can be achieved by means of authoring, publishing, scientific research, as well as through the media, be it written, or audio-visual.

- E-** In the event difference should overwhelm ideas and opinions, this should not be made to impact, wholly or partly, on the positions of Muslims towards major global issues. Intellectual and jurisprudential differences undoubtedly show that they constitute a long-standing and treasure trove held out by Islamic schools of jurisprudence. Besides, differences represent one of the ways of Almighty Allah in His Universe. Differences have always and still are the outcome of intellectual and scholarly interactions and diversity of legislative rules. They have made a substantial contribution to scholarly life and *fiqh*, a thing which makes the pride of Islamic heritage on the international scene. There is no disgrace and no danger then in jurisprudential and intellectual difference, the real threat lies in severing Islamic bonds and straying from Divine canon. More dangerous still for the Islamic Ummah and Islamic unity is divergence concerning the fundamental sources of Islam for this kind of difference only leads to abasement and loss, as indisputably seen in the currently perceived weakness, fragmentation, and the predominance of the enemies of Islam. For this reason, one of the most important bases and practical steps of rapprochement consists in unifying and enhancing Islamic identity by emphasizing the unity of its sources and frames of reference and preserving the political, social, cultural, scientific, and economic safety of the Islamic Ummah. The ultimate aim is to obviate the predominance of divergence and the proliferation of cleavages, which, in turn, undermine the right of Muslims to a dignified and glorious life which Almighty Allah has intended as blessings graciously conferred on His Muslim servants.
- F-** The need to consider and focus on major Islamic issues, which are worthy of priority, without unduly going into minor details. The aim is to avoid wasting energy on marginal questions and trivialities. Among the major priorities mention should be made of the systematic divisions between Muslims, the fierceness of maltreatment inflicted on Muslim peoples, and the danger represented by such actions as Christianization, Judaization, stultification, and the wilful exploitation of their material requirements in this dangerous work.

It is necessary to ensure the continuity of deliberate and in-depth dialogue about rapprochement and all the issues relating to it.

Executive plans in this connection might include the organization of specialized conferences, a series of lectures on comparative *Fiqh*, and meetings between thinkers, *Shari'ah* scholars, Islamic jurisprudence pundits, historians, and other

interested experts from around the Islamic world. To implement this plan, practical action-plans need to be devised by the competent authorities in Muslim communities, whether at the level of each Islamic country or at the level of Muslim minorities and expatriate communities outside the Islamic world. The purpose of the measure is to ensure that these plans, programmes and activities incorporate programmes dealing with the culture of rapprochement, awareness-raising media campaigns, as well as intellectual and jurisprudential dialogues which discuss rapprochement-related questions and matters pertaining to the unification of opinions. Such dialogues, which ought to cover all issues bearing on jurisprudential and intellectual differences, should be organized according to a well-contrived and tight schedule, the aim being to address them at the level of the Islamic world, within the framework of the activities organized by ISESCO, and eventually to tackle them at the regional level. Thereafter, programmes can be implemented at the local level, with due attention focused on planning, implementation, follow-up, and evaluation.

This, of course, needs to be preceded by the setting up of an authority, council, association, or any other organizational entity, in Islamic countries as well as in Muslim expatriate communities. These entities, which will be dedicated to issues relating to rapprochement, will be affiliated to ISESCO, structurally and organizationally, and placed under its responsibility and supervision - after the General Secretariat of the Federation of the Universities of the Islamic World (FUIW). The entities will be tasked with laying down their regulations and specifying their duties, responsibilities, working programmes, and plans themselves. In elaborating their activities, identifying their priorities, and specifying their programmes and activities, these entities may draw on the expertise and proposals put forth by Muslim thinkers, jurisconsults, writers, and scholars, in collaboration and coordination with Member States and other similar authorities operating on the Islamic scene. Furthermore, these entities may act on the basis of the following procedural guidelines:

1. Preparing programmes and activities on rapprochement as well as proposing multi-levelled implementation plans to be carried out in different regions.
2. Assessing the endeavours being made to promote rapprochement and striving to generalize them at the level of Member States and the authorities concerned.
3. Communicating with all the individuals and groups involved in rapprochement issues, and informing Member States and the authorities concerned, for the purpose of cooperative action and consultation.

4. Conducting media work, information, and follow-up of the international, regional, and local efforts being made in the areas of rapprochement.
5. Proposing purposeful Islamic research topics, conducive to the unity of the Islamic world, theoretically and practically, in accordance with the overarching goals of rapprochement. These research works will be aimed at serving Islamic goals, notably, in terms of the consolidation of its unity, the firm establishment of its principles, and the preservation of its integrity. Of course, particular care should be taken to ensure the extension, broadening, and modernization of action aiming to improve the state of affairs of Muslims, both in their worldly life and in the Hereafter. The purpose is to enable Muslims to keep pace with civilizational, scientific, and technological advancement, and to restore them to the status which Allah has intended for His Ummah - a community to which the description of the Messenger of Allah (Peace and blessings be upon him) rightly applies: "in their mutual kindness and mercy, the believers are as one body. No sooner is an organ afflicted by an ailment than the rest of the body is gripped by insomnia and fever."

II- Practical Measures:

For an effective implementation of the Strategy for Bringing Muslim Madhahibs Closer Together, complementary and combined measures should be taken at the national, regional, and international levels. At the forefront of such measures we find:

At the national level

1. Devising of a national policy aimed at enhancing rapprochement between various Muslim Madhahibs. The national policy will comprise such practical plans as would allow the entities in charge to highlight the reality of jurisprudential differences from the Islamic vantage point and to explain the fact that such differences are intellectual phenomena emanating from considerations that are not incompatible with Islamic legislation and that these differences - especially as concerns issues and matters resulting from independent judgement, derived from conjectural evidence - have authentic and justified Islamic roots.
2. Incorporating the subject, "The Culture of Rapprochement between Islamic Schools of Jurisprudence," in educational curricula, especially in religious

institutions, schools, and universities that have courses in various branches of knowledge pertaining to Islamic law, in accordance with standard pedagogical methods. The importance of such a subject should be stressed throughout the entire educational process, and particular care should be taken to ensure that it is integrated as a practical in-class subject and as a core class wherein those who excel in it earn higher grades in their educational achievement grade records.

3. Intensifying the periodic conferences on rapprochement and its behavioural culture in the various institutes and centres concerned with cultural issues, as well as educational institutions. Educators should focus prior attention on Islamic unity, explain the reasons behind intellectual and jurisprudential differences between Madhahibs, and strive to simplify the rationale behind such differences and to clarify their aims.
4. Seizing every national occasion and periodic youth gatherings in order to bring up issues relating to rapprochement, disseminate the culture of rapprochement, and explain that differences between Madhahibs should not be taken to mean dissimilarity, contradiction, and disunion and that such differences have nothing to do with the essence of Islam and its fundamentals.
5. Establishing connections between the foundations of *Da'wa* (Islamic Call), on the one hand, and the substance of differences among Islamic schools of jurisprudence and the multiplicity of Islamic legal opinions (*Fatwas*), on the other. It is necessary for the *Fatwas* of the age to be consistent with the essence of Islam. Reference should be made to the prime foundations of Islamic law, and not to mere statements devoid of any sound religious basis. This is particularly true of the urgent present-time social, political, and economic questions.
6. Calling upon Islamic faculties and universities to develop their curricula and programmes and to open new horizons for knowledge by widening the scope of higher Islamic studies and developing them within the framework of rapprochement. These institutions should also be encouraged to open the gate of *Ijtihad*, in accordance with the established fundamentals in the discipline of *Ussul al-Fiqh* (the theoretical foundations of Islamic jurisprudence), in order to allow them to graduate scholars and *Mujtahids* (scholars practicing *Ijtihad*), who are well-versed in Islamic affairs and questions and to enable them to undertake specialized and advanced scientific research into such areas as

would serve and achieve the aims of rapprochement between Islamic schools of jurisprudence. In parallel to this, higher education institutions should be urged to grant rapprochement curricula uttermost importance in theological and academic studies, masters' theses, doctoral dissertations, as well as in other sundry academic publications.

7. Granting particular attention to the role played by *Imams*, sermonizers, preachers, people engaged in the Islamic Call. All of these should be induced to serve the mission of rapprochement. Action should be directed also towards unifying their Islamic perception of Muslim *Madhahibs*, in order for them to refrain from engaging in petty or side issues and provoking disputations - unless the questions raised are intended to enrich and expand knowledge, as well as serve the aims of the law, and enhance Islamic unity.
8. Securing well-planned and accurate implementation of the recommendations of the Strategy for Bringing Muslim Madhahibs Closer Together, and availing the Muslim society of all necessary means for its execution in accordance with the Islamic vision culling form the immaculate sources of the Islamic law, while considering the financial means and available resources of each country.
9. Mobilising Muslim potentialities active in educational, scientific, media, family, professional and other walks of life, both on official and popular planes, to accommodate the contents of the Strategy for Bringing Muslim Madhahibs Closer Together.

At the regional and international levels

Regional and international cooperation in all different aspects of life is no less crucial and important an element in fields relating to religious action and unity than it is in the development and stability of international relations. This is particularly relevant to such areas as regards inter-complementarity, coordination, consultation, mutual advice, as well as maintaining intellectual and spiritual stability in a peaceful and brotherly atmosphere as required by the magnanimous religion of Islam. For an effective implementation of the objectives outlined in the strategy, regional and international cooperation should consist in what follows:

1. Taking complementary and combined action to promote all forms of cooperation between national institutions as well as regional and international organizations operating in the field of *Da'wa* and Islamic education.

2. Facilitating exchange of expertise and information as well as plans for joint Islamic action, in accordance with the goals of rapprochement, in addition to making every effort to encourage exchange of printed material and publications aiming to bring the Muslim world peoples closer together.
3. Enhancing contact between scholars, *Murshids* (guides, or instructors), enlightened people, researchers and lecturers engaged in all aspects of Islamic Call, especially in matters touching on rapprochement of Islamic schools of jurisprudence.
4. Encouraging exchange of visits, increasing the number of scholarships, and receiving Islamic studies students and researchers, especially those concerned with rapprochement issues, in addition to providing means of carrying out field research works, and conducting opinion polls among students to enable improved access to information, as well as to facilitate success of research works and to afford general benefit thereof, the ultimate purpose being to achieve the objectives outlined in the strategy for rapprochement.

To this end, the following measures may be taken by the Supreme Consultative Council:

1. Providing material and technical assistance to Islamic countries as well as scientific organs and associations in preparing plans for rapprochement of Islamic schools of jurisprudence and developing relevant executive programmes. The ultimate aim is to enable them to achieve their objective of publicizing the goals of rapprochement at the local level, giving real substance to rapprochement and putting its goals at the centre of interest of scholars and intellectuals.
2. Following up the implementation of the rapprochement strategy policy as well as the evaluation of its programmes and practical plans through: - issuing a periodical on the executive measures taken and reached, within the framework of various rapprochement approaches, at the level of either countries and organizations or national Islamic bodies. The periodical will have as a mission to make available literature on rapprochement and provide a record of the works of jurispruce pundits as well as scholars and thinkers on rapprochement, for documentation purposes.
3. Allocating an annual prize for best research works in rapprochement of Islamic schools of jurisprudence, the aim being to encourage researchers in this field, enhance religious scholarly interaction, and entrench the noble foundations of rapprochement.

4. Adopting periodic executive programmes to examine ways of developing the means to achieve and renovate the objectives of rapprochement, the aim being to open future prospects for Islam and our Islamic world.
5. Conducting an inventory of purposeful national programmes as well as programmes designed by organizations towards rapprochement of madhahibs, the aim being to generalise expertise and benefit therefrom in the preparation of future rapprochement programmes, as well as avoid duplication of efforts.
6. Encouraging Islamic cooperation in the training of mujtahids and scholars engaged in the call for rapprochement, and effectively contributing towards the development of academic institutions specialised in the preparation of competences in Islamic studies as well as in the unity and development of Islamic thought, particularly in most needy Member States.
7. Supporting brotherly relations between interested scholars, intellectuals and young scientist generations, the express purpose being to enhance communication with one another and exchange of visits at the national and international levels, as well as overcome material and technical obstacles hindering the exchange of views and exercise of religious independent judgment for the benefit of the large Muslim community.
8. Drawing up necessary integral plans and programmes and linking them to those designed by the Organization. The aim is to keep abreast of intellectual developments in the field of rapprochement and meet the changing needs of Muslim societies, anytime and anywhere. Action will also be made in this context to direct efforts and support to bring to fruition national programmes and to prevent duplication of efforts, with due attention focused on priority goals.
9. Issuing a new document containing methodical bases for the authentication of hadiths and the identification of their fields of application. Due attention will be focused in this regard on the criteria for criticism endorsed by scholars of hadith sciences, as well as on the investigation of all different views within each Islamic school of jurisprudence, the aim being to decide on a set of rules accepted by the majority of the community of scholars.
10. Compiling a new book on *Ahadith al-Ahkam* (the legal study of Sunnah) wherein shall be taken into account the rules agreed upon among scholars of renowned Islamic schools of jurisprudence, in terms of significance and certification. This can be achieved by drawing on the groundwork of reference works highly regarded among Islamic jurisprudence scholars and pundits.

11. Holding a special symposium or workshop to lay down criteria for the interpretation of religious texts and adoption of bases for *al-tarjih* (evaluation), in accordance with the general goals of Sharia. The aim is also to correct the misunderstanding about concepts contained in a certain number of *hadiths*.
12. Convening sessions of *fiqh* academies on the theme of "questions of interpretation-based consensus versus consensus-based interpretation", or any other similar issues to do with rapprochement.
13. Inviting scholars, intellectuals and Mujtahids to review works with extremist ideas about Muslim *madhahibs* or those lacking clear-sightedness and understanding when it comes to describing their immediate surrounding, the aim being to subject them to objective, scientific analysis, without being influenced by any sort of external views which are inconsistent with the spirit of Islam and the inner logic of the principles of right and Islamic tolerance. The aim is also to rid such works of the falsehoods thrust in them about Muslim unity concepts and goals and rapprochement means, with due attention focused on conducting awareness-raising campaigns to bring closer together the elite and the rest of the community of Islamic jurisprudence scholars.
14. Calling upon Islamic countries as well as Islamic organizations and institutions to undertake a comprehensive survey of all jurisprudential works and publications, the aim being to review them, in the light of the sound Islamic civilizational approach, and to remove all jurisprudential differences that are in total disagreement with the goals of intellectual and Islamic jurisprudence plurality in the various Islamic schools of jurisprudence based on the rules and foundations of Islamic law.
15. Encouraging Muslims and researchers to delve into the treasure troves of Muslim *madhahibs*, housed in private and public national libraries; in addition to boosting publication of precious works of our time-honoured Islamic heritage, especially those in line with the objectives of this strategy.
16. Encouraging the undertaking of studies and researches dealing with the rewriting of Islamic history from its true perspective, the purpose being to abolish the blemishes which marred it as a result of years of strife among *fiqh* rites. Action will also be made to correct those concepts made about Islamic *Sharia*, and to remove all inaccuracies and *Isra'iliyat* (Jewish legends).