A CRITICAL EDITION, TRANSLATION AND COMMENTARY OF UTHMAN BIN FODIO'S IRSHAD al- UMMAH ILATAYSIR al- MILLAH

THESIS

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BY:

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DECLARATION

I hereby declare that this thesis has been written by me and that it is a record of my own research work. It has not been presented in any previous application for a higher degree.

All quotations are indicated by quotation marks and sources of information are specifically acknowledged by means of references.

.....	.....
BALA MUSA	**DATE**

DEDICATION

This work is dedicated to:

1. My parents (Alh.Musa Alkhair and Hajiya Dago), my grand mother (Hajiya Bilki) who brought me up.
2. My guardians (late Kawu Wakili and Kawu Mai Kudi) for bearing the burden of my education.
3. My family (Fatima, Aina'u and Hasana) and our children (Bilkisu, Ahmad, Aisha, Abubakar, Abdullahi and Amina) for enduring the troubles of my absence during the period of my course and the research work.

DIGITIZED

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ABSTRACT

This thesis is a critical edition; translation and commentary of Shaykh Uthman b. fodio"s work *Irshad al Ummah ila Taysir al Milluh.* The author offered an exhaustive discussion on the L-ase of Islam in three issues, which are: practical worship. Juristic verdict and judicial ruling.

The author criticized Taqlid. which is strict adherence and partisanship to one school of law in the above three issues of the religion, arguing that there is no any injunction in the Quran or in the Sunnah. no any authentic report from the leading scholars, enforcing a particular school of law to be followed by all muslims. noting that a muslim is free to follow any school of his wish and there is no any interdiction in that.

The researcher believes that the decadence and stagnation of the Muslim Ummah today in Nigeria pertaining learning and religious practice are consequences of the relegation and total disregard of the ideals taught by the Sokoto Jihad leaders (such as Shaykh Uthman b. fodio) in their literary works.

The above, according to the researcher, necessitate the need of the Muslim Ummah in Nigeria for the study of the Sokoto Jihad literature, in particular Shaykh Uthman's writings, for their relevance and applicability to our contemporary situation. This is confirmed in the reports of previous researches conducted on various issues of academic significance in pursuance of various levels of degrees i*n* the country.

The book, *Irshad al Ummah ila Taysir al Millah,* is chosen for this study for its contribution to the subject matter highlighted above Literatures related to the content of the book which includes a study of the Shaykh's biography and his view of the concept of *Taqlid* and the schools of law were review ed.

A textual edition, translation and commentary *of* the hook is conducted The process and procedure for editing Arabic manuscripts was followed. An edited Arabic text of the book is produced from three different manuscripts.

The research questions have been answered. Finally **the** study is summarized, a number of recommendations given for the reformation of **the** Nigerian educational, social and religious systems.

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ABBREVIATIONS.

A.B.U.	Ahmadu Bello University, Zaria.
A.H.	After Hijrah of the Prophet Muhammad (S.A.W.)
b	bin. Meaning a son of.
B.A.	Bachelor of Arts.
B.S.O.A.S	Bulletin of School of Oriental and African Studies, London.
C.E.	Christian Era.
d.	Died.
Ed.	Edited.
M.A.	Master of Arts.
M. ED	Master of Education.
M.LS	Master of Library Science.
Ms.	Manuscripts, pl. Mss.
n.d.	no date of publication.
N.H.R.S.	Northern History Research Scheme (Faculty of Arts, A.B.U. Zaria)
Ph.D	Doctor of Philosophy.
R.A	Radhiyallahu Anhu. Meaning May Allah be pleased with him.
S.A.W	Salallahu Alaihi Wa sallam. Meaning may Allah's peace and Blessings be upon him.
S.W.T	Subahanahu Wa Ta'ala. Meaning the Glorified and Exalted in Power.
U.D.U.	Uthman Dan Fodio University (Sokoto).
U.K.	United Kingdom.

Consonants:

Arabic Letter	Name	Transcription
ا	Alif	a
ب	Ba	b
ت	Ta	t
ث	Tha	th
ج	Jim	j
ح	Ha	ḥ
خ	Kha	kh
د	Dal	d
ذ	Dhal	dh
ر	Ra	r
ز	Za	z
س	Sin	s
ش	Shin	sh
ص	Sad	ṣ
ض	Dad	ḍ
ط	Ta	ṭ
ظ	Za	ẓ
ع	'ayn	ʿ

غ	ghayn	gh
ف	fa	f
ق	qaf	q
ك	kaf	k
ل	lam	l
م	mim	m
ن	nun	n
ه	ha	h
و	waw	w
ي	ya	y
ء	hamza	'

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CHAPTER ONE

INTRODUCTION

1.0 Background of the study: This research work is a critical edition, translation and commentary of Shaykh Uthman b. Fodio's book, *IRSHAD - al- UMMAH ILA TAISIR-al-MILLAH* (i.e. A GUIDE FOR THE MUSLIM COMMUNITY TOWARDS UNDERSTANDING THE SIMPLICITY OF ISLAM).

Shaykh Uthman b. Fodio (d. 1817) was the leader and initiator of the Sokoto *Jihad*, the Islamic movement that led to the establishment of a state administered according to the Islamic law. Islamic literacy has existed in Hausaland (now known as Northern Nigeria) before the emergence of Shaykh Uthman. Ladan (1991) reported that the introduction of Islamic literary activities in Hausaland could be traced beyond the 11th century. This region therefore had experienced Islam much earlier before the Sokoto *Jihad*,of the 19th Century (C.E.)

The works of Ocho and Ozigi (1981) and Muhammad (1993) accounted on the introduction of Islam and Islamic literacy to Africa and the Hausaland in particular. According to them Islam had a long tradition of formal education in this region.

Schools and Centres of learning that attracted students and scholars existed. There were many Islamic Scholars in Bornu, Kano, Katsina and Zaria, which flourished as Centres of learning. Muhammad (1993) reported that many Centres of learning existed in the various cities of West Africa before the *Jihad* of Shaykh Uthman b. Fodio in which Arabic and Islamic Knowledge were taught and learned. Some of the Centres which he mentioned include: Yan doto, Kano, Borno, Insharuwa, Katsina, Zazzau, Kulum Fardu, Agades, Fairama, Tishadi, Maje, Gazargamu, Bagarmi and Tumbuktu.

Also according to him, eminent scholars of repute of the period carried out scholarly works and activities in the region prior to Shaykh Uthman. Some famous ones among them were: al-Imam Yahya b. Abdullahi, ash-Shaykh Fathul lahi, Muhammad b. Abdul Karim al-Magili, Shaykh Abdullahi Thiqah, Shaykh Muhammad Zahrah, Shaykh Muhammad al-Falatiy, Shaykh Jibril b. Umar, Shaykh Muhammad b. Sulaiman al-Waliy and Shaykh Umar Kabara.

However in the seventeenth century C.E. events took new dimension. Stagnation and decadence prevailed; there was no proper way of conducting proper religious practices. Sanda (1991) reported that Ignorance, blind imitation and oppression prevailed as scholars abandoned their duties. This general decadence of the society necessitated the need for a reform.

During the middle of the 18th Century of the Christian era according to Siddiqi (1989), a bright star appeared on the sky of Hausaland the dazzling light of which wiped off the darkness, decadence and gloom, which enveloped the whole area. The inhabitants were awakened and enlightened by its light, that star was Shaykh Uthman b. Fodio. Ladan (1991) reported that in the second half of the nineteenth century of the Christian era, Hausaland experienced a remarkable transformation in the flow of literacy by scholars of different backgrounds. A revivalist and a prolific writer known as Uthman b Fodio emerged in Hausaland. The Sokoto *Jihadists* under the leadership of Shaykh Uthman b. Fodio waged a revolution that led to the establishment of an ideal Islamic state called the Sokoto Caliphate. Unfortunately, in due course trends of events changed dimension again; a gradual and systematic erosion of the ideal teachings of Islam established by Shaykh Uthman and his

lieutenants began, and consequently *Taqlid* (strict partisanship to one school of law), innovations, ignorance and fanaticism dominated the society. Thus, leaving the Muslim community, as observed by Sanda (1991), in a daring need for Islamic re-orientation. This has been the situation up till today. The current situation that obtains in Nigeria today is observed by Sanda (1991) as a reversion to the *Prejihad* period of Uthman b. Fodio.

This and other related issues inspired the researcher to critically edit, translate and comment on Shaykh Uthman b. Fodio's book, IRSHAD al-UMMAH ILA TAYSIR al-MILLAH, one of his major and monumental works on the schools of law. It is the researchers earnest hope that through this effort the current Muslim community could be delivered out of the predicament of fanaticism and ignorance in their religion. This is an area to which attention should be given because of its great relevance to the contemporary situation prevailing among Muslims in Nigeria.

Furthermore Tukur (1991) observed the contributions of the Sokoto *Jihad* leaders in the 19th century as remarkable. The noble works of the *Jihadists* are a glorious legacy for the people of Nigeria of which they should be proud and for which they should express gratitude and appreciation by reviving and preserving them through conducting researches on them. Thus, the researcher believes that the legacy of our predecessors could be immortalized and inspiration and guidance for the future could be drawn from them.

For years, concern and interest in the study of the Sokoto Jihad literature and its relevance to Nigerian situation have been on the increase. Shaykh Uthman b. Fodio's works in particular have been an area of attraction to many researchers. .Kani, (1978) studied the literary activities in Hausaland in the late 18th and early 19th centuries with special reference to Shaykh Uthman b. Fodio.The Edition and Translation of the Shaykh's two famous books

Bayan wujub al Hijra and *Hisn al Afham* by al-Masri (1978) and Siddiqi (1989) respectively, are some examples worthy of mention.

In a nutshell Shaykh Uthman's thought and ideas have been studied, yet more are unstudied. Siddiqi (1989) accounted on the inadequacy and lack of studies and research works on the writings of Shaykh Uthman b. Fodio but a number of works on the various aspects of his life have been done by some researchers such as Balogun (1981) and Hiskett (1973).

1.1- The Problem: -

One of the most significant problems that attracted Shaykh Uthman's attention in his writings was the issue of *Taqlid* and the schools of law. According to Ladan (1991:9) '' Shaykh Uthman was reported to have written over one hundred works within the period of his revivalist career. Each of his works was an answer to a prevailing problem of the community''.The book under study *Irsha-al-Ummah* was written on this theme. The Shaykh in this book emphasized on simplicity in the religion as a principle upheld by the holy Prophet (SAW) and the righteous predecessors in Islam. He stressed the fact that Islam is a simple and easy religion that does not burden its followers with undue rigor or stress. He expressed the view that all the recognized schools of jurisprudence in Islam are right and authentic, and are paths to *al-Jannah* (the Paradise) noting that none of the orthodox schools has monopoly of the truth. He further ascertained that there is no obligation in the *Qur'an* or in any authentic report from the Prophet or from any Imam of a school of law on any muslim to adopt one specific school or another.

A muslim can adhere to any school he wishes. Shaykh Uthman confirms that the differences of opinion among the schoolars is a mercy for the Muslim community in which

1.3 Objectives of the Study:

This research aims at achieving the following objectives by this study:

1- To critically edit the Arabic Manuscript of the book, IRSHAD-al-UMMAH ILA TAISIR-al-MILLAH, of Shaykh Uthman b. Fodio.

2- To translate into English language and make commentary on the edited text of the book so as to expose the ideal teachings of the author and enhance their better understanding.

3- To enhance publication of valid, reliable and authentic information on the Sokoto Jihad literature so as to improve the quality of Islamic Studies Knowledge.

4- To instill and entrench in the Muslims the ideal of studying and learning Islamic ethics in the light of *al-Qur'an*, the *Sunnah* and the practice of the *Salaf*, and to enlighten them to hold the principle, of simplicity in the religion, and to shun away rigidity, fanaticism and sectariaism in religion.

5- To understand and appreciate values of the Sokoto *Jihad* literature for societal transformation.

6- To improve the approach and methodology to the study of *Fiqh* (i.e. Islamic Jurisprudence), that is from *Fiqh at Tamadhhab* (ie sectarian jurisprudence) to *Fiqh al Muqaran* (ie comparative jurisprudence).

7- To emphasize on the Muslims the obligation of adhering to the teachings of *al-Qur'an* and the *Sunnah* to and to encourage a universal view of the muslim Ummah to contemporary issues.

8- To make the government and people of Nigeria to appreciate the value, relevance and application of Islamic values in particular Shaykh Uthman's thoughts and ideas to our educational, political, social, religious and economic problems that have became an obstacle to our national growth and development.

1.4 Scope of the Study:

This study is limited only to the edition, translation and commentary of Sheikh Uthman's *IRSHAD-al-UMMAH ILA TAISIR-al-MILLAH*, which is in Manuscript form. Although there are other relevant works of Shaykh Uthman b. Fodio on the subject matter under study like *TARWIH-al-UMMAH BI BAYAN TAISIR-al-MILLAH, HIDAYAT-at-TULLAB* and *TAUQIF-al-MUSLIMIN 'ALA HUKMI MAZAHIB-al-MUJTAHIDIN*, which are worthy of study, this is not possible due to the time factor and the size of the manuscripts.

1.5 Limitation of the Study:

This study relied on a certain number of Manuscripts within the reach of the researcher; it cannot claim coverage of all existing manuscripts.

CHAPTER TWO

REVIEW OF RELATED LITERATURE

2.0 An Overview:

Much has been written on the Sokoto *Jihad* literature and its relevance to the Nigerian situation. The works of Shaykh Uthman b. Fodio had attracted attention of many writers and researchers. However very little attention and concern was given to the study of Shaykh Uthman's works on *MAZAHIB-al-FIQH -al-ISLAMIY* (the schools of Islamic Jurisprudence), despite the relevance and importance of the subject matter to the contemporary situation.

There are five works of the Shaykh that are mostly known on this subject matter, namely: *IRSHAD-al-UMMAH ILA TAISIR-al-MILLAH,* (the book under study), *NAJM AL IKHWAN HIDAYAT-at-TULLAB. TAUQIF-al-MUSLIMIN 'ALA HUKMI MAZAHIB-al-MUJTAHIDIN* and *TARWIH-al-UMMAH BI BAYAN TAYSIR al- MILLAH.* Except the second one (ie NAJMAL IKHWAN), the researcher has so far not confirmed any research work carried out on any of these four works of Shaykh Uthman. Therefore the researcher assumed this study as timely and it is hoped that it will pave way for more studies into the area. Although the present study is solely on *IRSHAD-al-UMMAH ILA TAISIR-al-MILLAH.* this does not rule out the possibility of touching the other works on the subject matter where and when necessary.

It is pertinent to note that some scholars like al-Masri (1978), Kani (1978, 1988)) Hajj Nour edited in Usman (1979), Suleman (1986), Balogun (1990) and Ladan (1991) have works that offered some useful contributions to the discussion on the Shaykh's views on the

schools of Islamic Jurisprudence. Three of the five mentioned works. aL-Masri (1978), Hajj Nour in Usman(ed.1979) and Kani (1988) are specifically notable in this regard. However, as a matter of fact, these authors did not offer a comprehensive and exhaustive coverage of the subject matter. Yet some useful inferences could be drawn from their works.

In this chapter literatures related to the Shaykh's biography, education, scholarship, authorship and his views on *Taqlid* and the Schools of law and other relevant issues are reviewed, related and criticized.

2.1 Biography of Shaykh Uthman b. Fodio:

2.1.0 **His Ancestral origin and Family Background**:

Notable works on Shaykh Uthman's biography like Last (1967), Hisket (1973), al-Masri (1978), Kani (1978) Balogun (1981), and Siddiqi (1989) have discussed comprehensively on his tribe. Al-Masri (1978) traced the Shaykh's descent to one Musa Jokolo who had migrated from Futa Toro in Senegal with his *Toronkawa* followers (a Fulani tribe) to Birnin Konni in about mid-fifteenth century C.E. Hisket (as in Kani 1978) accounted that Musa Jokolo was the 11th ancestor of Shaykh Uthman. He came with his tribe (the *Toronkawa*) to Hausaland. They initially settled in Konni before spreading to other places in the Hausaland. Konni or Birnin Konni, which was in the Hausa state of Gobir, is presently in Niger Republic. The period of their migration was assumed by al-Masri (1978) to be 15th century. C.E. However Balogun and Last as reported by Kani (1978) held a different view. They assumed it to be before the 15th century C.E. However, the researcher has not seen any other supporting material as an evidence to confirm the most authentic view, further researches may reveal it in future.

Hiskett (1973) and Last (1967) are of the view that the Shaykh's ancestors were driven out of Konni by persecution and were caused to migrate to *Maratta* at the beginning of the 18th century C.E. under the leadership of Muhammad Sa'ad, who is the grandfather of Shaykh Uthman. al-Masri (1978) reported that the Emir of Konni, Muhammad Damka raided and persecuted the Shaykh's ancestors killing about forty scholars and taking their women and children as captives. Balogun (1981) is of the view that the movement of the Shaykh's ancestors (the *Toronkawa*) from Konni to Maratta was 1754. This was the period when Shaykh Uthman was born. However this is different with the report of Last (1967) and that of Hisket (1973) who opined that it was the beginning of the 18th century. al-Masri (1978) reported that the family of the Shaykh later moved from *Maratta* to *Degel* which was destined to be the center of his community.

Hiskett (1973) noted that the *Toronkawa* had accepted Islam at an early date possibly even before the fifteenth century C.E. when they moved down from Futa Toro. Then they began to establish for themselves a tradition of Islamic learning gradually abandoning nomadism in favor of scholarship. The *Toronkawa* indeed were distinguished for their knowledge and piety. Idrissou (1979) reported that the Shaykh's ancestors were not just Islamised, they played a certain role in the Islamisation of Hausaland, Borno and Bagirmi in particular and they did so at least from the 15th century on ward. The Islamisation here refers to dissemination of Islam, which they found in a state of decadence. This is what Hisket (1973) described as "Mixed" Islam. This is to say that Islam in their time had become quite widely spread among the local Hausa scholars as reported by Last in Hiskett (1973).

It has been observed by Idrissou (1979) that all Fulani groups including the *Toronkawa*, had an Islamic minority and a non-Islamic majority, the Shaykh's lineage belonged to the former as already indicated.

There are various legends as to the origin of the Fulani people. The available reports on this are mostly traditional accounts sourced by oral traditions and folklores. Siddiq (1989) reported that a commonly held belief about the origin of the Fulani tribe is that it comprises Roman and Arab blood. Shaykh Abdullahi b. Fudi (Shaykh Uthman's brother) and Shaykh Muhammad Bello, (his son) have claimed in their writings that Uqbah b. Nafi' was their forefather and they were his children. In his *Kitab an Nasb* Shaykh Abdullahi b. Fodio, claimed that the Fulanis originated from Uqbah b. Nafi', the great Arab companion who conquered North Africa during the reign of Amr b. al- As in Egypt. The Muslim army then under the command of Uqbah conquered the Roman Christians and their king surrendered and embraced Islam without combat. Uqbah married the king 's daughter (*Bajjomangu*) who gave birth to children that became the fore fathers of the Fulanis. Muhammad Bello had stated in his book *Infaq-al-Maisur* that Uqbah b. Nafi' left the children under the protection of their mother and returned to Egypt. Their mother brought up the children, they married and generated. The Fulani are their descendants. They spread all over the Western Sudan. These people later became the leaders of the Fulani.

This popular myth that claims for the Fulani a Roman and Arab blood through the great companion Uqbah b. Nafi' is debunked by Hiskett (1973). He argued that there is nothing in their language to suggest that they are ethnically akin to the Berbers. However, reports of Shaykh Abdullahi b. Fodio and Shaykh Muhammad Bello in their books *Ida –an – Nasukh* and *Infaq-al-Maisur* are enough to answer Hiskett's argument. Muhammad Bello's report in

Infaq-al-Maisur, indicated that the children of Uqbah, who were the ancestors of the Fulani, were left with their mother who brought them up. This made them to lose their father's language (Arabic). They learnt a different language other than the language of their father. And again Shaykh Abdullahi b. Fodio reported in his *Ida-an-Nasukh* that the Fulani spoke the language of their mother, (Bajjomangu) they did not know their father's (Uqbah) language, which is Arabic, for as at that time very few people could speak it. According to Balogun (1981) precise knowledge of the origin of the Fulani race and their original home before they migrated to West Africa still remains hidden except otherwise the traditional accounts given by Shaykh Abdullahi b. Fodio and Muhammad Bello in their writings (such as *Ida an Nasukh* and *Infaq al Maysur)*.

Infact the view expressed in some writings claiming descent from Prophet Muhammad (SAW) for Shaykh Uthman b. Fodio is just a legend. For instance, Muhammad Bello in his book *Infaq-al-Maisur* (PP.181-2) stated that Hawwa, (Shaykh''s mother) was a daughter of Muhammad b. Fatima bint Muhammad b. Sharif Abd-al-Samad who derived his descent from the Prophet through Mulay Idris of Morocco, the founder of Idrisid dynasty in Morocco who died 793 A.H. and was a descendant of Ali b. Abi Talib, the fourth Caliph of the Prophet. Shaykh Uthman, himself and his brother Shaykh Abdullahi b. Fodio denied and never accepted such a descent.

al-Masri (1978) reported that Shaykh Uthman's refusal and denial of favorable widespread legend such as this and the claim that he is the *Mahdi* demonstrate his sincerity and humility.

He further reported that a certain veneration and prestige were attached to Shaykh Uthman's family as heirs and custodians of a rich heritage of learning and piety which predisposed the society to accept their religious and intellectual leadership. This is why the

Hausa society has a deep reverence for that family, indeed the family enjoyed the highest reputation for learning and piety.

2.1.1 Birth and Childhood:

al-Masri (1978) reported that Uthman b. Muhammad Fudi b. Uthman was born at Maratta in the land of Galmi in the North Western Hausaland on Sunday the last day of Safar 1168 which corresponded with Sunday 15th December, 1754. Another account confirming the same report includes that of Hiskett (1975), Balogun (1981), Siddiqi (1989) and Adamu as in Kani and Gandi (ed. 1990). Hence, the researcher therefore finds this as the most commonly reported account by many writers on the Shaykh's biography. Balogun (1981) reported that not much is authoritatively known about Shaykh Uthman's childhood except some legends contained in the Fulani charismatic literature. *Karamat*. Siddiq (1989) confirmed the same fact that very little is known about Shaykh Uthman b. Fodio's childhood except very scanty information through oral tradition in *Fulfulde* language.

2.1.2 **Educational Background:**

Siddiq (1989) reported that Shaykh Uthman's education was completed through the traditional education system, which consisted of recitation and memorization of the Qur'an, studying Arabic language at a level of understanding the Qur'an, Hadith and Fiqh together with general study of the rules of reading and writing Arabic language. This was necessary before obtaining the certificate from the teachers. Shaykh Uthman started his elementary education under his father and after studying the Qur'an with his father he went to study under other scholars among whom were Uthman Binduri al Kabawi, Muhammad Sambo and Jibril b. Umar.

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Shaykh Abdullahi b. Fodio has mentioned in his *Ida-an-Nasakh* about Shaykh Uthman's traditional Islamic education as follows: "The Shaykh read the Qur'an with his father and learnt Ishriniyat and similar works from his Shaykh, Uthman known as Biddu al Kabawi. He learnt syntax and science of Arabic grammar from *al-Khulasah*. He read *Mukhtasar* with our paternal and maternal uncle Uthman known as Bidduri Ibn al Amin..."

al-Masri (1978) explained that Shaykh Uthman b. Fodio had a thorough grounding in the traditional Islamic Sciences under the best scholars of the area. He matured as a scholar early in life and before the age of twenty he had started writing in his mother tongue, *Fulfulde*. Hiskett (1973) who gave a comprehensive report about Shaykh's education and intellectual life, reported that from his early days Shaykh Uthman was surrounded by books and manuscripts which his father and others copied laboriously from the texts that came from North Africa and Egypt or from the holy cities of Macca and Madina. He composed many poems in classical Arabic, which were deeply informed by the style of a long tradition of classical Arabic Verse that sprung from his knowledge of Arabic literature. Balogun in Uthman (1979) described Shaykh Uthman as a prolific writer. He listed one hundred and fifteen of his works most of which if not all are known to us.

2.1.3 Charismatic Personality:

Hiskett (1973) extensively described Shaykh Uthman's piety, exceptional intellectual ability, and charismatic personality, which attracted disciples. Gradually he emerged as the leader of a group of young Muslim scholars with idealistic and reforming ideas whom he inspired with confidence and affection. He had a keen practical understanding of human Psychology. He was always prepared to use his religious authority to maintain conformity with what he regarded as proper standards.

From his early manhood, he lived with extreme simplicity having for instance only one pair of trousers, one turban and one gown. He ate simple food and was disinterested in worldly wealth and possessions, which he regarded as corrupting. He was said to have earned his food by twisting rope, an occupation he could carry on while reading or teaching. al-Masri (1978) described Shaykh Uthman's personality as fascinating. His learning and preaching activities were coupled with piety and self - denial (*Zuhd*). He maintained austerity in spite of his privileged position. He was an embodiment of fundamental characteristics of both types of men ie a *Sufi* and *a Faqih*. According to al- Masri (1978) Shaykh Uthman was a *Sufi* and a theologian like al-Ghazali. al-Masri (1978) is of the view that it was the Sufi aspect of the Shaykh's personality that greatly contributed to his popularity which earned him the reverence of his community.

2.1.4 Knowledge and Literary Works:

Hajj Nour in Uthman (ed. 1979) described Shaykh Uthman as a learner and a great jurist, studied almost all the aspects of Islamic law and Arabic literature. His knowledge in the area of *Fiqh* was not confined to Maliki School of law. He further noted that the Shaykh's studies in *Usul-al-Fiqh* prove his knowledge of comparative jurisprudence. Teaching and preaching was his life profession. Balogun (in Uthman ed.1979) described Shaykh Uthman as a prolific writer. He reported that many scholarly attempts were made to list his works. The first of such attempts according to him was that of Muhammad Bello (the Shaykh's son and successor) who listed twenty-eight works in his book *Infaq-al-Maisur*, believed to have been written by his father. However, al-Masri (1978) reported that the number listed by Bello is twenty-seven. At the end, he said there are other books by his father, which exceeded a hundred in number.

each of his works, which can be seen in the introductory pages of his books. Each of his works was an answer to a prevailing problem of his community. For instance the book under study, *Irshad al Ummah*, and the related books such as *Tarwih-al-Ummah, Hidayat-at-Tullab, Taufiq al- Muwslimin* and *Najm-al-Ikhwan* concerns the issues of the schools of law and *Taqlid*.

While his books like *Irshad-al-Ikhwan ila Ahkam Khuruj an-Niswan* was written to deal with views concerning women outings which is still prevalent in our society. The books like *Nur-al-Albab, Wathiqat-al-Ikhwan* and *Kitab Bayan-al-Bida'I as-Shaytaniyya* were largely written to destroy evil innovation so as to improve the moral standard of the society. al-Masri (1978) noted that Shaykh Uthman's objective in his preaching was to propagate *Sunni* Islam and to condemn evil practices. He devoted his time to preaching against deviations from the Sunni belief and practice.

The Shaykh also in his writings did not ignore the role of women and the obligation of educating them. His *Tanbih-al-Ikhwan, Irshad-al-Ikhwan, Wathiqat-al-Ikhwan* and *Nur-al-Albab* were written to give highlight on the right of women to be given religious education. According to Balogun (1990) Shaykh Uthman laid emphasis on the importance of education for all and in particular the women folk.

Another teaching of paramount importance observed by Balogun (1990) in the writings of Shaykh Uthman is the maintainance of justice by all means. His *Usul-al-Adl* and *Usul-al-Siyasa*, were written on this theme.

2.2.1 His Methodology and Style of Writing:

al-Masri (1978) reported that Shaykh Uthman b. Fodio followed a consistent and systematic methodology in his writings which is quite distinct from that of shaykh Abdullah

(his brother) or shaykh Muhammad Bello (his son).. He opined "the attribution of a work, (i.e. its authorship) to Shaykh Uthman can be ascertained with a considerable degree of certainty by the general characteristic of his writings".

Some of the general characteristics of Shaykh Uthman's writings according to al-Masri (1978) include: Shaykh's special formula at the beginning of his preaching and writings. The formula always includes prayers for the Prophet, his family, the companions, followers of the Companions the practicing scholars and the four noble Imams and those who follow their pattern to the day of requital. This is the most common pattern found in his works, though sometimes they may slightly differ. The manuscripts of the book under study (*Irshad-al-Ummah*) begin with this formula. In the formula there is prayers for the Prophet, his family, companions and followers of the companions. However the practicing scholars and the four noble Imams and those who followed their patterns were not mentioned.

After such an opening he normally says; "*Amma Ba'ad Fa haza Kitab*... meaning 'after that this is the book of ...' This formula is used on the manuscript of the book under study. Then he goes on to inform the reader of the content of the work, sometimes with a formal *Muqaddimah (i.e.* introduction) and *Khatimah* (conclusion). Each chapter is headed by his favorite formula. "I say and success is from God". However, some works of the Shaykh were not chapterised. The book under study is one of those books. Other works by the author written in this way include *Tarwih-al-Ummah, Hidayat-al-Tullab, Najm-al-Ikhwan* etc.

Sometimes the Shaykh writes in form of question and answer like the case with his *Hidayat-al-Tullab* and *Tarwih-al-Ummah*. Another style of Shaykh Uthman's compilations as explained by al-Masri (1978) is the abundance of verbatim quotations from earlier

scholars. He usually calls the reader's attention to the end of every quotation by the Arabic verb, '*Intaha*' meaning concluded. This occurs very often in the book under study. The proportion of Shaykh Uthman's own words in his book compared with the amount of quotation is observed by al-Masri (1978) to be very small.

Besides quoting the ideas of the earlier scholars, Shaykh Uthman repeats himself in several of his works. The rationale behind this according to Muhammad Bello (the Shaykh's son and successor) in his book *Infaq al-Maysur* is that Shaykh Uthman knows the zeal and aspirations of his contemporaries . Thus whenever he required to correct a particular practice or eradicate an evil persisting from former times he would reproduce materials from his earlier works and circulate them under new titles.

The *Jihadists* observed in their writings what is today called as academic honesty (*al-Amanah 'Ilmiyyah)* Tukur (1991) observed that the *Jihadists* never hide their dependence on the writings of the early scholars. The Shaykh confirmed this assertion in the introductory parts of the book under study where he says on folio No. 1 of the Manuscripts: "Nothing is my own in whatever I said to you, I've never mentioned anything without ascribing it to its author, if you wish you can look up every book which I copied".

Another point worthy of mentioning here is the Shaykh's peculiar styles of referencing in his writings. For instance the Shaykh often cites his references by mentioning either the name of the writer or the title of his work adopting whichever is shorter. For e.g. he writes *al-Mukhtasar* rather than the name of its author, Abu al Diya Khalil b. Ishaq. In another instance he prefers the famous name of the author to the title of his work e.g. *al-Qastillani, as- Suyuti, al- Qarrafi, as –Shatibi* e.t.c. And sometimes he combines the two e.g. *as – Sha'arani fi al- Mizan.* This can be commonly found in the book under study. Also the very

way Shaykh Uthman arrives at his conclusions is also interesting. When a point is in dispute among scholars he reviews the opinions advanced on the issue. Sometimes he uses the traditional method of argumentation e.g. "if you were to ask... I would say..." or "the answer is given by..." In the book under study the Shaykh often uses this style.

The Shaykh also uses abridgement method in his writings. He summarizes volumes of works of the earliest scholars to a simple Arabic style without losing the substantial message. Through this method he was able to make a large body of Islamic literature more accessible to the Muslim *Ummah*. Hajj Nour in Usman (ed. 1979) noted the efforts of Shaykh Uthman in simplifying the *Shariah* rules and re-writing them attached to their origins from the *Qur'an* and *Sunnah*. He compared this approach with that of al-Ghazali in his *Ihya* and *as-Sha arani* in his *Kashf-al-Gummah* and *al-Mizan al Kubrah*.

2.2.2 His Sources of Influence:

Shaykh's Uthman's compilations are mainly derived from the works of earlier scholars. He never claimed any originality in his scholarship. Isma'il in Usman (ed.1979), however, observes that Shaykh Uthman's originality is not in advocating a new thing but rather in marrying the past to the present. Ladan (1991) reported that Shaykh Uthman in his writings has made several quotations from Muslim scholars of North and East Africa. This confirms the views of some scholars who stated that he was influenced by scholars like al-Maghili (d. 1504), Ibn Abi Zayd al- Qirawani (d. 386 A.H), al-Ghazali (d. 1111) and Ahmed Zaruq (d. 1442).

VII Sufyan b. Uyaynah (d. 198 A.H.)

VIII Muhammad b. Idrith as-Shafii (d. 204 A.H.)

IX Ahmad b. Muhammad b. Hanbal (d. 241 A.H.).

Others include Dawud az-Zahiri (d. 270 A.H.), Ishaq b. Rahawaih (d. 238 A.H.) and Abu Thaur Ibrahim b. Khalid al-Kalbiy (d. 240 A.H.). There were others whose schools did not spread.

However, the leaders whose schools have lasted to this day, who have followers throughout the muslim world and whose principles and jurisprudence are still employed in accreting issues and in making legal judgements are mainly four, they are:

I Imam Abu Hanifa

II Imam Malik

III Imam as-Shafii

IV Imam Ahmad b. Hanbal.

The three leading scholars: Malik, As-Shafii and Ahmad are considered as jurists of Hadith and followers of established precedents of the companions of the Prophet (p.b.u.h.). Their jurisprudence was that of the people of Madina. On the other hand Abu Hanifa was the inheritor of the inheritance of the upholders of independent reasoning (ahl-al-Ra'ay).

2.3.4 Methods of the Schools of Law in deducing laws:

The leaders of the Schools of law differed in their methods and approaches in the process of deduction. This is the root cause of their differences of opinion on the various points of law.

2.3.4.1 Methods of Imam Abu Hanifa:

I His first reference is the Book of Allah (al-Qur'an)

II Then the Sunnah of the Prophet and his authentic proceedings, which have been handed down by trustworthy persons

III Then the statements of the companions, he draws from them freely.

IV Beyond the statements of companions Abu Hanifa did not draw from statements of others. He rather used his own Ijtihad, as others had done.

Other subsidiary principles used by him include:

V The "General" ('Amm) expression is as categorical in its implication as the "Particular" (Khas).

VI The practice of a companion, which is at variance with the general practice, is taken only as a specific evidence for his practice.

VII The abundance of narrators does not improve the validity of evidence.

VIII No acceptance is given to a tradition by a single person, which could harm public welfare (al-Maslaha).

IX An obligatory command must be acted upon, unless there is a constraint, which could prevent it.

X Juristic preference (al-Istihsan) should be adopted and analogy abandoned when there appears the need to do so.

2.3.4.2 Methods of Imam Malik:

AL-Awani (1997) reported that Malik's methodology was that of Hijaz people, the upholders of school of Sa'id b. AL-Musayyib whose teachings were based mainly on the

jurisprudence and established precedence of the companions of the prophet (p.b.u.h.).

Malik is reported to havr said:

" How is it that whenever someone comes to us (with an argument) we abandon what Jibril (R.A) brought to Muhammad (p.b.u.h.) and argue with him"

The principles of Malik's school of law could be summarized in the followinf points:

I Relience on the unequivocal verbatim text of the Qur'an

II Relience on the clear or manifest meaning when it is general.

III Validation of evidence from the Qur'an of a divergent meaning Mafhum al-Mukhalafah)

IV. Validation of a harmonius meaning (Mafhum al-Muwafaqa).

The above are the primary principles, other subsidiary principles are:

V Consensus of opinion (Ijma')

VI Analogy (Qiyas)

VII The practice of the people of Madina

VIII Istihsan

IX Blocking the means to evil (Sadd adh- Dari'a)

X Consideration of public welfare (al- Maslaha)

XI Testimony by a companion of a prophet if the transmission is sound and he is an eminent companion.

XII Presumption of continuity of what is proven and the negation of that which had not existed (Istishab)

XIII Acceptance of some laws, which existed before Islam.

2.3.4.3 Methods of Imam as-Shafii:

As-Shafii's principles are contained in his famous book ar-Risalah. His principles could be summed in the following points:

I The Qur'an and the Sunnah are the original sources of Islamic jurisprudence

II If there is a hadith whose chain of transmission is sound no other sources shall be consulted.

III If there is no clear evidence in the Qur'an and the Sunnah, the legist may resort to Qiyas from the two primary sources (ie al-Qur'an and the Sunnah)

IV Ijma' is more authoritative than the report of a hadith transmitted by a single person.

V The interpretation of a hadith should be based on its clearly apparent meaning.

VI If a hadith open to various interpretations preference should be given to the interpretation, which is closest to the apparent meaning.

VII If a number of reports pertaining to a special issue are equal in their import preference should be given to the hadith whose Isnad is sound. In this respect a hadith whose Isnad is interrupted should not be consulted except those reported by Sa'ud b. Al-M usayyib.

VIII Analogy from a principle (Asl) which has already been deduces from a previous principle is not admissible.

IX There should be no question as to "why" or "how" with regard to the original source. Question as to "why" should only be addressed to a subsidiary source of law.

X If analogical deduction from the original source proves to be sound it should be accepted as such and as a basis for proof.

III If there is no text available on a question he resorts to the juristic judgment of the companions. If ha finds a companion's saying which is not contested by other companions, he adheres to this saying and gives it priority over any other practice, opinion or analogy.

IV If there is a difference of opinion among the companions over a particular issue he chooses the opinion which closest to Qur'an and the Sunnah and does not go beyond this. If it is not clear to him which is closest to the Qur'an or the Sunnah he would the report the controversy in complete objectivity and abstain from making any decision.

V He prefers a Mursal hadith or Da'if (weak) over analogical deduction provided it does not contradict an established practice, a companion's saying or a consensus of opinion.

VI According to him analogy should only be resorted to when there is necessity of passing judgment on an issue which can not be settled by referring it to the above mentioned sources and principles.

VII He accepts the principle of Sadd al- Dhari'a.

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2.4 al-Ijtihad;

Ijtihad is another juristic term relevant in this discussion. It means according to Hajj Nour in Usman (ed. 1979) to put in maximum effort in performing a job. Technically it signifies maximum effort to ascertain, in a given problem or issue, the injunction of Islam and its real intent. A *Mujtahid* is a jurist who is capable of practicing *Ijtihad*. It is essential for a person to acquire this status to be well versed in the Islamic sciences related to *al-Qur'an*, *as Sunnah*, *al-Ijma'*, capable of using other sources of *Shariah* and methods of interpretation and juristic deductions. Muslim jurisprudentialists classify *Mujtahids* into different categories. These include;

a. Absolutely independent *Mujtahids* (*Mujtahid Mutlaq*) like the famous four Imams (Abu Hanifa, Malik, as-Shafi' and ibn Hanbal)

b. The associate *Mujtahids* (*Mujtahid Muntasib*): Those who acquired the status of absolute Ijtihad but they adopted the method of deduction by one of the Imams without committing themselves to any sort of imitation regarding the opinions of that *Imam*.

c. The *Mujtahids* of the school (*Mujtahid-at-Takhrij*); those who accept basis of authority and authenticity (ie the sources and basic principles) adopted by a certain *Imam* to formulate rules for new cases about which the *Imam* was silent. Among those who are mentioned under this category is Ibn-al-Kasim the famous disciple of Imam Malik.

d. *Mujtahid-at-Tarjih*; are the *Mujtahids* who are well versed in their school, knowing the sources, the basic principles and the authorities upon which the different rules are

made and are able to differentiate between the weak and the strong opinions on basis of authority.

e. *Mujtahid-al-Fatwah*; are the *Mujtahids* that are well versed in their school and can give *Fatwah* (legal verdict) according to what is stated by the *Imam* and the other categories of *Mujtahids* in the school.

2.5 At-Taqlid

2.5.1 Definition of Taqlid

The meaning of the word *Taqlid* was originally borrowed from the act of wearing something in the neck like a necklace. Technically the term refers to the act of following a view or opinion without any substantial proof or evidence to justify one's following. Going by our definition above, we could understand that following the saying or the practice of the prophet (pbuh) or the consensus of scholars should not be considered as *Taqlid* for both are binding authorities recognized by Shari'ah.

The word *Taqlid* is often defined as blind imitation, blind following and blind acceptance. However, this definition according Yandaki (1999) is an interpretation of the orientalists, which he said is far from being the correct definition of the word. He considered it a misconception which he bitterly condemned when he said (1999:57) "To talk about blind imitation here is therefore a mischievous distortion of facts aimed at satisfying certain pre-conceived ideas". He opined that the views of the Islamic scholars could never be baseless opinions. Their views are always rooted in the *Qur'an*, the *Sunnah* and *Ijma*, which are the principal sources of *Shariah* (the Islamic law). Thus, following their views is not tantamount to following them blindly.

He suggested that rather than blind following, *Taqlid* should be taken to mean rightly and correctly emulating Muslim scholars and Jurists in their views and positions that have basis and origin in the holy *Qur'an*, the practice of the Prophet (SAW) or the consensus of Muslim Jurists. He explained that the real *Taqlid* which muslim scholars have highlighted as forbidden in Islam relate to those who have taken their theologians and leaders as deities for worship. (like the Jews and the Christians). Or simply those who obey leaders or scholars who deliberately choose to follow their selfish desires and change the Islamic rulings to suite certain people perhaps those in authority. Unfortunately according to Yandaki (1999) all these are not the forms of *Taqlid*, which the orientlists have in mind when they write or speak about the subject.

2.5.2 Distinction between Taqlid and Ittiba'

However, Yandaki (1999) should have taken one point or fact into cognizance in the above submission on Taqlid. This fact is the difference between the terms: *Taqlid* that is forbidden following as he described it above and *Ittiba'* that is reasoned following which is what he described earlier. Hence *Taqlid* has to be distinguished from "*Ittiba'*. The two terms have distinguishing meanings in Islamic Jurisprudence.

The term *Taqlid* technically refers to the act of following a view or opinion of someone (whose saying is not a binding authority) without knowledge of his proof or evidence to justify ones following to him. On the other hand, *Ittiba'* means following a saying that has a binding authority in Islam, e.g. the Quranic injunctions, Prophetic injunctions contained in the authentic *Sunnah* and *Ijma'* (the consensus of muslim scholars). All these are binding authorities recognized by the *Shari'ah*, hence, following any one of them should not be termed as *Taqlid*.

Another example is the case of reconciliation in substitution to the judicial rule. He explained that, the law encourages the consideration of *Sulhu* i.e. reconciliation of litigating parties, for fear of enmity if the legal rule is enforced.

2.7 Shaykh Uthman's View of the Schools of Law: -

This is another issue considered by Shaykh Uthman in his approach to the schools of law. al-Masri (1978) observed that the reforming ideas of Shaykh Uthman transcended to a great extent the dictates of any designated school of law. Shaykh Uthman declares in his *Hidayah* that neither God in His Book nor the Prophet in his *Sunnah* made it obligatory that one particular *Madhhab* should be followed, nor did we hear from any of the early scholars enjoining a person to follow one particular rite. If they had done that they would have committed a sin.

Also in his *Nasihat ahl Zaman*, Shaykh Uthman confirmed that any person following a particular rite could freely adopt any idea from another school. In the book under study *Irshad al-Ummah* Shaykh Uthman viewed all the schools of law in Islam as right and authentic, every one of them is an integral part of the *Shariah*. It is possible for a Muslim to belong to a school and at the same time use opinions from another school to solve any problem at hand especially if his own school is silent or ambiguous on the matter. So also it is possible for one to follow the opinion of different scholars within a particular school of law on different matters.

In the book under study, Shaykh Uthman emphasized that the aim and objective of *Shariah* is *Wifaq* (to unite) and not *Khilaf* (to disunite) the Muslim Ummah. In his *Hidayah* and *Irshad-al-Ummah*, the Shaykh directed the Muslim community to note some principles

as the essential result of his lenient approach to the schools of law and *Taqlid*. The principles include the followings:

(i) There is no obligation upon any Muslim to adopt one specific school of law or another; a Muslim can follow any school he wants.

(ii) In a place like Egypt where all the schools are available a layman can ask any Jurist whatever be his school and the Jurist could give his verdicts according to any school.

(iii) Juristic verdicts should be given according to the dominant school in the area. Like in this area and the *Magrib* the *Maliki* School is the dominant school, hence, jurists should give verdicts according to it.

(iv) In giving verdicts the Jurists should strict to *al-Mashhur* (the famous and the most authentic opinion of the school), following strange and non-authentic or weaker views is not permissible.

(v) Shaykh Uthman prefers the view that judges are not obliged to their schools in making judicial decisions even if that was stated in the condition of their service. However, in issuing juristic verdicts on matters of public concern he is of the opinion that (in general) one should rule only according to the dominant view of a school. But in individual practices, it is not prohibited for a man to choose whatever appeals to him from all the different views of the *Sunni* schools.

Shaykh Uthman in his *Hidaya* considers that differences among scholars are a blessing to Muslims because they can choose what appeals to them. He hesitates to stop anybody from doing anything, which is not explicitly forbidden in the Qur'an or *Hadith*. He tried in the book under study (*Irshad al-Ummah)* and *Hidayah* to reconcile among the schools of law by accepting all of them as straight paths to Paradise. He emphasized that it is compulsory upon

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volumes out of which the statement of the specific Mujtahid will not make one volume". An example of a book of this sort is *Mukhtasar* of Khalil bin. Ishaq, which is one of the reference books of *Maliki* School of law. This book is filled with mainly reports of the opinions of the famous disciples of Imam Maliki like Ibn-al-Qasim, Sahnun, al-Lakhmiy or even that of their disciples taken as *Malikiyyah* School of law.

This is to say that *Madhhab* is only that which a *Mujtahid* deduced through a proper process of *Ijtihad* and that the opinions and the comments of his disciples have no any binding effect even upon those who adopt the school. This in essence has limited the scope and meaning of *Madhhab* significantly, and it may as well have its implication. The implication may be that all those major reference books of *Fiqhu* like *al-Mukhtasar, al-Mudawwanah* and their abridgements and commentaries such as *Aqrab-al-Masalik, Irshad-as-Salik, Mawahib-al-Jalil* are only representing *Malikiyyah* school not Malik's views, because they are mainly dominated by opinions comments and deductions of his disciples, his statements are rarely mentioned in these books.

2.8.2 Consideration of al-Maslaha (Public welfare):

This is another fundamental principle considered by Shaykh Uthman in his approach to the issues of *Taqlid* and the schools of law. He is of the view that evident judicial rules could be waved for the sake of achieving a *Maslaha* (public welfare) or a preventing a *Mafsada*. (Mischief). According to him the Ease of Islam calls for this. We have seen two practical examples given by the Shaykh on this point. They are the case of an orphan girl given out in marriage at a tender age of ten before she attains puberty for fear of committing a mischief (like fornication) and the case of reconciliation of litigating parties in a law suit before a court of law in substitution to the evident judicial rule for fear of renunciation if the judicial

rule is enforced. In the two cases the public welfare is considered over the evident judicial rule for the reasons stated above.

Maslahah, technically, means preservation and promotion of *Maqasid* (the objectives) of the *Shariah*, which include the protection of religion, human life, human intellect, offspring and property. Everything, which helps to protect and promote these main objectives, is seen as a *Maslahah* while everything jeopardizing them is a *Mafsadah* and its avoidance is a *Maslahah*. This is to indicate that *Shariah* rules generally cater for the public as well as the individual interest of its subjects. The promotion of these objectives and their protection from mischief is done in the following order:

(I) *Daruriyyat*, (Necessities): - These are the objectives which observance is considered necessary such that even a person's duty to Allah and the objectives in the two worlds can never be achieved except through them. They include the preservation of one's religion, life, intellect, offspring and property. These are necessities which should be preserved and promoted in the Muslim *Ummah* by providing a favorable atmosphere and conducive environment for their smooth running and by protecting them from destruction or any threat capable of hindering their normal course. The two examples given by Shaykh Uthman in this book, that of an orphan girl married out at ten before attaining poverty and that of *Sulhu* (reconciliation) of litigating parties by the court in preference to the Judicial rule to buttress his point on the consideration of *Maslahah*,(public welfare) in judicial rulings, fall under this category of *Maslaha*, (*Daruriyyat*). Moreover, the laws that relate to the acts of worship like faith, prayer, *Zakat*, fasting, pilgrimage, the penal laws, and the laws governing *Jihad* are all legislated for the proper establishment of the religion.

(II) *Hajiyyat*, (Needs): - These comprise the *Shariah* provisions for human beings demands and needs. They are complementary to the necessities. Hence the objectives of necessities cannot be fully provided unless when the needs (*Hajiyyat*) are tied to them. Examples of these are laws legislated in order to prevent hardships, difficulties and rigors. This is to facilitate the daily life of the subjects of *Shariah*. Examples of this includes laws of concession, food and drinks, transactions, etc.

(III) *Tahsinat* (amenities): - This category comprise of all that human beings may require to make life on this earth meaningful and purposeful, safe and free of predicament. The three categories are however interrelated and complimenting to one another. The amenities supplement and perfect the needs whereas, the need in return supplement and perfect the necessities. In fact the necessities are best seen and perfectly enjoined when they are complemented with the needs and crowned with the amenities.

The application of the principle of *Maslaha* therefore means a form of employment of the general jurisprudential principles and objectives (*Maqasid*), and the sources of *Shariah* together in legislation. In other words it is the deduction of the detailed *Fiqh* subject to the governing general jurisprudential rules, principles and objectives (*Maqasid*).

However, *Maslaha* has been a controversial legislative source, those who denied it are those who treat jurisprudential rules otherwise known as subsidiary rules in isolation of the general objectives of *Shariah*. The approach whereby the jurisprudential rules are properly governed by the general provisions and objectives of *Shariah* is more compatible with the nature of the *Shariah* law. This is for what we have said above that *Shariah* generally looks after the public and the individual interest of its subject. The Maliki and Hambali jurists have seriously advocated for the lawfulness and authenticity of *Maslaha* as a source of law.

The establishment of legal rules on the basis of *Maslaha* has actually been the practice of earlier generation of Islam; the following are some examples to illustrate this fact. The companions compiled the Qur'an in one book, they standardized its recitation, they introduced registers to control and regulate rights and obligations of the military personnel and other government officials, all these rules rave been argued initially from their legislation on the basis of *al-Maslaha*.

2.8.3 Tolerance and leniency in controversial matters; Shaykh Uthman observed tolerance and leniency in all his writings on the controversial issues. Hajj Nour in Usman (ed. 1979) reported that Shaykh Uthman used to distinguish two types of rules in his *Najm-al-Ikhwan*, they are:

(i) Duties and prohibitions unanimously accepted (i.e. by way of *Ijma*) such as rules which are essentially important for preserving the order of the religion and the Muslim community. Examples of such rules Shaykh Uthman mentioned include; adherence to the Qur'an and the Sunnah, sticking to virtues and avoiding vices, Hijrah, choosing a commander for the believers, armament and Jihad, establishing the necessary government institutions etc.

(ii) The controversial matters which whether observed or neglected will not affect the order of the religion or endanger the public interest of the Muslim community.

While Muslims are required to be strict about the first category, they are on the other hand, advised to be rather lenient about the second category. It is by adopting this approach Shaykh Uthman wanted to create a tolerant, comparative and unified community. He wanted the Muslims to observe the example of the Prophet (SAW) and his companions to be kind to themselves and abstain from rejecting others on controversial matters. In his *Najm-al-*

Ikhwan Shaykh Uthman said that "the unity of the community in this way could be preserved and the disturbances of laymen could be avoided".

Shaykh Uthman generally adopted a liberal approach to the schools of law harmonizing the controversial points where difference of opinion and practice are tolerated. He hesitates to stop anybody from doing anything, which is not explicitly forbidden in the Qur'an or *Hadith.* Only those who divert from the rules clearly stated in the *Qur'an, Sunnah* and *Ijma* could be strictly rejected. He who abstains from performing a controversial duty or commits a controversial prohibition should not be rejected but he may be kindly advised to do the better. All these are principles strictly upheld by Shaykh Uthman in his handling of controversial matters in Islamic Jurisprudence. They are the basic principles that guided and inspired his thought in all his writings on these and similar matters. A close study of his major works on this, such as *Ihya-as-Sunnah, Hidayat-al-Tullab, Tarwih-al-Ummah,* and the book under study, *Irshad-al-Ummah,* will reveal that these principles are constantly repeated by him. Shaykh Uthman considers as equally sound and authoritative all *Sunni* schools of law and the different views of scholars held in these schools, indeed all views expressed by any Sunni scholar in the history of Islam. His reverence for the *Sunni* scholars made him accommodate all those views and give the freedom of choice to the individual provided one is capable of understanding the relevant text.

This tolerance and lenience of Shaykh Uthman is what makes his approach different with the approach of his brother (Shaykh Abdullahi) in controversial matters. The former is always lenient and simple, emphasizing on the Ease of the religion, while the latter, as observed by Hajj Nour in Usman (ed. 1979), concentrates more on the statement of the Maliki Jurists and opinion of the majority.

This is as the root of all his differences with his brother (Shaykh Abdullahi) in some controversial issues. For instance in discussing the permissibility of singing on feast days. Abdullahi in his *Diya-as-Sultan*, rejected the opinion of Shaykh Uthman saying that the tradition reported by Ibn Majah to which Shaykh Uthman refers could either be interpreted differently (i.e. not to support the claim of permissibility) or that it is not authentic, otherwise, he said, the majority who prohibited singing on feast days would not have ignored it.

They also differed about the dress and appearance of rulers and Judges. Abdullahi preferred following the example of the Prophet saying that their community is not interested in appearance but only in the religion. While Shaykh Uthman and his son (Bello) are of the view that the circumstances of their community made it necessary for their rulers and Judges to take care of their appearances (i.e. to feature in such royal attires). But they all agreed that the first time this was practiced in the History of Islam was during the days of Umar b. al Khattab when the Muslims conquered *as-Sham* (Syria) and found the non-Arab subjects respecting appearance more than piety. And they agreed that the whole thing depends on the circumstances of a particular community and time. But however they disagreed in the application of the rule.

binding law.'' He also said in the same book "we can not take all that the followers of a *Mujtahid,* (ie a great jurist) have understood from his statements as his opinion and *Madhhab*''. Shaykh Uthman observed in his *Hidayah* that ''people are not careful about this fact, for instance we may find a book explained in twenty volumes out of which the statement of the specific Mujtahid will not make one volume''. An example of a book of this sort is *Mukhtasar* of Khalil bin. Ishaq, which is one of the reference books of *Maliki* School

2.9 Background of Shaykh Uthman's Concept of Schools of Law

This section reviewed the sources and background of Shaykh Uthman's concept of Schools of Law. This is important because the Shaykh's concept of the schools of law will be appreciated and understood properly if only the background of the concept is rightly traced and critically studied.

2.9.1 His Society;

The first and foremost in this regard is the environment of Shaykh Uthman. This refers to the immediate society and people he lived. The nature of the society and the people of the Shaykh's time had significant impacts in molding his manner of approach to the issues of the schools of law. The then society was mixed in nature, mixed with beliefs (i.e. Islamic and non Islamic) and overwhelming ignorance, corruption, injustice and complete departure from Islamic teachings in all aspects of life.

Hajj Nour in Usman (ed. 1979) noted that the 'Mixed' nature of Shaykh Uthman's society certainly directed his Fiqh, its nature and content, emphasis and approach. There is the difficulty of the expected socio political 'transition' from a non-Muslim society to an Islamic society and from a non-Muslim government to an Islamic one.

The principles upheld by Shaykh Uthman in his theory and approach to the schools of law were directed by the above factors prevailing in the then society, (the mixed society) which Shaykh Uthman was aiming to reform. And this is obvious because each scholar writes according to the needs of his time and community.

His basic fundamental principles in his concept some of which were earlier discussed like his leniency and tolerance in controversial issues, reconciliation of schools of law, emphasis on the aspect of ease etc. were impacts of the prevailing situation of the community. They

were necessary for better achievement of his objectives. Hajj Nour in Usman (ed. 1979) described this as practical fiqh. He said; "their writings were concerned mostly with what they thought to be necessary for their brothers and their state. In more than one case books were written at the request of brothers or judges and governors". He further argued that Shaykh Uthman was writing for different classes of people in a changing environment, and hence the need for different priorities and requirements are things that are needed for a developing movement.

2.9.2 Influence of Sufi View;

A part from the influence of his studies in the *Sunnah* and the Maliki *Fiqh*, Shaykh Uthman was also influenced by his *Sufi* experience in his concept of the schools of law. The opinions of some *Sufi* scholars especially Abdulwahab as-Sha'araniy have great influence in his writings on this subject. In the book under study, for instance Shaykh Uthman quoted Sha'arani's statements from his *al-Mizan*, which dominated the book.

The Shaykh's ideas (like non strictness in controversial matters, leniency and tolerance, reconciliation of the school of law...), in reconciling the schools of jurisprudence were copied from as-Sha'araniy. Hajj nour in Usman (ed.1979) summarized the theory of as-Sha'raniy in the following points;

(a) The Shariah, as stated in the *Qur'an*, the *Sunnah* and *Ijma*, is free from any sort of narrowness and hardship. It is the duty of a jurist as a matter of politeness with Allah and the Prophet (SAW), not to prohibit anything unless it is clearly prohibited by the *Qur'an*, the *Sunnah* or *Ijma*.

(b) All the statements of the great jurists are without exception within the general principles of the Shariah. This should be accepted as a belief and it requires the acceptance of the following results;

i) The correctness and righteousness of all the great jurists in appearance and reality.

ii) All the traditions of the Prophet (SAW), which are accepted by any of the great jurists, are valid. It is enough for the validity of any tradition that a great jurist accepted it, even if another jurist rejected it.

iii) All the schools of law have originated from the first spring of the Shariah ie the revelation and the *Sunnah* of the Prophet (SAW) and any school the imitator adopt will take him to the gate of paradise.

iv) This means that nobody should reject any person for adopting any school or leaving one school for another.

(c) To test which should be applied to resolve any sort of contradiction amongst tradition is the following principles; all the Shariah rules are either dealing with the strict part of the religion or the easy part, and the application of each category depends on the circumstance of the individuals. If this is well understood every conflict (according to as- Sha'ariniy) could be resolved accordingly.

(d) He who has not reach the stage of *Kashf* (i.e. unveiling of Godly secrets) should follow the most authentic rule in his school. But those who have reached the stage of *Kashf* should not be asked to follow any school because they can derive their knowledge directly from the Prophet (SAW). However, this claim needs a substantial evidence from either the *Qur'an* or the *Sunnah* or *Ijma'*.

2.9.3 Discussion of the Sufi View on the Schools of Law:

as- Sha'arani's view adopted by Shaykh Uthman in his approach to the schools of law is based on the widely spread report which is purportedly ascribed to the Prophet (SAW). The report is quoted by al-Albani translated in Hassan (1993:xix). it reads "the disagreement among my community is a mercy". Shaykh Uthman quoted this report very often as his evidence, however many scholars in the past and the contemporary periods like Ibn-al-Qayyim al Jauziyya, Ibn Hazm al-Andalusiy and al-Albani have explained in their books the non authenticity of this report and similar narrations that endorse disagreement among the Muslim Ummah.

Ibn Hazm was quoted by al-Albani as translated in Hassan (1993:98) as saying (about this Hadith) "this Hadith with all its versions is undoubtedly a lie, since it also contradicts many verses of the Qur'an e.g. Najm: 3-4, Nisa': 82 and Anfal: 46. He argued further that it is absurd that the Messenger (SAW) would command us to follow every view expressed by the companions (RA), for there were among them those who permitted something while others prohibited it. Like the case of prayer in a single garment, Ubayy b. Ka'ab said: ''prayer in one garment is good and authentic'', but, Ibn Mas'ud viewed the contrary, he said: ''that is only if one does not have many clothes''. Umar came out in anger saying: ''two great men from among the companions of the prophet (S.A.W.) who are influencial. disputing? Ubayy has spoken the truth, if I here anyone disputing about it after this I will do such and such to him '' (reported by Ibn Abd al Barr in his *Jami' Bayan al ilm:* 2/88).

These are cases reported with authentic chains of narration according to Ibn Hazm as quoted in Hassan (1993). Ibn-al-Qayyim (1997) criticized *Taqlid* being established with this Hadith. He quoted Ibn Abd-al-Barr saying "the Hadith reported from the Prophet (SAW)

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'my companions are like the stars' the saying is not authentic from the Prophet (SAW)". al-Albani quoted in Hassan (1993:xix) says: "this Hadith is not authentic in fact and without foundation". He quoted as-Subki, in his *Sifat-salat an Nabiy*, translated in Hassan (1993), saying "I have not come across an authentic or weak or fabricated chain of narration for it."

The above is enough to establish the non authenticity of this Hadith neither in its chain nor its meaning. Its inconsistency is clear and manifest by text and reason. Hence it cannot be used as evidence to justify following every view in any way.

However, this is not to challenge or disagree with the Shaykh's view of reconciliation of the schools of law, which is understood in this study as one of the basic principles underlining his concept of *Schools of Law*. Rather it is an attempt to confirm the authenticity and reliability of citations made by the author and their sources. Even though, the Shaykh's view is rational and authentic by rule of the general principles of the Shariah.

The whole contention between the two views identified in this study as the *Sufi* view (advocated by as-Sha'araniy which is adopted by the Shaykh) and the non *Sufi* view (advocated by the *Sunni* scholars) is borne from the fact that while the *Sufi* view advocates, as earlier highlighted, that all the statements of the great Jurists are without exception within the general principles of the Shariah, hence they should be accepted and believed to be right and correct in appearance and reality. That all the traditions of the Prophet (SAW), which are accepted, by any of the great Jurists are valid. It is enough for validity of a tradition that great Jurists have accepted it even if another Jurist rejected it. And that any school the imitator adopts will take him to the gate of paradise, hence no body should reject any person for adopting any school or leaving one school for another. The advocates of the non-Sufi

view who are mainly scholars of Hadith (such as Ibn Taymiyya and his disciple Ibn-al-Qayyim and al-Albani) are of the contrary view. In contrast with the *Sufi* view, the non *Sufi* view as reported by Hajj Nour in Usman (ed. 1979) can be summarized in the following points:

The only infallible person whose statement should be accepted unquestionably is the Prophet (SAW) and not anybody else including the companions of the Prophet (RA) and the great Jurists. And accordingly we take from them what is right and we leave what is wrong without accusing them or doubting their righteousness. The researcher finds this view as more acceptable; this is because the practice and sayings of the respectable *Imams* (leaders of the popular orthodox schools of law, Abu Hanifa, Malik, as-Shafi' and Ibn Hambal) and others are abundantly clear in support of this fact. Kailani quoted in AbdulMuqtadir (1997) reported that all the Imams had given special instruction to the effect that whenever a true and authentic Hadith comes to light their own saying should be relinquished without any hesitation.

Abu Hanifa said: as quoted in al-Albani translated in Hassan (1993) when he was asked "if your saying is contrary to the holy Qur'an what is to be done?" he replied "relinquish my saying". He was then asked, "if your saying is against the Sunnah of the Prophet (SAW) of Allah what is to be done?" He replied, "When my statement is against the Sunnah of the Prophet (SAW) relinquish my saying". He was again asked, "if your statement is against the statement of the companions of the Prophet (RA)", he said, "Relinquish my statement".

Imam Malik quoted by Kailani translated in AbdulMuqtadir (1997) states "I am a human being my saying may be correct or wrong. Therefore ponder over my statement whatever is in conformity with the Qur'an and the *Sunnah* act upon it and what is contrary to them leave

it" Thus, mere acceptance of a tradition by any great Jurist does not give it the status of authenticity if it does not satisfy the requirement of the traditionists.

Reconciliation of the schools cannot be done by accepting them all as straight paths to paradise. Rather all the schools and the opinions of the Jurists should be tested according to the authentic Sunnah of the Prophet (SAW) and then either accepted or rejected.

CHAPTER THREE

METHODOLOGY

In this chapter the researcher reported on the research methods, the population, the sample and sampling technique or procedure used in the study.

3.0 **Research Design**: the science of Editing of Arabic manuscripts (Tahqiq), is the methodology adopted in this study. Editing which is known in Arabic as *Tahqiq* means the process by which a literary material is authenticated and made ready for publication or for the benefit of readers.

3.1 **The process and Procedure of Tahqiq:** *Tahqiq* according to Hilal (N.D.) involves two basic stages. In each stage there are steps to be followed by the editor. The first stage is called the preparatory stage, known in Arabic terminology as *Marhalat-al-'Idad*. This in other words can be referred to as the primary stage. At this stage the editor prepares and makes ready all the tools he needs to carry out the task of editing. The second stage is the stage of Execution, fulfillment, accomplishment, finishing and completion. This is known in Arabic as *Marhalal-al-Injaz wat Tanfiz*. At this stage the editor through the activation of the tools he prepared, will accomplish his job.

3.1.0 The First Stage of Editing:

This stage involves the following steps:

(i) Selection of the Book intended to be edited. The book to be edited should be selected, for not every manuscript is worth editing. Hilal (N.D) however explains some important points to be taken into cognizance in considering a manuscript for editing. These are:

(a) Accessibility to some number of copies of the manuscript that could be relied upon to strengthen the full text of the book.

(b) The editor should make sure that the book has not been edited. This can be ascertained by checking through catalogues of published texts and research works in the Universities and by consultation with experts in manuscripts.

(c) The Book should be a valuable literary material with originality in its field.

(ii) **Collection of Manuscript copies**: - after selecting the book to be edited, the editor, looks around and searches for the Manuscript copies of the book available. It may help him in his search and inquiry for manuscripts to consult catalogue of Manuscripts and to ask experts about manuscripts. If the researcher exhausted his efforts but could only find one copy, he should carry on with it in as much as it is reliable for the work.

Tukur (1991:55) reported that an editor is expected to collect all or as many as possible of the copies of the manuscript he intends to edit. If a researcher is unable to get many manuscripts except one for the work, he can use it for the purpose of the editing.

(iii) **Collation of the manuscript copies:** - The researcher, after collecting the manuscript copies, will relate and compare them, and then select the mother copy, the second copy, the third copy and so on. In other words, the collected manuscripts will be collated and arranged in order of importance and priority or preference like A, B, C, D. By so doing the primary or mother copy known as *Nuskhat al Asliyyah* and the subsidiary or secondary copy known as *Nuskhat al Thanawiyyah* are selected in the order of the Arabic alphabetical letters, *al Huruf-al-Hija'iyyah*, the first alphabet letter (أ) is normally assigned to the primary or the mother copy and the

succeeding letters are for the subsidiary copies in their order of preference. The researcher will then evaluate the manuscript copies and arrange them in the above order.

(iv) **Selection of the Mother Copy:** The criteria for the selection of the mother copy include:

i. The most important copy is the one written in the hand writing of the author himself.

ii. Next come the copy which is made from the author's copy, then the next, and so on.

iii. The copies made during the lifetime of the author.

iv. Copies produced at a later time.

3.1.1 **The Second Stage of Editing**- The Stage of Accomplishment and Completion.

This is the final stage in the Editing process. At this stage the job is accomplished and fulfilled. The main goal of editing is to ascertain the authenticity of the title of the book, to confirm its authorship as well as to establish its correct and authentic text as its author wished it.

According to Tukur (1991) one of the major tasks of an editor is to establish beyond reasonable doubt the full name of the book, authorship and if possible the date of authorship and then present the work in its original form as composed by the author.

3.1.2. **The Task of an Editor: -**

The editor should prepare himself with the tools mentioned earlier in the preparatory stage, to shoulder the following tasks: -

(i) **Editing the title of the book:-** the editor should confirm the authenticity of the title of the book, even if it is seen written clearly on the manuscripts even if it tallies with

the content of the book it must be edited. This is done by reviewing it in biographical and bibliographical literature. In certain situations the name of the book may be found written but not applicable or not in conformity with the content of the book. Hence this will call and necessitate for its editing and will necessitate a trustworthy research about it. In other instances the manuscript might be found without title as a result of missing a folio or folios or due to obliteration of the title or due to some other reasons. In all the above situations it becomes a duty upon the researcher to establish the authentic title of the book with the aid of the tools previously mentioned.

Tukur (1991) suggests, that this job requires careful study on the part of the editor. He may sometimes be required to consult biographical and bibliographical literature so as to confirm the correct title of the book. He opined that quotations from the book in later works could also be of help to the editor in his attempt to establish the correct title of a manuscript.

(ii) **Confirming authorship**: - The editor should also confirm the authentic author of the book he is editing. This is because a manuscript copy or copies might certainly miss the name of the author. Even if it is found it might be liable to forgery due to some reasons as it may be liable to errors and mistakes. The following ways could assist the editor in the right direction.

(a) Reviewing of library catalogues, bibliographical and biographical works.

(b) Studying and reviewing of the content of the manuscript and the extent of its relevance with what the editor knows about the author, his life and time.

(c) Review of the subject of the book, the style of the author and the scholars he mentions whom he met or lived with.

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(d) Discovering texts of the book found quoted and attributed to the author in another book or books.

The editor needs a close study and examination of the content of the book comparing its style with other books assumed to have been written by the same author. There is also the need for the editor to study the conformity of the content of the text under editing to the time and circumstances surrounding the author. The style of the author should also be meticulously studied by the editor. This is to say that he should have knowledge of the style of the author, for, every writer has a peculiar style and way of writing. Such knowledge and experience can be of great assistance to the editor in the process of confirming authorship. To gain full perception of the style of the author, Tukur (1991) suggested that the editor has to read many of the writings of the author. Other supporting materials that could help the editor in this include:

1. Other books written by the same author in the same field.
2. Works produced in relation to the book either in form of commentaries or abridgements.
3. Later works that are heavily drawn from it.
4. Sources on which the author has largely depended in writing the book.
5. Books dealing with the same subject matter especially those written during the lifetime of the author.
6. Dictionaries especially those which are closely related with the subject matter of the book.

The editor is further expected to ascertain the date of the authorship where possible and the reasons for writing the book.

(iii) **Establishing the authenticity of the ascription of the book to the author**. The editor should give consideration towards confirming and establishing the truth about the attribution of the book to the author. This could be done by reviewing library catalogues and biographical and bibliographical materials to ascertain the truth about the validity of its attribution to the author. The editor should also take note of the scholarly life and its various stages of the author as among the tools that can assist the editor towards establishing the truth about the attribution of the book to the author. Historical considerations such as this are strong yardsticks for measuring authenticity of the ascription of the book under editing. For a book that mentions scholars that lived after the life of the author or stories of their sayings and views, the authenticity of its ascription to the author must certainly be in doubt.

(iv) **Strengthening the text of the book: -**

The main objective and major goal of editing, is to strengthen and erect the text of the book and to conduct it truly as its author wished it. For this, therefore it is a duty upon the editor to concentrate all his efforts towards achieving this goal. He should have a thorough knowledge of the subject matter treated in the book. This will assist him in verifying the text of the book.

The editor should compare the available manuscript copies and confirm the authentic copy, taking cognizance of the modern rules of writing and making observation on the variations found between the manuscript copies and documenting them in the margin. If defect or gap or fault or error is identified by the editor in the original copy or all the copies such that understanding the meaning of the text became impossible the editor should establish and confirm the right and correct thing that will convey good meaning with the aid

of the subsidiary copies or other ways. And this should be recorded and documented in the editor's *Ta'liq* (comment) at the bottom of the page. The editor should seek the aid and assistance of the following to correct the fault or and strengthen the text.

a. Comparing the place where the fault occurs with other places in the book.

b. Other books written by the author, manuscript and published ones.

c. Books that have direct link with the manuscript like commentaries and abridgements

d. Books that contain texts quoted from the manuscript under editing.

e. Reference books consulted by the author from which he derived his subject matter.

f. Contemporary writings of the author on the same subject or similar to it.

g. Reference books on language.

All *Qur'ânic* citations should be crosschecked with the *Mushaf*, (*Qur'anic* text) and nobody should be relied upon, as even the renowned scholars are liable to commit errors. He further suggested that the editor is also required to check and verify *Qira'at* (the different forms of recitations), in a given verse in his bid to correct the *Qur'anic* citation in the text under edition. The editor should thus take this into consideration before he could effect any change in the Qur'anic citations.

An editor is also free to make certain observations on the language and grammar of the text under study. For instance in a case where all the samples were identified to have agreed on an issue which is stated erroneously. The editor can either correct the error in the text and this should be pointed out in the footnotes or leave the text as it is and point out the mistake in the footnote. If the editor is certain that something is dropped in the text of the book as a result of a perforation or a hole by termites or something else such that its completion is impossible, the editor should put at least three dots in place of the fallen word or words. The

task of editing requires the experience of the editor in the art of reading Arabic manuscripts, for, a person who cannot read a manuscript correctly will hardly be able to produce it in a correct form.

(v). Commentary:- The editor should also provide *Ta'aliq* (explanatory note) on the text. The aim of providing note, according to Hilal (N.D) is for the editor to earn the confirmation and confidence of the reader about the efforts he expended in editing the book. The editor can follow the devices below to achieve the above.

(a) Comparing the manuscripts and confirming the difference between them.

(b) Manifesting the personality of the editor in a clear independent image, he can achieve this by criticizing and discussing the opinions and views expressed by the author not taking them as already established facts.

(c) Explanation of minute cases highlighted in the book, ambiguous and obscure statements of the book as well as hidden meanings of terminologies, signs and terms.

(d) Tying the various parts of the book together and revision of reference areas to their places in the text.

(e) Identifying opinions and text contained in the text with their sources and origins where possible.

(f) Identifying the sources of the Qur'anic quotation in the text by indicating the chapter and verse number in the footnotes. This, according to Tukur (1991) is part of the duty of the editor.

(g) Identifying *Qira'at*, (the forms of recitation of the Qur`anic texts) from the reference books on the forms of recitation and books of Qur'anic exegesis.

(h) Identifying tradition *(Ahadith)* with their original sources. Tukur (1991) stipulated that al *Ahadith* mentioned in the work should be referred back to their sources and if possible the quality of each *Hadith* be indicated. He suggested that this work is simplified by checking each *hadith* in the *Mu'jam –al- Mufahras li –al- faz al hadith.*

(i) Identifying a poem with its poet commenting on its new words and where possible the editor should indicate its place in the compiled books of poets and reference books of language and literature.

(j) Explanation of contextual meaning of idioms and their sources as well as commentary of their hidden meanings.

(k) Names of places, Towns and personalities mentioned by the author should be defined by the editor in the footnotes. According to Tukur (1991) all names of places and personalities cited in the book should be identified by the editor. He should also confirm all the references made by the author. This is done by documenting them with their information and sources in the footnotes of every page. The editor is expected to indicate in the margin of the text and the translation, the page numbers of the mother copy by means of two strokes (//) marks. This is for easy correlation of the translation with the Arabic text.

Among the finishing works of editing the editor should give an introductory note on the author, his life and time, his knowledge and scholarship and style of writing. He also suggested a present of a special study of the book being edited, as well as its subject matter and its significance and position in its field. Copies of the manuscripts used in the edition should be described fully. Tukur (1991) further explained that it has been an accepted tradition that the front page of the manuscript copy of the book and some other pages

especially the first page are photocopied and shown in the work to indicate and explain the value of the manuscripts copy.

3.2. **The Population of the Study**: The population for this study is the entire manuscripts of the book under study, *Irshad-al-Ummah ila Taysir-al-Millah* of Shaykh Uthman b. Fodio.

3.2.1 Sampling Techniques of the Study:

Due to some factors or conditions prevailing, the researcher was constrained to use only a sample of the population. Some of these conditions or factors include;

i) Large size of the population

ii) Limited time

iii) Inadequate material and human resources.

Consequently, the sampling technique used by the researcher in this study is opportunity sampling, which is in other words known as accidental sampling. The researcher used this technique for it was practically not possible with the above conditions prevailing to trace and collect all the manuscripts of the book under study.

Opportunity sampling technique is described by Omolaiye (1988) as quoted in Tukur (1991:66) "as a technique in which you use only individuals who happen to come to you or those who happen to be there around you when you are carrying out your study." You take what you can find and you are contented with it. He described it as economical and convenient to use especially when dealing with a large and scattered population.

3.3 Description of the Samples: - The manuscripts.

In this study the researcher used three samples of the manuscript copies of the book under study, *Irshad-al-Ummah ila Taisir-al-Millah*, which were designated as 'A' (أ) 'B' (ب)

and 'C' (ج). This designation is based on the chronological order of acquisition and accuracy.The first copy acquired which is the most accurate of the three is designated 'A' then followed by 'B' (ب) then 'C' (ج) The first copy was obtained from the document centre of Bayero University Kano (BUK) main library. This copy is recorded as Ms./Document No. 133. The date of its acquisition is 18 4/1975. It was loaned for photocopying by Alhaji Boyi of Gidan Uban Doma, Sokoto. The copy was collected by Professor M.S. Zahraddin. The number of pages is thirty-six and the size of a page is recorded as 21.5 x 16.5 cm. The date of authorship is indicated as Tuesday 28th Rajab 1228 (27th July, 1813). However the corresponding date is wrongly calculated on the manuscript. It should be July 27 1807 not 1813. The date of copying and the name of copyist are not indicated.

The number of lines on the pages is not uniform. The first folio contained fourteen lines with wide spaces and characters. In subsequent folios i.e. from folio No. 2 to folio No. 31 the lines were close and not spaced like the first folio. Their characters are not bold. The number of lines in this range of folios ranges between eighteen and twenty-three . In the last folios i.e. from folio 32 to folio 36 the number of lines on each folio within this range is twelve or thirteen or fourteen, except folio No. 33 which contains five lines with a tree diagram drawn to illustrate the sayings and views of leaders of schools of law and how they are interconnected to the sources of Shariah.

In short one can vividly observe the non-uniformity of the folios in terms of their number of lines as a result of non-uniformity of their spacing and bolding. Thus, pages that have bold characters and were largely spaced such as folios; 1, 32, 34, 35 and 36 contained less number of lines ranging from 12-14. And those folios whose lines are not spaced and their

characters not bolded like folios 2-31 contained higher number of lines ranging from 18-23. The handwriting, however is clear and legible throughout except the first folio on which parts of some lines have faded a little but could still be read after due observation. The style of the writing is the usual local calligraphical form called the *Magribiyya* style. The pagination is done in the ancient traditional way called the '*Matashi*' style of pagination. In this style the first word of the next folio is written on the bottom left corner of the proceeding folio.

In this copy (i.e. the first copy) there are some omissions by the copyist, the correction of which he inserted on the margin spaces with particular marks to show the places of omission. Examples of this could be observed on folios; 1,6,7,9,16,24,25 and 31. Also crossings and cancellations of some lines by the copyist could be observed. This could be seen on folios; 3,6,12 & 23. This copy was the first to come my way. I also came across a copy of same manuscript in the Northern History Research Scheme (N.H.R.S) in Ahmadu Bello University (A.B.U), Zaria, but this copy was however incomplete, the last three folios were missing. They photocopied the missing folios from my copy. The system of dating used on this copy and indeed the other two copies is the Magrib traditional calligraphic system of dating whereby alphabetical letters are used to represent numbers. The alphabets are formed into words or terms. Each letter represents a number, which may be in thousand, hundred, ten or unit values.

The Sokoto Jihad scholars according to Dalhatu (1994) used these terms and words to represent years in which they carried out an activity. Examples of these terms like *SHUKUR*, *JALASA*, *BAKARA*, *SHARHAK* are used by them to indicate years in which they

carried out an activity like authorship. Shaykh Uthman in the book under study used *SHARHAK* as the date of authorship of the book, which is equivalent to 1228 A.H.

I obtained the second sample of the manuscript from the History Bureau Library, Sokoto State. The accession number of this copy as well as the date of recording, the name of the person who copied it and the date of copying are all not indicated on this copy. I made my photocopy from the original copy. The date of authorship is indicated in the *Magrib* traditional system of dating on the last page as SHARHAK meaning 1228 A.H like on the first copy. This copy consists of 21 folios, each measuring 23 x 19cm. The number of lines on the folios ranges between 18 and 20 lines except the last folio, which has only twelve full lines covering only half of the page.

The tree diagram drawn by the author to illustrate the interconnection of the schools of law to the sources of Shariah is only provided on folio No. 20 of this copy. The handwriting is very clear and readable throughout. The style of writing is the same with that of the first copy that is the *Magribiyya* calligraphy. The pagination is also the same with that of the first copy i.e. the '*Matashi*' style of pagination. In this copy some level of uniformity with other folios has been maintained as with regards to the spacing of their lines and boldness of their characters. Uniform spacing as well as equal size of the characters is maintained throughout. Indeed this is the neatest and cleanest of all the three copies, for, there is no serious omission in the text. Also there is no crossing cancellation identified except one single word that is crossed out on folio No. 7. In fact the copyist had been very cautious and vigilant in his copying and he is bestowed with a very beautiful handwriting.

The third copy was loaned to me for photocopying by Alhaji (Malam) Boyi of Gidan Ubandoma, in Sokoto. The date of copying as well as the name of the copyist are not

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indicated on this copy. Like in the other two copies, in this copy on its last folio the date of authorship is indicated as *SHARHAK* meaning the year 1228 A.H. There is no date of recording or accession number on this copy. The photocopy was made from the original copy. It consists of 29 folios each measuring about 25 x 18 ½ cm. With the exception of the last folio, which has fifteen lines, the number of lines on all the folios ranges between 18 and 20 lines. Unlike the case with the first copy, the tree diagram is drawn in this copy on the cover folio under the title of the book and the name of the author. The handwriting is clear and readable throughout. The style of writing and pagination are the same with that of the first and the second copies.

This copy is like the first one, it shows some omissions made by the copyist which he inserted on the margins with marks to indicate the places of the omissions. Examples of this could be seen on folios: 6, 16, 18, 24 and 27. The copyist has also crossed out some words and lines in the text. This could be seen on folios: 6, 12, 23 and 27. The spacing and size of the characters in this copy are similar to those of the second copy. This is why the number of lines on the folios is maintained in one range that is 18-20 lines throughout. The ink used on this and the second copy is black throughout. This is the copy I got last.

Although no date of copying is indicated on all the three manuscript copies of the book under study, close observation of the paper on which they are written tends to reveal which copy is more recent and earlier. The paper of the last copy appears to be newer and more recent than the second copy. However, the rule of chronological order can not work on the three copies, for, the researcher was not opportuned to have access to the original copy of the first manuscript which is saved at the Document Centre, Bayero University Library to access its age by observing the paper on which it is copied. In this case, the researcher was

constrainted to relinquish the rule of chronology in favor of accuracy and correctness upon observation of the three samples since the chronological order could not work.

Internal observation into the three samples reveals to the researcher that the first copy has the highest rate of accuracy and authenticity. The other two copies, especially the third copy, were found wanting, such as the frequent occurrence of mistakes and omissions which were found to be very high in the third copy. For this obvious reason the first copy was selected to be the mother copy upon which the other two copies will be compared. This copy is therefore designated as 'A' (أ) as already mentioned earlier. The second copy is 'B' (ب) And finally the last is the third copy, which is designated as 'C'. (ج)

3.4 Instrumentation:

The instrument used by the researcher in this study for collecting data so as to produce the desired result include basically the manuscript of *IRSHAD-AL-UMMAH ILA TAISIR-AL-MILLAH* (the book under study) as well as other books written by the author in the same or relevant field. Other instruments used by the researcher for the successful accomplishment of this research work include the sources on which the author relied in writing the book under study and books written by other scholars within the same field. However the researcher regrets that not all the sources were available and accessible to him.

The researcher also largely sourced data for this study from the studies and research works conducted on the Sokoto Jihad literature especially those on Shaykh Uthman and his literary works. Arabic and English dictionaries, general biographical and bibliographical materials are all important instruments used in this study. Arabic and subject specialists are also other instruments, which the researcher used for this study.

3.5 Translation: -

The researcher produced a critical edition of the book under study and translated it into English language. In the translation the researcher referred to other works by the author in the same field and the original sources he used. A literal and free translation was adopted. Brackets were used occasionally to complete the meaning of a sentence or to clarify meaning of an idea. The translation of verses from the holy Qur'an was based on Ali (N.D.) and Zayd (1980) Translations. And translations of Arabic words and expressions were based on Elias and al-Maurid Modern Arabic Dictionaries. The paragraphing and punctuations are entirely that of the researcher. The pages of the adopted manuscript for the Arabic text is indicated in the translated text by two line strokes while the number of the page is indicated on the margin in brackets for easy reference.

CHAPTER FOUR
4.0 THE EDITED ARABIC TEXT

كتاب إرشاد الأمـــة إلى تيسير الملة

للعلامة الشيخ عثمان بن فودى

تحقيق وتعليق وترجمة

بلا موسى كزورى

هذا الكتاب بحث مكمل قُدم لنيل شهادة الماجستير في التربية (بالتخصص في الدراسات الإسلامية) في قسم التربية، كلية التربية جامعة أحمد بللوا زاريا نيجيريا، وقد نوقش في ٢٥/٧/ ٢٠٠٣م.

بسم الله الرحمن الرحيم

اللـــهم[1] صـــل على سيدنا محمد وآله وصحبه وسلم تسليما، قال العبد الفقير المضطر[2] لرحمة ربه عثمان بن محمد بن عثمان المعروف بن فودي تغمده[3] الله برحمته آمين. الحمد لله الذي أنعم علينا بنعمة الإيمان والإسلام، وهدانا بسيدنا ومولانا محمد عليه من الله تعالى أفضل الصلاة، وأزكى السلام.

أمـــا بعـــد، فهـــذا كتاب إرشاد الأمة إلى تيسير الملة، فأقول وبالله التوفيق، فاعلموا[4] يا إخـــواني إني أقـــول لكـــم أولا[5] كما [6] قال محمد الطغوغي[7] في أول كتابه (تخليص الإخـــوان) ليسا [8] لي في كل ما أقول لكم قول، ولكني أبين لكم ما قاله علماؤنا، علماء السنة رضي الله عنهم، ولا أقول لكم إلا كلام الراسخين في العلم[9] وإن شئتم وقفتكم[10]

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(١) ب و ح: لفظ الجلالة ساقط.

(٢) ج: المضطر ساقط.

(٣) ج: تعمد.

(٤) في كل النسخ فاعلموا والأصوب: اعلموا

(٥) أ و ح: "أقول".

(٦) ج: "فما"

(٧) ما وقفت على شيء عنه ، ولكن يبدو أنه من علماء المغرب الذين لم يذع صيتهم ونقل المؤلف عنـــه دون أية إشارة إلى ما يمكن الرجوع إليه وهذا طبعا مألوف عند القدامى أنهم أحيانا يذكرون الكـــتاب ولا يشـــيرون إلى صاحبه أو مكان نقله أو ناقله. وأحيانا يذكرون الكتاب ومؤلفه . ولا يمكـــرون بعـــد هذا ما يمت بصلة إلى ما يمكن الوصول عن طريقه إلى معرفة المؤلف،أو الكتاب من ناحية التاريخ أو النسب.

(٨) هكذا جاء في جميع النسخ "ليسا لي" وهو خطأ ربما من الناسخ والصحيح "ليس" بإسقاط الألف

(٩) هذا اقتباس من سورة آل عمران الآية "٧"

(١٠) ج: وقفتكم وكلاهما خطأ وأرى أن الأصح "أوقفتكم" بزيادة الألف.

(P.2) عـــلى كـــل كتاب نقلت منه انتهي ولا[1] أذكر لكم في هذا الكتاب قولا إلا نسبته لقائلـــه، أو أذكـــر الكتاب الذي نقلت منه، لأنه أقرب إلى ضمأنينة النفوس، كما هو[2] عادتي في عامّ تواليفي.

وأقـــول لكم أيضا كما قال عبد الوهاب الشعراني[3] فإني والله ناصح للأمة، ما أنا متتبعت ولا مظهـــر عما خفي[4] النفس فيما أعلم،ومقصودي في تأليف هذا الكتاب بيان أن دين الله تعـــالى يســـر لبذل النصيحة لكم، لا لإيقاعكم في باب التساهل في المعاصي، والبدع المذمومة والعوائد الردية[5]، بل لتقتدوا به عليه الصلاة والسلام والسلف الصالح رضي الله عنهم في اختيار أيسر[6] الأمور في كل ما لم يكن فيه إثم، ولم يرد فيه نـــــــص.

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(١) ح: الواو ساقط.

(٢) كـــذا جـــاءت به جميع النسخ بالمذكر، وأرى أن الأصح: "هي" بالمؤنث لأنه ضمير راجع إلى مؤنث وهي عادة.

(٣) هو عبد الوهاب الشعراني، توفي عام ٩٧٣هـ الموافق ١٥٦٥م فقيه شافعي ومتصوف مصري كـــبير، عاش في القاهرة، ومؤلف مكثر له مكانة بالغة في العالم الإسلامي من كتبه البحر المورود في المواثـــيق والعهـــود، والدر المنير والجواهر والدرر الكبرى ولطائف المنن، ولواقح الأنظار في طبقات الســـادة الأخيار. أنظر المنجد في اللغة والأعلام، الطبعة السابعة والثلاثون، لدار المشرق، لسان سنة (١٩٩٨م)، ص: ٣٣٣ مادة الإعلام.

تنبـــيه: لقـــد تأثـــر المؤلف تأثيرا كبيرا بالشعراني ونقل عنه في كتابه هذا أكثر مما نقل من غيره من العـــلماء، وقلما تمر بصفحة أو صفحتين من هذا الكتاب بدون أن ترى المؤلف يذكر اسم الشعراني وهذا إن دل على شيء فإنما يدل على مدى تأثير المؤلف بهذا العالم الجليل من بين العلماء .

(٤) لحفظ النفس في (ب) وهذا تصحيف

(٥) كذا جاء في جميع النسخ بالياء، والأصوب الرديئة بالهمزة، لأن أصل الكلمة من الردىء.

(٦) أ: يسر.

وفي الشفاء [1] ما خير رسول الله صلى الله عليه وسلم بين أمرين[2] إلا [3]اختار أيسرهما، ما لم يكن إثما، فإن كان إثما ، كان أبعد الناس منه [4] وفي ألفية السير[5]:

يختار أيسر الأمور إذ ما ** خير إلا أن يكون إثما.

(P.3) وكذلك السلف الصالح رضي الله عنهم يتبعون اقتداء به عليه الصلاة والسلام[6] . وفي صحيح البخاري: وكانت الأئمة بعد النبي صلى الله عليه وسلم، يستشيرون[7] الأمناء من أهـــل العلم في الأمور المباحة، ليأخذوا بأسهلها[8]. قال القسطلاني[9] في هذا الخ: إذا لم يكن فيها نص بحكم معين، وكانت على أصل الإباحة. وقال عند قوله: كانت الأئمـــة،

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(١) كتاب معروف مشهور تحدث عن حقوق النبي (ص) ألفه القاضي عياض، وهو من مراجع الكتب في المغرب.

(٢) ب: الأمرين

(٣) ب: "إلا" ساقط.

(٤) وأخـــرجه أيضـــا ابن عبد البر في التمهيد ١٤٨- ١٤٩، وكذا أخرجه أبو داود في سننه برقم ٤٧٨٥. وأيضا أخرجه الهيثمي في كتابه مجمع الزوائد ج٩، ص: ١٥٠. والحديث رواية عائشة أم المؤمـــنين رضـــي الله عنها. أنظر موسوعات أطراف الحديث النبوي الشريف للإمام أبو هاجر محمد السعيد بن بسيوني زغلول. الطبعة الأولى لدار الفكر سنة (١٩٨٩م) ج:٩، ص: ١٢٦.

(٥) التمست هذا الكتاب في فهارس كتب التاريخ ولكن لم أجد له ذكرا

(٦) ج: صلى الله عليه وسلم.

(٧) ج: يتشيرون.

(٨) ب: بأسهاها.

(٩) شـــهاب الدين أحمد القسطلاني شارح صحيح البخاري ، توفي عام ٩٢٣هـــ الموافق ١٥١٧م محـــدث، ومـــؤرخ، مصري ومن تصانيفه إرشاد الساري لشرح صحيح البخاري ، حرز الأماني في القرآن والإبتهاج في شرح صحيح مسلم بن الحجاج. المنجد في اللغة والأعلام. المرجع السابق. ص: ٤٣٨ مادة الأعلام

من[1] الصحابة والتابعين. ومن بعدهم. انتهى. وإذا تمهد لكم هذا. فاعلموا يا إخواني أن دين الله تعالى يسر كتابا. وسنة. وإجماعا. أما الكتاب. فقوله تعالى: (يريد الله بكم اليسر ولا يريد بكم العسر)[2]. وقوله تعالى (وما جعل عليكم في الدين من حرج)[3].

و[4]أمـــا الســـنة فقوله عليه الصلاة والسلام (إن الدين يسر)[5] الحديث رواه البخاري في صـــحيحه وقو له عليـــه الصلاة والسلام (يسروا ولا تعسروا. وبشروا ولا تنفروا) رواه البخاري في صحيحه.[6] وقوله عليه الصلاة والسلام (اختلاف أمتي رحمة)[7].

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(١) عبارته "من الصحابه و تابعين" شرح لكلمة "الأئمة" أوردها القسطلاني في النص.

(٢) سورة البقرة ١٨٥.

(٣) سورة : الحج ، الآية "٧٨".

(٤) ح: أما.

(٥) الحديث رواه البخاري في الصحيح "ج ١ ص ١٦ .وكذلك الزبيدي في اتحاف السادة المتقين ٦ : ٣٦٨ وأيضا أخرجه المتقي الهندي في كتابه كنز العمال . برقم ٥٣٤٣ . والتبريزي في كتابه مشكاة المصباح برقم ١٢٤٦. وأخرجه كذلك الحافظ ابن حجر العسقلاني في الفتح وأيضا أخرجه السيوطي في جمـــع الجوامـــع بـــرقم ٥٤٨٤. وهكذا أخرجه ابن عبد البر في التمهيد ج٥ ص ١٢١. أنظر موسوعات أطراف الحديث النبوي. المرجع السابق. ج: ٣. ص: ٢٨. والحديث من رواية أبي هريرة رضـــي الله عـــنه. وتمـــام حديث إن الدين يسر. ولن يشاد الدين أحد إلا غلبه . فسددوا. وقاربوا وابشروا، واستعينوا بالغدوة والروحة . وشيء من الدلجة.

(٦) وروي الحديث أيضا بإمام مسلم في كتاب الجهاد برقم ٨٠٦، ورواه كذلك أبو داود في كتاب الأدب برقم ٢٠ والحافظ في الفتح ١: ١٦٣، والإمام البغوي في شرح السنة ١٠ ٦٨. والمنذري في الترغيـــب والترهيـــب ٣ : ٤١٧. والمتقي الهندي في كنز العمال برقم ٥٢٢. والبيهقي في دلائل النـــبوة ٥ : ٤٣. والطـــبراني في المعجم الكبير ١١ ٣٣. راجع موسوعات أطراف الحديث المرجع السابق. ج:١١، ص: ٣٣٥.

(٧) الحديث رواه العراقي في المغني عن حمل الأسفار ج١: ٩٨. والزبيدي في إتحاف السادات المتقين ١ : ٢٤. والمتقي الهندي في كنز العمال رقم ٦٨٦٨٦. نفس المرجع السابق ج:١، ص: ١٧٣----

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(P.4) // أورده محمـــد الطغوغي في تخليص الإخوان، وأورده أيضا عبد الوهاب الشعراني في الميزان. وأمـــا الإجماع[1]. فقد اتفق أهل السنة على أن دين الله تعالى يسر، ولذلك كان اختلاف الأمة رحمة. فعلم أن من لم[2] يخرج عن أقوال علماء السنة لا ينكر عليه إنكار الحرام. ولبعضهم:

وليس ينكر احتلاف الأمة [3] * إذ [4] احتلاف العلماء رحمة[5]

قـــال أبو محمد[6] في الدرر المنتقطة: فمن شدد، شدد الله عليه، فمراد الله في هذه الأمة أن يقع الاختلاف فيحصل التيسير، ولذلك أنزل إليهم كتابا عربيا، ولغة العرب متسعة محتملة

== **تنبـــيه**: هذا الحديث لا يصح، قاله السبكي. ونص ما قاله: "لم أقف له على سند صحيح ولا ضـــعيف ولا موضوع"راجع كتاب صفة صلاة النبي للألباني طبعة الأولى لمكتب المعارف، الرباض، سنة: ١٤١٦هـــ، ص: ٥٨-٥٩.

هذا، والإمام السبكي هو تاج الدين السبكي توفي عام ٧٧١هـــ الموافق ١٣٧٠م، ومؤرخ ثبت انتهى إليه قضاء القضاة في الشام. اشتهر بكتابه طبقات الشافعية الكبرى. وله مؤلفات في الفقه والأصول. أنظـــر المـــنجد في اللغة والإعلام المرجع السابق، ص:٢٩٥. مادة الأعلام. و ورد الحديث أيضا في كتاب تذكرة الموضوعات لفتني ٩

(١) سيأتي البيان عن الإجماع

(٢) ح: "لم" ساقط . (٣) أ: أمه.

(٤) ب و ج: إذا

(٥) أ و ب: رحمه

تنبيه : هنا يبدوا أن المؤلف رحمه الله نبذ شرطه وهو أنه التزم في صدر الكتاب بأنه لا يذكر قولا في كتابه هذا إلا ذكر قائله ، وهاهنا بيت شعر ذكره المؤلف بدون ذكر قائله، وهذا مما قد يعثر الإنسان عليه، لأن الجواد يكبو. هذا، وقد التمست البيت في دواوين الشعر وكتب التصوف وغير ذلك من كتب الأحاديث والفقه المنضومة و لم أقف على قائله أصلا ،ولعل المؤلف هو قائله.

(٦) ما وقفت على ترجمة له.

لمعاني المختلفة. و[1] قال أبو محمد أيضا في الدرر الملتقطة: ومن كرم الله تعالى أن العلماء مختلفون. فإذا شدد هذا سهل غيره، ودين الله يسر. وقال عبد الوهاب الشعراني في الميزان جـــاءت شريعة نبينا صلى الله عليه وسلم على أكمل حال بحكم الاعتدال فلا يوجد فيها

(P.5) شيء فيه مشقة على شخص إلا و[2] يوجد فيها شيء آخر فيها [3] التخفيف عليه// إما حديـــث. أو أثر، أو قول[4] إمام آخر أو قول[5] في مذهب ذلك المشدد مرجوح يخفف عنه.

وقال عبد الوهاب الشعراني أيضا في الميزان وقد كان سفيان الثوري[6] رحمه الله يقول: لا تقولـــوا اخـــتلف العـــلماء في كذا، وقولوا قد وسع العلماء على الأمة بكذا. قلت: ومن توسعت[7] الدين هذا الاختلاف[8] وجواز عمل الشخص بالشاذ في مذهبه، وجواز العمل

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(١) ج: الواو ساقط.

(٢) ب: الواو ساقط.

(٣) في جميع النسخ "فيها" ولكن الأصح "فيه"

(٤) ج: وقول.

(٥) ب و ح: وقول.

(٦) هـــو أبـــو عبد الله سفيان الثوري، توفي عام ١٦١هـــ محدث من الأئمة المجتهدين. ولد في الكوفـــة وتوفى بالبصرة ، له الجامع الكبير، والجامع الصغير، وكتاب في الفرائض. المنجد المرجع السابق، ص: ٣٠٢. مادة الإعلام

(٧) ج: سعة.

(٨) عقـــب الألباني على القول بأن اختلاف العلماء توسعت على الأمة بأنه جاءت نصوص عن بعـــض الأئمة بما يرده، فأورد أقوال ابن القاسم وأشهب صاحبي الإمام مالك والإمام المزني صاحب الإمـــام الشافعي رحمهم الله جميعا، نقلا من جامع بيان العلم لابن عبد البر. (يقول ابن القاسم. =

تمذهب غيره إذا لم يجد في مذهبه نصا، ولا وجد من له معرفة تمداركه قال الخرشي [1] في مواهب الجليل، شرح مختصر[2] الخليل إذا لم يجد الشخص في مذهبه في مسألة نصا. ولا

-- سمعت مالكا والليث يقولان في اختلاف أصحاب رسول الله صلى الله عليه وسلم ليس كما قال الناس، "فيه توسعة" ليس كذلك ، إنما هو خطأ، وصواب).

ويقول أشهب: (سئل مالك عن من أخذ بحديث حدثه ثقة عن أصحاب رسول الله صلى الله عليه وسلم . أتراه من ذلك في سعة ؟ فقال :- لا والله حتى يصيب الحق . ما الحق إلا واحد. قولان مختلفان يكونان صوابا جميعا ! ما الحق والصواب إلا واحد). ويقول الإمام المزني صاحب الشافعي. وقد اختلف أصحاب رسول الله صلى الله عليه وسلم. فخطأ بعضهم ، ونظر بعضهم في أقاويل بعض وتعقبها، ولو كان قولهم كلهم صوابا عندهم لما فعلوا ذلك.

وغضب عمر بن الخطاب رضي الله عنه من اختلاف أبي بن كعب وابن مسعود في الصلاة في الثوب الواحد، إذ قال أبي أن الصلاة في الثوب الواحد حسن جميل" وقال ابن مسعود:- إنما كان ذلك والثياب قليلة ، وخرج عمر مغضبا، وقال: اختلف رجلان من أصحاب رسول الله صلى الله عليه وسلم ممن ينظر إليه ، ويؤخذ عنه ! وقد صدق أبي ولم يأل ابن مسعود، ولكن لا أسمع أحدا يختلف فيه بعد مقامي هذا إلا فعلت به كذا وكذا.

وقال المزني أيضا، يقال لمن جوز الاختلاف وزعم أن المجتهدين إذا اجتهدا في الحادثة فقال أحدهما حلال، والآخر حرام، إن كل واحد منهما في اجتهاده مصيب الحق. أ بأصل قلت هذا أم بقياس؟ فإن قال بأصل. قيل له كيف يكون أصلا والكتاب ينفي الاختلاف؟ وإن قال بقياس قيل كيف تكون الأصول تنفي الخلاف ويجوز لك أن تقيس عليها جواز الخلاف؟ هذا مما لا يجوزه عاقل، فضلا عن عالم. راجع صفة صلاة النبي المرجع السابق، ص: ٦١-٦٢

قلت : هذا تعقيب حسن جيد.

(١) ب و ح: الخراشي. وهو أبو عبد الله، محمد بن عبد الله الخرشي المتوفى سنة ١١٠١ هـ فقيه مالكي مشهور، وله حاشية الخرشي على مختصر الخليل . أنظر ضياء السياسات وفتاوى النوازل للشيخ عبد الله بن فودي تحقيق /تعليق أحمد محمد كاني ٨٧، الطبعة الأولى: لمطبعة الزهراء، القاهرة، سنة (١٩٨٨م).

(٢) ب: المختصر

وحـــد مـــن له معرفة بمداركه فالظاهر أنه يسأل عن مذهب الغير، ويعمل به، ولا يعمل بـــالجهل. لقـــول يوسف بن[1] عمر في قول الرسالة وتستعمل سائر ما تنتفع به طيبا[2]. الحلال[3] مسالة مفقودة. فيجتهد الإنسان في متفق مذهبه ثم في الأقوى من الخلاف. ثم في[4] شاذ مذهبه، ثم ينظر الخلاف في خارج مذهبه. ولا يخرج عن أقاويل العلماء. انتهى.

فـــإن قلـــت فهل من يجد الضيق والحرج في نفسه في العمل بقول غير إمامه غير كامل في اعـــتقاده أن سائر الأئمة على هدى من ربهم أم[5] لا؟ فالجواب كما قال عبد الوهاب// **(P.6)** الشعراني في الميزان نعم الأمر كذلك، ولا يكمل اعتقاده إلا إن تساوي عنده العمل بقول كل مجتهد على حد سواء انتهى. وقد قدمنا قبل بيان أدلة تيسير الدين لكن على الجملة. ونريد الآن أن نبين أدلة ذلك على التفصيل في العمل والفتوى والحكم. أما العمل، فقد قـــال الله[6] تعـــالى (لا يكلف الله نفسا إلا وسعها).[7] وقال عليه الصلاة والسلام (إذا أمرتكم بأمر فأتوا منه ما استطعتم). أورده[8] عبد الوهاب الشعراوي في الميزان.

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(١) لم أقف عليه، في فهارس الأعلام التي مررت عليها، ولعل المؤلف عني به، العالم المغربي المعروف، له شرح على رسالة ابن أبي زيد القيرواني

(٢) ج: طيب.

(٣) هذا القول منقول من متن رسالة أبي زيد القيرواني باب جمل من الفرائض

(٤) ب: "في" ساقط

(٥) ج: أولا

(٦) "الله" لفظ الجلالة ساقط

(٧) سورة البقرة الآية ٢٨٦.

(٨) ج: أورد.

والحديث أخرجه البخاري ٩ : ١١٧، ومسلم في صحيحه كتاب الحج ٤١٢ والإمام أحمد في مسنده ج ٢ ص ٥٠٨، والدار القطني في سننه ج ٢ ص ٢٨١- والحافظ في الفتح ١٣ ص ٢٦١، انظر موسوعة أطراف الحديث النبوي المرجع السابق. ج:١، ص: ٢٦٣.

وأمـــا الفتوى. فقد قال الإمام الشاطبي،[1] كما في كفاية المحتاج لأحمد باب: [2] (إطلعنا شـــيخنا أبـــو سعيد على فتوى [3] بخطه أفتى فيها مراعاة اللفظ فنازعناه. ثم تنقيا [4] معه يوما . فقال: أردت أن أطلعكم على مستندي في تلك الفتوى ونحوها وقصدي التخفيف فـــيها. فإنا مسائل من النهاية وأحكام ابن الفارس[5] وغيرهما مما يقتضي الاعتماد على لفـــظ الخـــالف[6]، وإن خالف نية بناء على قول من يقول به في المذهب وغيره. ثم قال:

(P.7) أنـــبهكم عـــلى قـــاعدة نافعة في الفتوى جدا معلومة من سند العلماء وهي // أنهم ما يشـــددون على السائل إن جاء مستفتيا. وقال عبد الوهاب الشعراني في الميزان: فإن قلت

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(١) هـــو أبـــو إسحاق إبراهيم الشاطبي توفي عام ٧٩٠هـــ- ١٣٨٨م فقيه مالكي من أهل غرناطة أصولي ومفسر. من كتبه الموافقات في أصول الفقه ، والاعتصام، وأصول النحو. انظر المنجد في اللغة والأعلام، المرجع السابق، ص: ٣٢٨، مادة الأعلام.

(٢) أحمـــد بابا. هو المعروف بأحمد بابا التمبكتي . ولد في قرية أروان بشمال تمبكتو. وينتمي إلى عائلة اشتهرت بالعلم وبرئاسة القضاء في تمبكتو، أخذ العلم عن والده ، وعن الشيخ محمد بغيو كان من أعلم أهل زمانه. له تصانيف عديدة منها نيل الابتهاج بتطريز الديباج ، وكفاية المحتاج لمن ليس في الديـــباج. والكشف والبيان عن أصناف مجلوب السودان توفي سنة ١٠٣٢. انظر ضياء السياسات وفتاوى الموازل المرجع سابق ص: ١٥٩.

(٣) الفـــتوى هو إخبار عن حكم شرعي ، والمفتي هو المخبر عن الحكم الشرعي والمستفتي هو السائل عن حكم شرعي. انظر الأصول من علم الأصول للشيخ محمد صالح العثيمين الطبعة الأولى. سنة ١٤٠٠هـــ. ص: ٧٣

(٤)في جميع النسخ تنقيا والأصح التقيا

(٥) ما وقفت على ترجمته

(٦) "ب" و "ح" الخالف.

فهـــل ينبغي إن أفتي على أربعة مذاهب ألا يفتي المقلد [1] إلا بالأرجح من حيث النقل أو يفتـــيهم بما شاء من الأقوال؟ الجواب الذي ينبغي له ألا يفتي الناس إلا بالأرجح لأن المقلد

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[1] التقليد لغة وضع الشيء في العنق محيطا به كالقلادة، واصطلاحا اتباع من ليس قوله حجة، فخرج بقولنا من ليس قوله حجة اتباع النبي صلى الله عليه وسلم ، واتباع أهل الإجماع، واتباع الصحابي لمن يرى أن قوله حجة، فلا يسمى اتباع شيء من ذلك تقليدا لأنه اتباع لحجة . وأن سمي تقليدا ، فإنما ذلك على وجه المجاز،

ويكون التقليد في موضعين ، الأول ، أن يكون المقلد عاميا لا يستطيع معرفة الحكم بنفسه، ففرضه التقليد لقوله تعالى :{فاسألوا أهل الذكر إن كنتم لا تعلمون} النحل الآية ٤٢ - فيقلد أفضل من يجده علما وورعا، فإن تساوى عنده اثنان خير بينهما.

الموضـــع الثاني : أن تقع للمجتهد حادثة تقتضي الفورية ولا يتمكن من النظر فيها فيجوز له التقليد حينئذ. واشترط بعض العلماء لجواز التقليد، ألا تكون المسألة من أصول الدين والراجح أن ذلك ليس بشـــرط لعموم قوله تعالى :- (فاسئلوا أهل الذكر إن كنتم لا تعلمون) فإن الآية في سياق إثبات الرســـالة وهو من أصول الدين ولأن العامي لا يتمكن من معرفة الحق بأدلته، فإذا تعذر عليه معرفة الحق بنفسه لم يسعه إلا التقليد لقوله تعالى : (فاتقوا الله ما استطعتم) ، التغابن الآية ١٦

والتقليد نوعان ، عام وخاص. فالعام ، أن يلتزم المقلد مذهبا معينا يأخذ برخصه وعزائمه في جمـــيع أمور دينه. وقد اختلف العلماء في هذا النوع ، فمنهم من يرى وجوبه لتعذر الإجتهاد في المتأخرين ، ومنهم من حكى تحريمه لما فيه من الإلتزام المطلق لإتباع غير النبي صلى الله عليه وسلم.

يقول شيخ الإسلام ابن تيمية : من إلتزم مذهبا معينا ثم فعل خلافه من غير تقليد لعالم آخر والاستدلال بدليل يقتضي خلاف ذلك ولا عذر شرعي يقتضي حل ما فعله. فهذا متبع لهواه فاعل لـــمحرم بغـــير عذر شرعي. وهذا منكر. وأما إذا ظهر له ما يوجب رجحان قول على قول إما بالأدلة. وإما أن يرى أحد الرجلين اعلم بتلك المسألة ، واتقي لله فيرجع عن قول إلى قول فمثل هذا يجوز بل يجب وقد نص الإمام أحمد على ذلك.

والخاص : أن يأخذ بقول معين في قضية معينة ، فهذا جائز إذا عجز عن معرفة الحق بالاجتهاد سواء عجـــز عجزا حقيقيا . أو استطاع ذلك مع المشقة العظيمة راجع الأصول من علم الأصول المرجع السابق. ص: ٧٨.

KASIM IBRAHIM LIBRARY

مـــا ســـأله إلا ليفتيه بالأرجح من مذهب إمامه لا بما [1] عنده هو ، اللهم إلا أن يكون المرجوح أحوط في دين السائل فله أن يفتيه [2] بالمرجوح ولا حرج ثم قال بعد كلام قيل قـــال عبد الرحمن السيوطي[3] يحتاج من يفتي الناس على أربعة مذاهب أن يعرف الراجح عـــند أهل كل مذهب يفتي به المقلدين إلا أن يعرف من السائل أنه يعتمد علمه ودينه . ويشرح صدره لما يفتيه به ولو كان مرجوحا (قلت فعلى هذا لا يحتاج إلى الإطلاع على ما هـــو الأرجـــح)[4] عند أهل كل مذهب انتهى. فإن قلت، هل نفتي بالمذاهب الأربعة في بلادنا السودانية هذه ، أو لا نفتي إلا بمذهب إمامنا مالك[5] رضي الله عنه؟ فالجواب إننا لا نفتي في بلادنا السودانية هذه إلا بمذهب إمامنا مالك رضي الله عنه، لفقد بقيّة المذاهب

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(1) "ح": إلا بما ، وهو خطأ والسياق يأبى ذلك

(٢) ح: أن يفتي

(٣) هو جلال الدين عبد الرحمن السيوطي (١٤٤٠-١٥٠٥م) عالم مشارك في أنواع العلوم. ولد وتوفى بالقاهرة. نشأ يتيما، رحل يطلب العلم إلى جميع البلاد العربية والهند عمل بالتدريس وانقطع عن الناس في الأربعين من عمره وتفرغ للتأليف، له نحو ستمائة كتابا في التفسير، والحديث، والفقه، واللغة والتاريخ، منها الدر المنثور، والمزهر في فلسفة اللغة، وبغية الوعاء في طبقات اللغويين والنحاة. المنجد في اللغة والأعلام، المرجع السابق، ص: ٣٢٤. مادة اللام.

(٤) "ح" ساقط ما بين القوسين.

(٥) هو مالك بن أنس (٩٣- ١٧٩هـــ)، أحد الأئمة الأعلام إمام ومؤسس المذهب المالكي، أحد المذاهـــب الفقهية الكبرى في الإسلام ،ولد وتوفى بالمدينة وله الموطأ الذي هو أساس المذهب . والرد على القدرية. لمذهبه مكانة كبرى في المغرب. المنجد المرجع السابق، ص: ٥١٥ مادة الإعلام.

(P.8) فيها كما // فقدت في بلاد المغرب، قال أحمد الزروق[1] في قواعده وهذا أي[2] فقد بقية المذاهب في المغرب أفتى سحنون[3] بأنه لا يفتى بالمغرب بغير مذهب مالك ونحوه[4] لابن الكاتب[5] انتهى . وإذا فهمت هذا عرفت أن حكم بلادنا هذه حكم بلاد المغرب في[6] فقد بقية المذاهب فيها. وعدم الفتوى بها والاقتصار على الفتوى بمذهب إمامنا مالك انهم إلا أن يكون السائل عاميا عمل عملا كان صحيحا عند تلك المذاهب وسألنا[7] ذلك بعد وقوعه وعرفنا أنه صحيح عند تلك المذاهب فلا يمتنع حينئذ، إذا العامي لا مذهب له إلا في الاسم .

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(١) هو أبو العباس أحمد زروق توفى عام ٨٩٩هـ، صوفي شاذلي مغربي من أهل فاس ، توفى بمصراتة في ليبيا، من كتبه شرح الحكم العطائية وشرح مختصر الخليل ، وقواعد الزروق ، المنجد نفس المرجع. ص: ٢٢٩.

(٢) قوله: "أي" الخ، جملة إعتراضية شارحة

(٣) هو عبد السلام سحنون توفى عام ٢٠٤هـ فقيه مالكي من الكبار ولي قضاء القيروان. له المدونة الكبرى. انجد المرجع السابق، ص: ٢٩٨.

(٤) ج: ونحوها.

(٥) ج: الكتاب. ما وقفت له على ترجمة.

(٦) ب: "في" ساقط.

(٧) من سأل ، يسأل وسأله الشيء ، يقال سأله عن الشيء وبالشيء . كقوله تتعالى (سأل سائل بعذاب واقع) أي عن عذاب واقع وقد تخفف همزته فيقال سال يسال والأمر منه سل. انظر مختار الصحاح للشيخ الإمام محمد بن أبي بكر، عبد القادر الرازي، طبع دار الكر، سنة ١٩٧م مادة سأل.

قال عبد الوهاب الشعراني نقل الجلال السيوطي رحمه الله عن جماعة كثيرة من العلماء إنهم كانوا يفتون الناس بالمذاهب الأربعة لاسيما العوام الذين لا يتقيدون بمذهب .ولا يعرفون قواعده .ولا نصوصه ويقولون حيث وافق فعل هؤلاء العوام قول عالم ولا بأس به انتهى.

وأمـــا إذا كانت المذاهب متوفرة في بلد من البلدان كمصر فلا بأس أن يستفتي العامي من

(P.9) شـــاء من علماء ذلك المذاهب // قبل العمل [1]إذ العامي لا مذهب له عي التعيين. قال أحمد الزروق في قواعده، وعند أهل مصر، ان العامي لا مذهب له لتوفر المذاهب عندهم حتى رأيت لهم على ذلك فروعا جمة، وفتاوى. انتهى

وأفـــتى الشـــيخ المتفق على علمه وصلاحه عز الدين ابن عبد السلام [2] . كما في سئل المهـــتدين للمواق[3] أنه [4]لا يتعين على العامي إذا قلد إماما في مسألة. أن يقلده في سائر مســـائل الخلاف، لأن الناس من لدن الصحابة إلى أن ظهرت المذاهب يسألون فيما يسنح لهـــم العلماء المختلفين من غير نكير من أحد انتهى، وبه قال القرافي [5] كما[6] قال المواق

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(١) ب: العلماء.

(٢) هو عبد العزيز عز الدين بن عبد السلام توفى عام ٦٦٨هـ فقيه شافعي دمشقي عاش في القاهرة اشتهر بكتابه قواعد الأحكام المنجد المرجع السابق، ص: ١١.

(٣) وقفت على ترجمته

(٤) ب و ح: فإنه.

(٥) هو أحمد بن إدريس القرافي أحد الأعلام المشهورين في المذهب المالكي انتهت إليه الفقه المالكي في زمنه ألف كتبا كثير منه كتاب الزخيرة في الفقه توفى عام ٦٤هـ ضياء السياسات المرجع السابق ، ص: ٧٧

(٦) ب: "كما" ساقط

في ســـن المهـــتدين، وعبد الوهاب الشعراني في الميزان قلت: وهذا الذي ذكر أدعي إلى مطلـــوب الشرع الذي هو الوفاق قال عبد الوهاب الشعراني في الميزان ومضمون الشرع الوفاق ورد الخلاف إليه ما أمكن كما عليه عمل الأئمة من أهل الورع (P.10) والتقوى كأبي محمـــد الجويني[1] وأضرابه، فإنه صنف كتابه المحيط، ولم يلتزم[2] فيه المشي على مذهب معين. قال وذلك في حق أهل الورع والتقوى (من باب العزائم، كما أن العمل بالمختلف فيه عندهم[3]) من باب الرخص.

ثم قال بعد كلام قليل وممن بلغنا أنه كان يفتي الناس بالمذاهب الأربعة الشيخ الإمام الفقيه المحـــدث المفســـر الأصولي عبد العزيز الديريني[4]، وشيخ الإسلام عز الدين بن جماعة المقدسي[5] (والشيخ العلامة شهاب الدين البرهي[6] رحمه الله)[7] والشيخ على الضرير.[8]

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(١) هو أبو محمد عبد الله الجويني توفي عام ٤٣٨هـ فقيه شافعي من علماء التفسير والنعة، ولد في جوين وسكن نيسابور من كتبه التفسير ، والجمع والفرق، ورسالة إثبات الإستواء. المنحدّ المرجع السابق، ص: ٢٠٨.

(٢) ج: و لم يلزم.

(٣) ب: ساقط جميع ما بين القوسين.

(٤-٦) ما وقفت على ترجمة لهم.

(٧) "ب" جميع ما بين القوسين ساقط.

(٨) ما وقفت على ترجة له

ثم قال بعد كلام قليل فإن قال قائل فكيف صح من هذه العلماء أن يفتوا العامي بكل مذهب مع كونهم كانوا[1] مقلدين ومن شأن المقلد ألا يخرج من قول إمامه. فالجواب يحتمل[2] أن يكون أحدهم بلغ مقام الإجتهاد[3] المطلق المنتسب الذي لم يخرج صاحبه عن قواعد إمامه، كأبي يوسف[4] ومحمد بن الحسن[5] وابن المنذر[6]. وابن

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(١) كذا جاءته جميع النسخ (مع كونهم كانوا) وقد كان يكفي المؤلف أن لا يأتي بكلمة (كانوا) فرارا من الإطناب والتكرار الممل.

(٢) "ب": لا يحتمل.

(٣) الاجتهاد لغة، بذل الجهد لإدراك أمر شاق. واصطلاحا بذل الجهد لإدراك حكم شرعي بالنظر في الأدلة الشرعية. والمجتهد من يبذل جهده لذلك. وللإجتهاد شروط منها: العلم بالأدلة الشرعية القرآنية والسنية، والعلم بما يتعلق بصحة الحديث وضعفه، ومعرفة الناسخ والمنسوخ من آي التنزيل، ومعرفة مواقع الإجماع ومعرفة ما يختص به الحكم من تخصيص وتقييد وعموم. ومعرفة علم اللغة، وأصول الفقه، وما يتعلق بدلالة الألفاظ، كالعام والخاص والمجمل والمبين، والمطلق والمقيد والمجاز والمرسل.

والإجتهاد قد يتجزأ فيكون في باب واحد من أبواب العلم وفي مسألة من مسائله . ويلزم المجتهد أن يبذل جهده في معرفة الحق ثم يحكم بما ظهر له. فإن أصاب فله أجران، وإن أخطأ فله أجر واحد. والخطأ معفور له، وإن لم يظهر له الحكم وجب عليه التوقف وجاز التقليد حينئذ لضرورة. راجع الأصول في علم الأصول ٧٥، للشيخ العثيمي.

(٤) هو يعقوب بن إبراهيم أبو يوسف القاضي .ولد بالكوفة ودرس على أبي حنيفة. وكان أكبر أصحابه تولى قضاء بغداد أيام المهدي والهادي والرشيد. وهو أول من دعي بقاضي القضاة. له كتاب الخراج ،والرد على سير الأوزاعي توفي عام ١٨٩هـ المنجد في اللغة والأعلام. المرجع السابق. ص: ٣٣. مادة الأعلام.

(٥) هو محمد بن الحسن الشيباني أحد صاحبي أبي حنيفة. إليه يرجع فضل نشر المذهب الحنفي. وتولى قضاء الرق في عهد هارون الرشيد. مات عام ١٨٩هـ في الري . له الجامع الكبير والجامع الصغير. نفس المرجع السابق، ص: ٣٣٩ المنجد مادة الإعلام.

(٦) ما وقفت على ترجمة له.

قلت هذا كله في بيان أدلة تيسير الدين في العمل والفتوى. وأما أدلة تيسيره في الحكم فقد بين عبد الوهاب الشعراني في بعض كتب عهوده انا نترك ظاهر الفقه في بعض الأحيان. فنرجع إلى القواعد دفعا للضرر وجلبا للمصلحة،[1] وذكر أن ذلك مما عُهد إليه فيرجع الحكم إلى التيسير. وأيضا فالمشهور أن اليتيمة لا تنكح حتى تبلغ كما هو مذهب المدونة[2] والرسالة وليس العمل عليه على الإطلاق. فالذي عليه العمل[3] إنها تنكح إذا خيف الفساد وبلغت عشر سنين وفي مختصر الخبيل "الا يتسمة حيف فسادها وبلغت عشرا وشور القاضي" فرجع الحكم بذلك إلى التيسير في جواز نكاحها. وأيضا فالشرع دعا إلى الحكم بالصلح إذا خيفت [4] الفتنة أو التقاطع في الأرحام. **(P.13)**

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(١) يقول الإمام الشاطبي أن وضع الشرائع إنما هو لمصالح العباد في العاجل والأجل، وقد وقع الخلاف بين العلماء في الأخذ بالمصلحة فزعم الرازي أن أحكام الله ليست معللة البتة، كما أن أفعاله ليست كذلك وأن المعتزلة اتفقت على أن أحكامه تعالى معللة برعاية مصالح العباد، وهذا القول هو اختيار أكثر المتأخرين. والتحقيق الذي لم يبق فيه محل للتهمة أن الأحكام قائمة على رعاية مصالح العباد وهذه المصالح هي التي يسميها الأصوليون بالعلل. فالمصلحة أصل مختلف فيه بين الفقهاء، فالحنفية والشافعية لم يعتبروه أصلا قائما بذاته، بل أدخلوه في باب القياس، فإن لم يكن للمصلحة نص تعكس ردها إليه أقوها. وقال مالك والحنابلة: المصالح معتبرة يؤخذ بها. وإن لم يكن لها نص خاص. تكون محققة لمقاصد الشارع، ولكل فريق أدلة استدل بها على رأيه ، ولا يسع الموضوع لبسط الكلام في ذلك، وإنما المقصود التنبيه .

والمصالح الضرورية المعتبرة ترجع إلى أمور خمسة. وهي الدين، والنفس، والعقل والنسل والمال. هذه الأمور لا بد منها في قيام مصالح الدين والدنيا.

راجع الموافقات في أصول الأحكام للحافظ ابن إسحاق الشاطبي طبع دار الفكر، (١٩٥٨م) ص: ٣٠٢. وأصول الفقه محمد أبو زهرة: (١٩٥٨م) ص: ٢٧٧

(٢) اسم كتاب، جمع فيه فتاوى الإمام مالك، جمعه سحنون عن ابن القاسم، والكتاب هو المرجع الأول للمذهب المالكي

(٣) ح: الفعل

(٤) "ب" و "ح" حفنة.

قال أبوبكر بن[1] عاصم القيسي[2] في كتابه تحفة الحكام :

والصلح يستدعي له إن أشكلا * حكم وإن تعين الحق فـــلا

ما لم يخف بما[3] فذ الأحكام * فتنة أو شهناء أولى الأرحام[4]

قلـــت إذا فهمت ما تقدم ذكره عرفت أن دين الله يسر في جميع أموره الثلاثة[5] التي هي العمل والفتوى والحكم ومن تيسيره أن التزام مذهب معين في هذه الأمور المذكورة ليست من مقتضى أصول الشرع. بل هو من باب السياسة.

وفي التوضـــيح[6] خليل[7] بن إسحاق في كتاب الأقضية عند قول المصنف فإن لم يوجد مجـــتهد فمقلد فيلزمه المصير إلى قول مقلده ،وجه المازري[8] ما ذكره المصنف بأنه[9] لو حكـــم بغـــير[10] مذهبه تطرقت إليه التهمة بالحيف، والقضاء بالشهوة[11]، فأمر باتباع مذهـــبه للسياســـية، لا مقتضـــى أصول الشرع، لأن أصول الشرع مبنية على أن المفتي

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(١) "أ" و "ب" ابن

(٢) هو القاضي أبوبكر عمر بن محمد بن عاصم الأندلسي القرناطي، توفى عام ٨٢٩هـــ كان فاضلا متقنا لعلم الفقه والقرآن متبارعا في العربية، والمنطق، والأصول، والحساب، والفرائض. أنظر: البهجة في شرح التحفة لأبي الحسن علي بن عبد السلام التسولي، طبع كانو نيجيريا، ج ١ ص ٣.

(٣) "ب" منافذ.

(٤) منقول من متن تحفة حكام ابن عاصم فصل مسائل القضاء ص ٣٨ إلى ٣٩

(٥) ب: ثلاثة

(٦) "ح": توضيح بدون المعرفة.

(٧) هو صاحب الكتاب المشهور في المذهب المالكي (مختصر الخليل)

(٨) "ب": المازري. ولم أقف له على ترجمة.

(٩) ج: فانه

(١٠) "ب": بعين.

(١١) "ح": بالشهور.

والقاضي يأمران[1] باتباع الحق حيث[2] ما ظهر لهما،وقال عند قول المصنف، وقيل[3]

(P.14) لا يلـــزمه //هـــذا القـــول في الجواهر عن الطرطوشي[4] ونصه (...ولا يلزم أحدا من المسلمين أن يقلد في النوازل والأحكام من يعزى إلى مذهبه، فمن كان مالكيا . لم يلزمه المصـــير[5] في أحكامـــه إلى قـــول مالك . وهذا القول في سائر المذاهب. بل أيهما أداه اجتهاده من الأحكام صار[6] إليه.

فـــإن شرط على القاضي أن يحكم بمذهب إمام معين من أئمة المسلمين ولا يحكم بغيره.

فـــالعقد صحيح. والشرط باطل، كان موافقا لمذهب المشترط، أو مخالفا له. انتهى قلت:

وهـــذا القول أدعي إلى مطلوب الشرع الذي هو الوفاق. قال عبد الوهاب الشعراني في

المـــيزان: فإني بحمد الله أحب الوفاق . وأكره الخلاف ثم قال: من أعظم البواعث لي على

تأليـــفها للإخوان فتح باب العمل بما تضمنه قوله تعالى: **{شرع لكم من الدين ما وصى**

(P.15) **بـــه نوحا والذي أوحينا إليك وما وصينا به إبراهيم//وموسى وعيسى أن أقيموا الدين**

ولا تـــتفرقوا فـــيه}.[7] ثم قال بعد كلام طويل، إذا نظرت فيها بعين الإنصاف تحققت

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(١) كذا جاء في جميع النسخ وأرى أن الأقرب "يؤمران". بناء للمجهول.

(٢) "ح": وحيث.

(٣) ب: قيل.

(٤) هو أبي رندقة، الطرطوشي فقيه مالكي أندلسي اشتهر بكتابه سراج الملوك في المواعظ. وله بر الوالدين، توفي عام ٥٢٠هـ المنجد في اللغة والأعلام. المرجع السابق. ص ٣٥٦ مادة الإعلام

(٥) يعني لم يلزمه الميل أو العمل إلى ما في المذهب.

(٦) صار أي مال ، وهي تتعدي بإلى من باب قوله تعالى (فصرهن إليك) يعني وجههن إليك مختار الصحاح المرجع السابق ص: ٣٧٣. مادة صور.

(٧) سورة الشورى الآية ١٣.

بصـــحة اعـــتقاد أن سائر الأئمة ومقلديهم رضي الله عنهم على هدى من ربهم في ظاهر الأمر وباطنه و لم تعترض قط على من تمسك بمذهب من مذاهبهم ولا على من انتقل من مذهب منها إلى مذهب. ولا على من قلد غير إمامه منهم انتهى. ثم قال بعد كلام طويل.

(P.16) مـــن علامـــة صحة اعتقاد الطالب أن سائر أئمة المسلمين // على هدى من ربهم أن لا يحصل له في باطنه ضيق وحرج إذا قلد غير إمامه في واقعة. ويقال لمن حصل له ذلك أين قولك أن غير إمامك على هدى من ربه ؟ فكيف يحصل في قلبك ضيق وحرج من الهدى. وهناك تندحض[1] دعواه ويظهر له عدم صحة عقيدته إن كان عاقلا. ثم قال بعد كلام طويل: ومما يؤيد هذه الميزان[2] عدم إنكار أكابر العلماء في كل عصر على من انتقل من مذهـــب إلى مذهـــب إلا من حيث ما يتبادر إلى الأوهام من توهم الطعن في ذلك الإمام الذي خرج من مذهبه لا غير. بدليل تقريرهم لذلك المنتقل على المذهب الذي انتقل إليه. إذ المذاهـــب كـــلها عندهم[3] طرق إلى الجنة، وكل من سلك طريقا منها أوصلته[4] إلى السعادة والجنة.

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(١) في "ب" تنحصل.

(٢) كـــذا جـــاء في جمـــيع النسخ (الميزان) والأقرب هو الميزة بمعنى الصفة والخصلة لأنه أنسب بالسياق

(٣) ج: الكلمة (عندهم) ساقطة.

(٤) ج: وصلته

مـــن أهل المذاهب في النوازل، وكذلك يجوز الإنتقال من مذهب إلى مذهب ، لكن بثلاثة شروط: الأول. أن لا يجمع بينهما على وجه يخالف الإجماع ، كمن تزوج بغير صداق ولا ولي[1] ولا شهود. فإن هذه الصورة لم ينقل بها أحد. الثاني أن يعتقد فـــيمن قلده الفضل بنوع إخباره إليه . الثالث أن لا يقلد[2] وهو في عماية من دينه كأن يقلد في الرخصة من غير شرطها ، انتهى.

(P.18)

وقـــال القرافي: يجوز الانتقال من جميع المذاهب إلى بعضها في كل ما لا ينقض فيه حكم الحـــاكم، وذلك من أربعة مواضع أن لا يخالف الإجماع[3]، أوالنص[4]، أوالقياس الجلي[5] أو القواعد[6] انتهى.

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[1] ج: والأولى، [2] ج: يعتقد.

[3] وهو في اللغة العزم و الاتفاق، واصطلاحا هو اتفاق مجتهدي هذه الأمة بعد النبي صلى الله عليه وســـلم على حكم شرعي . دل على اعتباره أدلة منها قوله تعالى : (وكذلك جعلناكم أمة وسطا لـــتكونوا شـــهداء على الناس) البقرة الآية ١٤٣. فالشهادة تشمل الشهادة على الأعمال . وعلى الأحكام . انظر الأصول من علم الأصول المرجع السابق، ص ٥٧.

(٤) والـــنص هـــو ما يدل على ثبوت حكم ما ذكر لما سكت عنه سواء كان المسكوت عنه أولى بـــاحكم من المذكور أو مساويا له ، مثال ذلك قوله تعالى: (ولا تقل لهما أف ولا تنهرهما) الإسراء الآيـــة ٢٣. فإن عبارته النهي عن التأفف وهو الأذى، فيدل على النهي عن الضرب وهو المسكوت عـــنه.وهو أيضـــا أولى من المذكور الذي هو التأفف. انظر أصول الفقه للشيخ محمد خضريك ص ١٣٢.

[5] القـــياس هـــو التقدير والمساواة واصطلاحا هو تسوية فرع بأصل في حكم لعلة جامعة بينهما. فالفـــرع هو المقيس والأصل هو المقيس عليه، والحكم هو ما اقتضاه الدليل الشرعي من وجوب أو تحـــريم أو صحة أو فساد أو غيرها من الأحكام الشرعية. والعلة هي المعنى الذي ثبت بسببه حكم الأصـــل. وقد دل على اعتبار القياس الأدلة الشرعية من الكتاب والسنة وأقوال الصحابة. فمن أدلة الكتاب قوله تعالى : (الله الذي أنزل الكتاب بالحق والميزان) الشورى الآية ١٧. والميزان هو المقياس.

وينقسم القياس إلى جلي وخفي ، فالجلي هو ما ثبت علته بنص أو إجماع أو كان مقطوعا فيه بنفي الفـــارق بين الأصل والفرع والخفي هو ما ثبت علته باستنباط ولم يقطع فيه بنفي الفارق بين الأصل والفرع انتهى. راجع الأصول من علم الأصول المرجع السابق، ص - ٦١ إلى ٦٤.

(٦) والقواعد يعني بها المؤلف المصالح الضرورية ، وسيأتي البيان عنها.

وقـــال الجلال السيوطي رحمه الله. وممن بلغنا أنه انتقل من مذهب إلى آخر من غير نكير عـــليه من علماء عصره الشيخ عبد العزيز بن عمران الخزاعي،[1] كان من أكابر المالكية فلما قدم الإمام الشافعي [2] بغداد[3] تبعه وقرأ كتبه ونشر علمه. ومنهم محمد بن عبد الله ـــن عبد الحكم[4]. كان على مذهب الإمام مالك فلما قدم الشافعي إلى مصر انتقل إلى مذهـــبه وصـــار يحث الناس على اتباعه، ويقول هذا // ليس بمذهب وإنما شريعة. وكان (P.19)
الإمـــام الشافعي يقول له: سترجع إلى مذهب[5] إمامك . فلما مات الشافعي رجع كما قـــال الشـــافعـــــــــي. وكـــان يظـــن أن الإمـــــــام يستخلفـــــــه على حلقـــــــة درسه[6] فلما استخلف البويطـــي[7] رجـــــع ابن عبـــد الحكـــم

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(١) ما وقفت على ترجمته.

(٢) ب: الشافعية. والإمام الشافعي هو محمد بن إدريس عاش ما بين ١٥٠م- ٢٠٤هـ إمام ومؤسس أحد المذاهب السنية الأربعة. ولد في غزة ونشأ في مكة، لازم الإمام مالك في المدينة ودرس عليه، توفي بمصر وقبره معروف في القاهرة له تصانيف كثيرة ، أشهرها كتاب الأم في الفروع، جمعه صاحبه البويطي وبويه الربيع بن سليمان ، وله المسند في الحديث والسنن والرسالة في الأصول. انظر المرجع السابق، المنجد ص ٣٢٧ مادة الإعلام.

(٣) أو ج ببغداد. وبغداد بلد قديم بل هو من أقدم البلاد تلقب في الماضي بأم الدنيا، وسيدة البلاد، وفي بغداد لغات، منها بغداد، وبغدان ، ويأبى أهل البصرة ولا يجيزون بغداذ بالذال المعجمة وقالوا: لأنه ليس في كلام العرب كلمة فيها دال بعدها ذال وحكى أيضا مغداذ، ومقداد، ومقدان وهي في اللغات كلها تذكر وتؤنث. انظر معجم البلدان للإمام شهاب أبي عبد الله ياقوت الحموي، طبع دار الفكر. مادة بغد.

(٤) ما وقفت على ترجمة له.

(٥) "ج": هذا مامك.

(٦) "ب": رأسه.

(٧) "ب": السوطي، ج: السيوطي. والصحيح هوالبويطي وليس السيوطي بدليل أنه لم يثبت لنا في التاريخ أن الإمام السيوطي عاش في زمان الإمام الشافعي فضلا عن أن يلتقي معه. والإمام البويطي هو أبو يعقوب يوسف قســيه مصري، صاحب الإمام الشافعي وخليفته قام مقامه في الدرس والإفتاء بعد وفاته. مات في السجن في محنة خلق القرآن عام ٢٣١هـ. من آثاره المختصر إقتبسه من كلام الشافعي انظر المنجد، المرجع السابق؛ ص: ١٥٤.

وصـــحت[1] فراسة [2]الشافعي رضي الله عنه. وكان[3] إبراهيم خالد البغدادي[4] حنفيا فـــلما قدم الإمام الشافعي بغداد[5] ترك مذهبه، واتبعه ، ومنهم أبو ثور[6] كان له مذهب وتركه واتبع[7] الشافعي .

ومنهم أبو جعفر بن نصر الترمذي[8] كان أولا حنفيا فلما صح رأى ما يقتضي انتقاله لمذهب الشافعي فتفقه على الربيع وغيره من أصحاب الشافعي ومنهم أبو جعفر الطحاوي[9]، كان شافعيا وتفقه على خاله المزني[10]، ثم تحول حنفيا بعد ذلك، ومنهم الخطيب[11]

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(١) "ب": صحة.

(٢) الفراســة، حقيقــتها خاطر يهجم على القلب يثب عليه كوثبوب الأسد على الفريسة، ومنها اشــتقت الكلمة وسبب الفراسة نور يقذفه الله في قلب عبده فيكشف له الغيب، وهي من مقامات الإيمــان. وتكــون عــلى حسب قوة الإيمان، فالأقوى في الإيمان أحد فراسة. راجع شرح العقيدة الطحاويــة للعلامة ابن أبي العز الحنفي طبعة محققة مخرجة التاسعة لمكتب الإسلامي، سنة ١٩٨٨م. ص ٤٩٩

(٣) "ب" كان.

(٤) ما وقفت عليه

(٥) "أ" و"ج" بغداذ بالذال المعجمة

(٦) هو إبراهيم أبو ثور توفي عام. ٢٤٠هـــ فقيه من الأئمة صاحب الإمام الشافعي ـ أحدث لنفسه مذهبا اشتقه من مذهب الشافعي. انظر المنجد للمرجع السابق، ص ١٧ مادة الإعلام.

(٧) "أ"، و "ج": "وتبع".

(٨) ما وقفت على ترجمته.

(٩) هو أبو جعفر أحمد الطحاوي توفي عام ٣٢١هـــ فقيه انتهت إليه رئاسة الحنفية بمصر ، له شرح معاني الآثار في الحديث. والمختصر في الفقه وكتاب العقيدة. من الكتب الهامة في علم الكلام، وبيان السنة والجماعة نفس المرجع ص ٣٥٥.

(١٠) في "ب" المزني باهاء. سقت ترجمته.

(١١) هو أبو بكر أحمد الخطيب، عاش ما بين سنة ١٠٠٢ إلى ١٠٧٢م، مؤرخ ومحدث، أصولي بغدادي، ترحل وسمع الحديث. كان شافعيا أشعريا عارض مذهب ابن حنبل. له كتب كثيرة اشهرها تاريخ بغداد، والكفاية في علم الرواية. نفس المرجع ص: ٢٣٢.

(P.21) البغدادي الحافظ[1]، كان حنبليا، ثم عمل شافعيا ومنهم ابن فارس[2] // صاحب كتاب المجمل في اللغة كان شافعيا تبعا لوالده، ثم انتقل إلى مذهب مالك . ومنهم السيف[3] الأمدي الأصولي المشهور، كان حنبليا ثم انتقل إلى مذهب الشافعي.

ومنهم الشيخ نجم الدين خلف المقدسي[4]. كان حنبليا ثم تفقه على الشيخ مؤفق الدين[5]، ودرس مدرسة أبي عمر، ثم تحول شافعيا، وارتفع شأنه، ومنهم الشيخ محمد بن الدهان النحوي[6]. كان حنبليا، ثم انتقل إلى مذهب الشافعي، ثم تحول حنفيا[7] حين طلب الخلفية نحويا يعلم ولده النحو[8]، ثم تحول شافعيا حين شهر تدريس النحو بالنظامية لما شرط صاحبها أن لا يتزل فيها إلا شافعي[9] المذهب، و لم يكن هناك أحد أعلم منه بالفقه والنحو[10] ومنهم الشيخ تقي الدين ابن دقيق[11] العيد، كان أولا مالكيا تبعا لوالده، ثم تحول إلى مذهب الشافعي، ومنهم شيخ الإسلام كمال الدين بن يوسف

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(١) ج: الحافظ.

(٢) هو أبو الحسين أحمد بن فارس، توفى عام ١٠٠٤م، لغوي، كوفي المذهب، علم في همذان من تلاميذه بديع الزمان الهمذاني والصاحب بن عبادة له كتاب المجمل في اللغة وهو معجم أبجدي مهم، والصاحبي في فقه اللغة ومقاييس اللغة نفس المرجع، ص ١٢.

(٣)هو سيف الدين الأمدي توفى عام ٦٣١هـ ، عالم أصولي، علّم في دمشق ، من مصنفاته، الأحكام في أصول الأحكام نفس المرجع، ص ٦٨.

(٤) لم نقف على ترجمته

(٥) لم نقف على ترجمته

(٦) لم نقف على ترجمته

(٧) "ج" حنبليا.

(٨) "ج" النحوي.

(٩) "ب" و"ج" الشافعي بزيادة الف ولام

(١٠) ج" النحوي

(١١) هو محمد بن دقيق العيد، توفى عام ٧٠٢هـ، محدث وعالم مصري ولي القضاء، من تصانيفه إحكام الأحكام في الحديث. انظر المرجع السابق. ص:٧.

(P.21) الدمشـــقي [1]كان // حنبليا ثم انتقل إلى مذهب الشافعي ومنهم الإمام أبو حيان[2] كان أولا عـــلى مذهب أهل الظاهر ، ثم عمل شافعيا انتهى كلام الجلال السيوطي رحمه الله. وقال صاحب جامع الفتاوى من الحنفية ، يجوز للحنفي أن ينتقل إلى مذهب الشافعي وبالعكس لكن بالكلية، أما في مسألة واحدة فلا تمكن كما لو خرج دم من بدن حنفي. وســـال فلا يجوز له أن يصلي قبل أن يغسله اقتداء بمذهب الشافعي في هذه المسألة. فإن صـــلى بطلـــت صلاته. وقال بعضهم وليس لعامي[3] أن يتحول من مذهب إلى مذهب حنفـــيا كان أو شافعيا. والمشهور غيره. وقال بعضهم يجوز للشافعي أن يتحول حنفيا ولا عكس.

قال الجلال السيوطي، وهذه دعوى[4] لا برهان عليها وقد أدركنا علماءنا وهم لا يبالغون في النكير على من كان مالكيا ، ثم عمل حنفيا[5] أو شافعيا[6] ثم تحول بعد ذلك حسبما

(P.22) ثم رجـــع //إلى مذهب مالك وإنما يظهرون النكر على المتنقل لإيهامه التلاعب بالمذاهب وجـــزم الرافعي[7] بجواز ذلك وتبعه النووي[8] ،وعبارة الروضة[9] إذا دونت المذاهب. فهي

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(١) ما وقفت على ترجمته

(٢) هناك غموض في أبي حيان لأن المؤلف لم يذكر ما يمكن الاستدلال عليه ، فعند البحث وجدت شخصين كل يسمى أبو حيان: أولا أبو حيان التوحيدي المتوفى بعد ٤٠٠هـ وهو حكيم وفيلسوف صوفي، عاش في بغداد - وعمل عند ابن العميد، والصاحب بن عبادة، وكان صاحب الطراز الفريد في الكتابة والأسلوب، من مؤلفاته الصداقة والصديق، والمقابس. والثاني: وأبو حيان الغرناطي المتوفى سنة ١٣٤٤م لغوي أندلسي ولد في غرناطة - وتوفى بالقاهرة- من تصانيفه منهج السالك في الكلام على ألفية ابن مالك والبحر المحيط في تفسير القرآن. مرجع السابق ص ١٨. وأرى أن الثاني هو الذي عنى به المؤلف، الأن الموقف أنسب له.

(٣) "ج": للعامي

(٤) "ب" دعى تحريف

(٥) ج: حنيفا تصحيف

(٦) ج: وشافعيا

(٧) ما وقفت على ترجمته

(٨) هو يحيى بن شرف النووي، محدث من الأئمة ، عاش في نوى بحوران من تصانيفه الأربعون النووية. ورياض الصالحين وشرح صحيح مسلم وتهذيب الأسماء والصفات ومنهاج الطالبين. توفى عام ٦٧٦ هـ نفس المرجع ص ٥٨١.

(٩) من كتب المشهورة في المذهب المالكي

يجـــوز لـــلمقلد أن ينتقل من مذهب إلى مذهب آخر؟ إن قلت يلزمه الإجتهاد في طلب الأعـــلم وغلب على ظنه أن الثاني أعلم فينبغي أن يجوز بل يجب، وإن خيرناه فينبغي أن يجوز أيضا، كما لو قلد في القبلة هذا أياما. وهذا أياما انتهى كلام الروضة.

ولـــو لا أن السلف رأوا[1] أنه ليس بذلك بأس ما أقروا من انتقل من مذهب إلى غيره ولو لا علمهم بأن الشريعة تشمل المذاهب كلها، وتعمها، لأنكروا عليه أشد النكير. ثم لا يخلـــو أمـــر السلف من أمرين أما أن يكونوا قد اطلعوا على عين الشريعة ورأوا[2] اتصال جميع المذاهب بها أو سكتوا على ذلك إتمانا بصحة كلام الأئمة وتسليما لهم.

(P.23) فإن قال أحد من المالكية اليوم بئس ما صنع من انتقل// من مذهب إلى غيره، قلنا له[3] بـــل[4] بئس ما قلت أنت ، لأن إمام مذهبك الشيخ جمال الدين بن الحاجب[5] رحمه الله جـــوز[6] ذلك، فقولك هذا تعصب محض فإن الأئمة كلهم في الحق سواء فليس مذهب أولى بالشـــريعة من مذهب. وقد سئل الجلال السيوطي رحمه الله عن حنفي يقول: يجوز للإنســـان أن يـــتحول حنفيا، ولا يجوز للحنفي أن يتحول شافعيا أو مالكيا أوحنبليا[7]، فقال: إن هذا تحكم من قائله [8]لا دليل عليه من كتاب ولا سنة، ولم يرد لنا من حديث صـــحيح ولا ضعيف تميز[9]أحد[10] من أئمة المذاهب على غيره على التعيين، والاستدلال

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(١) ب: رووا. (٢) في "ب" وراووا تصحيف

(٣) أ: لم. (٤) أ : فل

(٥) أ.ب: ابن. وهو أبو عمر عثمان بن عمر بن الحاجب توفى سنة ١٢٤٩م، نحوى مصري من أئمة النعويين. وفقيه مالكي ،ولد في إسناء بصعيد مصر علم بالجامع الأموي في دمشق من كتبه الكافية في النحو والشافية في الصرف . والمقصد في علم الجليل منظومة على العروض والمختصر المنتهى في أصول الفقه . نفس المرجع المذكور ص: ٦.

(٦) "ب" جواز.

(٧) ج: حنفيا

(٨) ج: قبائله تحريف

(٩) في جميع النسخ تميز وأرى أن أفصح يميز بالتحتانية

(١٠) في جميع النسخ أحد بالرفع وأرى أن الأصح أحدا بالنصب

بـــتقدم زمن أبي حنيفة رضي الله عنه، لا تنهض[1] حجته ،ولو صح لوجب تقليده في كل حال[2]، ولم يجز تقليد غيره البتة، وهو خلاف الإجماع، وخلاف ما رواه البيهقي[3] في كتاب المدخل عن ابن عباس رضي الله عنهما أن رسول الله صلى الله عليه وسلم قال:

(P.24) مهمـــى[4] أوتيتم من كتاب[5] الله فالعمل به واجب لا عذر لأحد في تركه. (فإن لم يكـــن في كـــتاب الله فســـنة لي ماضية)[6] فإن لم يكن في سنة لي فما قال أصحابي لأن أصـــحابي كالـــنجوم في السماء [7]فأيما أخذتم به فقد اهتديتم ، واختلاف أصحابي لكم رحمة[8] انتهى . قال[9] الجلال السيطي رحمه الله : ثم إنه يلزم من تخصيص تحريم الانتقال بمذهب الإمام أبي حنيفة[10] طرد ذلك في بقية المذاهب، فيقال بتحريم الانتقال من مذهب

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(١) "ح" تنهض .والكلمة (تنهض) جاءت في جميع النسخ بالتاء، والأصح بالياء لأن الضمير للاستدلال وهو مذكر.

(٢) ب: على

(٣) هو أبو بكر أحمد البيهقي توفي سنة ٤٥٨هـ فقيه شافعي من أئمة الحديث نشأ في بيهق ومات في نيسابور ، ، من مؤلفاته الكثيرة السنن الكبرى والسنن الصغرى والمبسوط والأسماء والصفات. ينظر : المرجع السابق ص ١٦٤.

(٤) كذا جاء في جميع النسخ مهمي بألف المقصورة، والصواب مهما بألف الممدودة.

(٥) ح: في كتابه الله.

(٦) ب: ما بين القوسين ساقط

(٧) "ب" اسماء وهو تحريف

(٨) الحديث بهذه الصيغة كما جاء به المؤلف ما وقفت عليه في أمهات كتب الحديث ،وبمراجعة طرق الحديث والمعاجم التي راجعتها وإني وقفت على أطرافه مثل: "أصحابي كالنجوم". واختلاف أصحابي لكم رحمة وكلاهما لا يصح إذا أول واحد منهما ، و لآخر موضوع انظر: تذكرة الموضوعات للعلامة الأديب محمد طاهر بن علي الصديقي الفتني، ص: ٩.

(٩) "ح" وقال.

(١٠) هو نعمان بن ثابت أبو حنيفة توفي سنة ١٥٠هـ إمام المذهب الحنفي وأحد الأئمة الأربعة المجتهدين ولد سنة. ولد بالكوفة ودرس فيها وأفتى، استدعاه المنصور لتولي القضاء في بغداد ، فرفض فحبسه ثم مات في أثناره الفقه الأكبر ومسند أبي حنيفة ، وهو أول من قسم الفقه إلى أبواب وأقسام ، صاحب الاجتهاد في مسائله والقائل بالقياس والرأي، روى عنه فريق من المجتهدين ونشروا مذهبه في وعشرات المؤلفات. انظر محمد المرجع السابق ص ١٠.

المتقدم بالزمن إلى مذهب المتأخر كالشافعي[1] يتحول مالكيا واحنفي يتحول شافعيا دون العكـــس، وكل قول لا دليل عليه فهو مردود على صاحبه . قال صلى الله عليه وسلم : كل عمل ليس عليه أمرنا فهو[2] رد انتهى.

ثم قال عبد الوهاب الشعراني: رأيت فتوى أخرى له مطولة . وقد حث فيها على اعتقاد أن ســـائر أئمـــة المسلمين على هدى من ربهم وإن تفاوتوا في العلم والفضل فلا يجوز لأحد التفضيل الذي يؤدي إلى نقص في غير إمامه قياسا على ما ورد في تفضيل الأنبياء عليهم الصلاة والسلام ، فقد حرم العلماء التفضيل المؤدي إلى نقص نبي أو احتقاره لاسيما أن أدى ذلك إلى خصام ووقيعة في الإعراض.

(P.25) وقد // وقع الاختلاف بين الصحابة في الفروع وهم خير وما بلغنا أن واحدا منهم خاصم من قال بخلاف قوله ولا عاداه ولا نسبه إلى خطأ ولا قصور[3] نظر. وفي الحديث اختلاف أمتي رحمة. وكان الاختلاف على من قبلنا عذابا أو قال[4] هلاكا ، انتهى. ثم قال : ومعنى رحمة توسعة[5] على الأمة. ولو كان أحد من الأئمة في نفس الأمر مخطئا لما كان اختلافهم رحمة. قال وقد استنبطت من حديث: (أصحابي كالنجوم بأيهم اقتديتم اهتديتم)[6] أننا إذا اقتدينا بأي إمام كان اهتدينا لأنه صلى الله عليه وسلم خيرنا في الأخذ

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(١) جـــاء في جميع النسخ: كالشافعي يتحول مالكيا والصواب أن يقول كالمالكي يتحول شافعيا ، ليس كما جاء في النص، لأن المذهب المالكي أقدم من مذهب الشافعي.

(٢) الحديـــث أخـــرجه ابـــن عبد البر في كتابه التمهيد ج ٢ ص ٨٢ والحافظ ابن حجر في الفتح وأخـــرجه أيضا البخاري في الصحيح ج ص ٢٢٩. أنظر موسوعة أطراف الحديث، المرجع السابق، ج:٢، ص: ٤٣٧.

(٣) ب: قصوى (٤) ح:وقال (٥) ح: توسعه. (٦) سبقت الإشارة إلى هذا الحديث

نقـــول من شئنا منهم من غير تعيين. وما ذلك إلا لكونهم كلهم على هدى من ربهم، ولو كان المصيب من المجتهدين واحدا [1] والباقي مخطأ لكانت الهداية لا تحصل من قبل الباقين وكان محمد بن حزم[2] يقول في حديث إذا اجتهد الحاكم وأخطأ[3] فله أجر، وإذا أصاب فـــه أجـــران[4] أن المراد بالخطأ هنا عدم مصادفة الدليل كما تقدم لا الخطأ الذي يخرج صاحبه عن الشريعة، إذ لو خرج به عن الشريعة لم يحصل له به أجر[5] انتهى، وقد دخل هـــارون[6] الرشيد على الإمام مالك رضي الله عنه. وقال له : دعني أنا عبد الله أفرق (P.26) هـــذا الكـــتاب الـــذي ألفته وانشره في بلاد الإسلام واحمل عليه الأمة. فقال له يا أمير المؤمـــنين: إن اختلاف العلماء رحمة من الله على هذه الأمة فكل يتبع ما صح دليله عنده،

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(١) ح: واحد بالرفع

(٢) ما وقفت على ترجمته

(٣) جـــاءت جمـــيع النسخ (وأخطأ) بالواو ولكن الصواب فأخطأ بالفاء .أو ثم أخطأ كما جاءت به رواية البخاري وسيأتي تخريجه

(٤) الحديث أخرجه دار القطني في سننه ج:٤٤ ص ٢١١ والحافظ ابن حجر في كتابه تلخيص الحبير ج:٤ ص١٨٠ وأخرجه أيضا البيهقي في دلائل النبوة ج٧ ص ١٨٥ وكذا أخرجه البخاري بلفظ إذا حكم الحاكم فاجتهد ، ثم أصاب فله أجران .وإن حكم فاجتهد ثم خطأ فله أجر من حديث عمرو بن العـــاص. انظر البخاري بحاشية السندي، للإمام البخاري، طبع دار الفكر، بيروت لبنان. ج ٤ ص: ٢٦٨

(٥) ب: وح: أجرا

(٦) هو الخليفة العباسي عاش ما بين عام ١٧٠ إلى ١٩٣هـــ من اشهر الخلفاء العباسيين. ابن المهدي و الخيزران . ولد بالري، تولى الخلافة بعد اغتيال أخيه الهادي. حارب البيزنطيين وهو لا يزال حاكما عـــلى المقاطعات الغربية وبنع أبواب القسطنطينية. أقر الأمن في المقاطعات الفارسية وولى الأغالبة في شمال أفريقيا . قامت علاقات بينه وبين شارلمان ملك الفرنج، ازدهرت في عهده التجارة،والأدب ، والعلـــوم ولعب البرامكة دورا هاما قبل أن يبطشهم. فيره في طوس انظر المنجد المرجع السابق، ص

وكـــل عـــى هدى والله يريد الله . وكان الإمام مالك يقول: كثيرا ما يشاورني هارون الرشـــيد أن يعلق كتاب الموطأ في الكعبة ويحمل الناس على ما فيه فأقول له : لا تفعل ! لأن[1] أصـــحاب رسول الله صلى الله عليه وسلم اختلفوا في الفروع وتفرقوا في البلاد ، وكـــل مصـــيب " هدى زادك[3] الله توفيقا يا أبا عبد الله انتهى فانظر يا أخي إن كنت مالكيا إلى قول إمامك : (وكل مصيب) وسمعت شيخنا شيخ الإسلام زكريا [4] رحمه الله يقول: لما حج المنصور[5] فقال للإمام مالك : إني عزمت على أني آمر بكتابك هذا الذي صـــنفته. فيسمح ثم بعث به إلى كل مصر من امصار المسلمين ، وآمرهم أن يعملوا بما فيه ولا يتعدوه إلى غيره فقال الإمام مالك رحمه الله: لا تفعل ذلك يا أمير المؤمنين فإن (٦) (P.27)
الناس قد سبقت إليهم أقاويل وسمعوا أحاديث. ورووا روايات، وأخذ كل قوم ما سبق[7] إليهم، ودانوا الله تعالى به، فدع الناس وما اختاروا لأنفسهم[8] من كل بلد انتهى.

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(١) "ن": الكلمة (لأن) ساقطة

(٢) ذكـــر هذه القصة الإمام الزرقاني في شرحه على الموطأ وأثبتها أيضا الشيخ الألباني في كتابه صفة صلاة النبي وأنها معروفة مشهورة عن الإمام مالك لكن عقب الشيخ الألباني على قول الإمام (وكل مصيب) في آخر القصة وقال ما نصه :- إن هذه القصة معروفة مشهورة عند الإمام مالك رحمه الله، لكن قوله في آخرها: (وكل مصيب) مما لا اعلم له أصلا في شيء من الروايات والمصادر التي وقفت عليها إليه إلا رواية واحدة. أخرجها أبو نعيم في الحلية ج ٦ص ٣٢٢ بإسناد فيه المقدام بن داود وهو ممن أورده الذهبي في الضعفاء ومع ذلك. فان لفظها: وكل عند نفسه مصيب انظر صفة صلاة النبي المرجع السابق ص ٦٣. وشرح الزرقاني على الموطأ. للإمام سيد محمد الزرقاني. طبع دار الفكر بيروت لبنان ج:١. ص:٧.

(٣) ج: زادك.

(٤) ما وقفت على ترجمته

(٥) هـــو أبو جعفر عبد الله المنصور توفي عام ١٥٨هـــ. الخليفة العباسي الثاني خلف السفاح، بنى بغداد عام ١٤٦هـ. وجعلها مدينة السلام وجعلها عاصمته نظم إدارة الدولة والمالية والبريد . توفي محرما بالحج. أنظر المنجد المرجع السابق. ص: ٣٩.

(٦) ج: لفظ الجلالة ساقط.

(٧) "ج: سبقت.

(٨) ج: أنفسهم

وخـــدام المدارس فمثل هذا أمره خفيف إذا انتقل عن مذهبه الذي كان يزعم أنه متقيد به. ولا يبلغ إلى حد التحريم لأنه إلى الآن عامي لا مذهب له . فهو كمن أسلم حديثا . له التمذهب بأي مذهب شاء من مذاهب الأئمة.

ثالثها. (أن يكون الحامل له[1]) أمرا دنيويا كذلك لكنه من القدر الزائد عادة على ما يليق بحالـــه. فهـــو فقيه في مذهبه،// وأراد الانتقال لعرض الدنيا الذي هو من شهوات نفسه المذمومـــة. فهـــذا أمره أشد، وربما وصل إلى حد التحريم لتلاعبه بالأحكام الشرعية لمجرد غـــرض الدنيا. الرابع[2] ، أن يكون انتقاله لعرض ديني ، ولكن[3] كان فقيها في مذهبه وإنما انتقل لترجيح المذهب الآخر عنده لما رآه من وضوح أدلته ، وقوة مداركه فهذا إما يجب عليه الانتقال، أو يجوز[4] له كما قال الرافعي. وقد أقر العلماء من انتقل إلى مذهب الشـــافعي حين قدم مصر، وكانوا حلقا كثيرا مقبلين للإمام مالك • الخامس ، أن يكون انـــتقاله لعرض ديني لكنه كان عاريا عن الفقه، وقد اشتغل بمذهبه[5] فلم يحصل منه على شيء، ووجد مذهب غيره أسهل عليه ، بحيث يرجو[6] سرعة إدراكه والتفقه فيه . فهذا يجب عليه الانتقال قطعا، ويحرم عليه التحلف لأن تفقه مثله على مذهب إمام من الأئمة[7] الأربعـــة خير من الاستمرار على الجهل فإنه ليس له من التمذهب سوى الاسم، والإقامة على الجهل نقص عظيم في المؤمن، وقل أن تصح معه عبادة.

(P.29)

قال الجلال السيوطي: وأظن أن هذا هو السبب في تحول الطحاوي// حنفيا بعد أن كان شافعيا فإنه كان يقرأ على خاله[8] الإمام المزني فتعسر يوما عليه الفهم، فحلف المزني أنه

(P.30)

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(1) "ح" جميع ما بين القوسين ساقط

(2) هنا غير المؤلف أسلوب الترتيب

(3) "ب": ولكون.

(4) "ح": ويجوز.

(5) "ح" فمذهبه.

(6) ب وح يرجوا.

(7) "ب" من ئمة.

(8) "ح": خاله.

KASIM IBRAHIM LIBR

لا يخـــى مـــه شيء. فانتقل إلى مذهب الإمام أبي حنيفة. وفتح الله تعالى عليه وصنف[1] كـــتابا عظيما شرح فيه المعاني والآثار. وكان يقول: لو عاش حالي ورأي اليوم لكفر عن يمينه.

الســـادس: أن يكـــون الانتقال لا لغرض دنيوي ولا دنيوي. بأن كان مجردا عن القصدين جمـــيعا. فهذا يجوز منه التعاطي. وأما الفقيه فيكره له أو يمنع منه. لأنه قد حصل فقه ذلك المذهـــب (فيؤول[2] احـــتاج إلى زمن آخر يحصل فيه فقه المذهب) الآخر.فيشغله ذلك من الأمـــر المهـــم الذي هو أهم مما تعممه في ذلك[3] وقد يموت قبل تحصيل مقصوده من المذهب الآخر. فالأولى ... ترك ذلك.انتهى كلام الجلال السيوطي رحمه الله تعالى **(P.31)**

ثم قـــال عبد الوهاب الشعراني بعد حكاية كلام جلال الدين[4] السيوطي هذا[5] في هذه الأقســـام. فقـــد بان لك يا أخي من جميع ما قررناه في هذا الفصل من عدم إنكار أهل الأمصار[6] على من انتقل من مذهب إلى آخر أنهم كانوا يرون الشريعة واسعة. وأن جميع الأئمة على هدى من ربهم. وقد أجمع أهل الكشف على ذلك. ولا يصح أن يجتمع مثلهم على ضلالة. قالوا: كل قول من أقوال علماء هذه الأمة موافق للشريعة في نفس الأمر وإن لم يظهـــر لبعض المقلدة ذلك. كما أن كل قول من أقوال علماء هذه الأمة موافق لشريعة نبي ممن تقدمه[7]. وأن من عمل بما اتفق عليه العلماء كأنهم كأنه عمل بغالب شرائع الأنبياء

(P.32) ورب مـــا كان ... له من الأجر. كأجر جميع أتباع الأنبياء / كنهم إكراما لأمة محمد صلى الله

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(١) في جميع النسخ وصنف. ولا يصح فصنف للتعقيب.

(٢) ح: جميع ما بين القوسين ساقط.

(٣) ح: وذلك.

(٤) أ، و ب: كلمة (الدين) ساقطة.

(٥) ب: كلمة (هذا) ساقطة.

(٦) أ: الأعصار.

(٧) هذا الكلام يحتاج إلى دليل من الكتاب أو السنة حتى لا يوهم أن الأئمة كلهم على صواب في جميع ما قالوه.

عليه وسلم. ثم قال وسمعت سيدي عليا الخواص[1] رحمه الله يقول: كل من نور الله قبه عم أن سكوت العلماء عمن[2] انتقل من مذهب إلى آخر[3] إنما هو تعميهم بأن الشريعة تعميهم كنهم وتشميهم فيحمل قول من رجح قول إمامه على غيره، عسى أنه لم يبلغ إلى[4] مقام الكمال. حال قوله ذلك انتهى.

(P.33) ثم مثل بعد كلام صويل الشريعة المحمدية بصورة الشجرة وهي هذه[5] وقال فانظر يا أخي إلى عين الشريعة التي في أسفل الشجرة، وإلى الفروع والأغصان والثمار تجدها كلها مستفرعة (من عين الشريعة) والفروع الكبار مثال أقوال أئمة المذاهب والفروع

(P.34) الصغار مثال أقوال طلبة[6] هؤلاء المقلدين[7]، والنقط الحمر التي في أعالي الأغصان[8] الصغار مثال المسائل المستخرجة من أقوال العلماء في دور من أدوار الزمان إلى أن يخرج المهدي عليه السلام فيبطل في عصره التقيد بالعمل بقول من قبله من المذاهب. صرح به أهل الكشف وبينهم[9] بشريعة محمد صلى الله عليه وسلم بحكم المطابقة بحيث لو كان رسول الله صلى الله عليه وسلم موجودا لأقره على جميع أحكامه كما أشار في حديث

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(1) الخواص صوفي مشهور.

(2) كذا جاء في النسخ بالقلب والإدغام ولكن الأصح فك الإدغام فيكون "عن من" حذفا

(3) "ح" إلى مذهب اخر.

(4) كذا جاء به في جميع النسخ. والمتعدي بدون إلى، لأن الفعل "بلغ" يتعدى بدون جار، ولأن الإتيان بالجار قد يكون إطنابا.

(5) أوردنا صورة الشجرة كما جاءت في نسخة "أ" بدون أي تغير وزاد المؤلف في "ح" قوله " ترى صورها آخر الكتاب"

(6) ح: ما بين القوسين ساقط.

(7) ب: المقلدة

(8) "ح": زاد قوله (مثال أقوال المقلدين والأغصان المتفرعة من جوانب الفروع).

(9) الأفصح أن يقول المؤلف: في أعالي الاغصان الصغيرة لأن الجمع جمع التكسير فسعى أن تكون مثنى مؤنث.

(10) ب و ح: وبينهم. من غير ضمير. معناه ملك أمرهم. أنظر المنجد المرجع السابق. ص: ٥١٨.

(P.35) ذكر المهدي[1] بقوله: يقفو أثرى// ولا يخطـــــأ. ثم إذا نزل عيسى عليه السلام انتقل الحكم إلى أميـــر آخـــر وهـــو أنه يوحـــي إلى سيـــــــــــــــد

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[1] إن أهل السنة والجماعة أثبتوا خروج المهدي اعتمادا على الروايات الصحيحة الثابتة على خروجه التي رواها أبو داود والترمذي وأحمد وغيره من حديث ابن مسعود وغيره يقول شيخ الإسلام ابن تيميـــة : إن الأحاديث التي يحتج بها على خروج المهدي أحاديث صحيحة رواها أبو داود والترمذي وأحمد، وغيره من حديث ابن مسعود وغيره.

ومن هذه الأحاديث ما رواه الإمام أحمد وابن ماجه بإسناد حسن عن النبي صلى الله عليه وسلم أنه قال: المهدي منا آل البيت يصلحه الله في ليله. وروى الحاكم في المستدرك بإسناد صحيح أن رسول الله صلى الله عليه وسلم قال يخرج في آخر أمتي المهدي يسقيه الله الغيث. وتخرج الأرض نباتها وتكثر الماشية ، وتعظم الأمة.

وروى أبـــو داود والحاكم بسند حسن أن النبي صلى الله عليه وسلم قال:المهدي من اجلي الجبهة، واغـــني الأنـــف يملأ الأرض قسطا وعدلا، كما ملئت ظلما جورا. ونقل الشيخ الصابوني في كتابه المهدي وأشراط الساعة مذاهب ثلاث للعلماء في المهدي، مذهب أهل التحليل وهم الذين يعتمدون عـــلى الفلســـفة الفكرية، والتحليل العقلي دون البحث والجهد العلمي فهؤلاء أنكروا وردوا جميع الأحـــاديث والآثار والواردة في هذا الشأن إذ لم ترق لذوقهم، و لم توافق أفكارهم مع كونها صحيحة الأســـانيد وعلى رأس هؤلاء أحمد أمين في كتابه ضحى الإسلام.وسعد محمد حسن في كتابه المهدية في الإسلام وهذا المذهب باطل فافهم.

الثاني مذهب الباطنية وأهل التشيع ،وهم يثبتون المهدي ويسردون فيه أحاديث لإزماء لها ولا خطام، ويعـــتقدون أنـــه هو محمد بن الحسن العسكري. وقد ولد وغاب وهو الآن مختف في سرداب، ولا يـــدري أحـــد متى يخرج وهذا المذهب لا يعول عليه. لأن أصحابه يعتمدون على الظنون والتخمين والأوهام. فافهم جيدا.

ثالـــثا: مذهـــب أهل السنة والجماعة، وقد سبق البيان عنهم آنفا وهم الذين يعتمدون على الأخبار والآثـــار الصـــحيحة الثابـــتة بأسانيد موثوقة عن رسول الله صلى الله عليه وسلم. أو عن الصحابة والتابعين ، ويعتمدون أيضا على الطرق العلمية السليمة التي تقوم على الحجة والبرهان وعلى الفكر والعقل السليم، وعلى رأس هؤلاء الإمام أحمد بن حنبل وشيخ الإسلام ابن تيمية. والحافظ ابن كثير، والإمام السيوطي. وابن حجر الهيتمي. فعليك بهم. راجع المهدي وأشراط الساعة للشيخ محمد علي الصابوني الطبعة الأولى (١٤٠٠هـــ) ص٩-١٤

عيسى عليه السلام[1] بشريعة محمد صلى الله عليه وسلم، لا من الأنبياء ولا من العلماء السابقين واللاحقين. فكل من الأنبياء والأولياء تحت دائرة شريعة محمد صلى الله عليه وسلم، وعلمهم متفرع من عين شريعته، وشجرة علمه، وما من قول من أقوال أئمة شريعة[2] إلا وهو متفرع من هذه الشريعة// وفروعها وأغصانها كما يعرف ذلك من تأمل (P.36)
في هذه الشجرة[3] (وكل من تأمل في هذه الشجرة)[4] وأمعن النظر فيها، لم يجد قولا منها غير متصل بما قبله أبدأ انتهى كلامه، وبانتهائه انتهى كتاب إرشاد الأمة إلى تيسير ملة، وقدر الله ختمه بيوم الثلاث[5] ٢٨ من رجب (ثمانية وعشرين) سنة شرحك[6] من هجرته عليه الصلاة والسلام.

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[1] حديث نزول عيسى عليه السلام. أو أن مسألة نزول عيسى عليه السلام ثابتة في صحيح السنة. وقد أخرج البخاري في صحيحه حديثين رواهما أبو هريرة في نزول النبي عيسى عليه السلام. ونص الحديث الأول هو: والذي نفسي بيده ليوشكن أن ينزل فيكم ابن مريم حكما عدلا فيكسر الصليب. ويقتل الخنزير، ويضع الجزية، ويفيض المال حتى لا يقبله أحد، حتى تكون السجدة الواحدة خير من الدنيا وما فيها. ونص الحديث الثاني: كيف أنتم إذا نزل ابن مريم فيكم، وإمامكم منكم. انظر البخاري المرجع السابق باب نزول عيسى بن مريم ص ٢٥٢ ج ٢ ومن أورد أحاديث نزول عيسى عليه السلام من العلماء بصيغ وألفاظ متنوعة في كتبهم الإمام مسلم في صحيحه كتاب الحج ص ٢١٢. والإمام أحمد في مسنده ج ٢ ص ٢٤ والإمام البيهقي في السنن الكبرى ج ٩ ص ٢ والإمام الترمذي في سننه تحت رقم ٢٢١٢٣ والإمام السيوطي في الدر المنثور ج ٢ ص ٢٤٢ والإمام عبد الرزاق في مصنفه ص ٢٠،٤٢. والإمام الحافظ بن حجر الأسقلاني في الفتح ج ٤ ص ٤١٤. هذا هو الحق في مسألة نزول عيسى عليه السلام فإنه يكفيك أن أوردت أمهات كتب السنة الصحيحة أحاديث التي تنتهي، ولا تهتم بقول أي مكابر أو منكر في ذلك.

[2] ج: الشريعة.

[3] انظر صورة الشجرة في آخر هذا التحقيق.

[4] أو ب: ما بين القوسين ساقط.

[5] في جميع النسخ (الثلاث) والصحيح الثلاثاء.

[6] هذه رمز من رموز علم الحساب القديم بالنظام الأبجدي وهذا الرمز يساوي ١٢٢٨ فالشين بمئة إن الف والراء مائتان والكاف عشرين والهاء ثمانية فالمجموع (١٢٢٨)

الحمد لله الذين أنعم علينا بنعمة الإيمان والإسلام وهدانا بسيدنا ومولانا محمد عليه من الله تعالى أفضل الصلاة وأزكى السلام، اللهم ارحم أمة محمد صلى الله عليه وسلم[1] رحمة عامة. تم[2] الخط[3] بحمد الله وحسن عونه. آمين[4]. والصلاة والسلام على رسول الله صلى الله عليه وسلم[5] الحمد لله رب العالمين[6].

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(١) ح: الصلاة والتسليم ساقطتان.

(٢) "أ" و "ح": تمت

(٣) أ: و "ح" لفظ (الخط) ساقط.

(٤) أ و ب: (التأمين) ساقط وهنا انتهت نسخة "ح".

(٥) "ب" زاد آمين مرتان

(٦) "ب" و "ح" (الحمدلة) ساقطة

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4.1 ENGLISH TRANSLATION OF THE EDITED TEXT

In the name of Allah, the compassionate, the Merciful. May Allah bestow His absolute blessings and peace upon our Master, Muhammad, his family, and his companions. The poor, destitute servant of Allah, who needs the mercy of his Master and Lord, Uthman Bn. Muhammad bn. Uthman who is popularly known as Ibn Fudi May Allah protect him with His Mercy, amin, says:

"All praise be to Allah who blessed us with faith and Islam, and guided us (to the right path) through our Master, Muhammad, May the best of His blessing and sublime salutations be upon him.

After that, this is the book: *Irshad al Ummah ila Taysir – al – Millah* (i.e. A Guide For the Muslim community towards understanding the Ease of Islam). I say, and success comes from Allah, that you should know o! My brothers (in Islam) that, I certainly say unto you like what Muhammad al-Tagugi said in the beginning of his book *Takhlis – al Ikhwan*: "I don't have a single word in whatever I say to you, however I explain only the sayings of our scholars, the Orthodox scholars, may Allah be pleased with them. I narrate to you nothing but the saying of scholars who are firmly established and upright in knowledge.

(P.2) And if you wish I can ascertain for you every book from which I transcribed" (Quotation ends). I will not mention a word in this book unless I refer you to its source or the book from which it is copied, for, this will satisfy the confidence (of the reader), as it has been my tradition in many of may writings. I also say unto you like what Abd-al-wahab as – Sha'araniy [1] said: - "By God I am just an adviser and Counsellor for the community, not an harasser and certainly, I am not a proclaimer of knowledge for self delight and pleasure".

My aim in writing this book is to explain (to the Muslim community) that the religion of Allah (Islam) is simple, this is to offer advice, not to cause you fall in to sins, innovations and unwanted traditions but to make you to emulate (the prophet PBUH) and the rightly guided predecessors, in

following simplicity in all matters (of religion) as long as there is no sin in doing it and there is no textual authority available on it. It is reported in *as – Shifa* "Whenever the Prophet (PBUH), was given option between two things he would opt for the simplest of the two as long as there is no sin in it, if it is a sin he abstains from it, more than any body "(narrated by Abu Da'ud on the authority of Aisha(R.A.)[2] It is reported in *Alfiyyat –as- Siyar*: "He opts for simplest things, whenever he is given option, except if it is a sin".

(P.3.) The righteous predecessors (*Salaf*) (may Allah be pleased with them) did the same so as to emulate (the prophet) (PBUH). It is reported in *Sahih-al-Bukhari* that the leading scholars that succeeded the prophet (P.B.U.H.) used to consult trust worthy scholars about lawful things so that they can follow the simplest of them. Al – Qastillani[3] said that this point refers to where there is no any textual authority with a clear defined and determined legislation (on the issue in question) and it was thus permitted originally (i.e. there is no clear evidence to prove the otherwise). He interpreted the saying of Bukhari that is quoted above i.e.: "The leading scholars" to mean the learned scholars of the companions (R.A.) and the followers (of companions) and those who succeeded them (Quotation ends).

If this knowledge is clear to you, my brothers, then you should know that the religion of Allah is simple according to the *Qur'an*, the tradition (of the Prophet) and the consensus of scholars. The evidence of the Qur'an (on the simplicity of Islam) is Allah's saying, the most High: "Allah intends Ease with you. He does not intend difficulty with you (Q: al-Baqara: 185), and His Saying the Most High, "He (Allah) never legislate any hardship against you in the religion" (Q: al-Hajj: 78).

And the evidence of the *Sunnah* is the prophetic saying, (p.b.u.h), "Indeed the religion is simple". The report is narrated by al-Bukhari in his authentic collection"[4]. And his saying (P.B.U.H.): "Enjoin Ease and do not be harsh, encourage (people) and do not scare them away". The report is

narrated by al-Bukhari in his authentic collection [5] and his saying (P.B.U.H) "Difference of my community is a mercy".

(P.4) // The report is narrated by Muhammad at Tagugi in *Takhlis – al – Ikhwan* and Abd al – Wahab as – Sha'araniy in al *Mizan*. [6] The evidence of *al-Ijma* (consensus of scholars) on the simplicity of Islam is that all followers of the Orthodox teaching of the Prophet concurred on the fact that religion of Allah, the Exalted is simple and it was for that reason the difference of the community became a Mercy. Hence it was known (from the above) that whoever is within the fold of the views of the Orthodox scholars should not be condemned, such condemnation as if he commits an unlawful act.

One of the scholars [7], in his poem said; "Where as difference of the scholars is a mercy, the difference of the Muslims Community should not be condemned''. Abu Muhammad said in *Durar-al-Multaqatah*: "Whoever is harsh (on the community) God will also be harsh on him" Thus, it is the will of Allah that this community will differ, and then Ease will be achieved through that. This is why He revealed to them a book (Al-Qur'an) in Arabic language a language that is rich with ample scope that can bear many different meanings and connotations. Abu Muhammad also said in *Durar at Multaqatah* "it is part of Allah's bounty, that the scholars were different (in their views and opinions) where one is harsh (on an issue) another will be lenient (on it). and the religion of Allah is thus simple" Abd-al wahab – as – sha'araniy said in *al - Mizan*; " The law brought by our prophet (Muhammad P.b u.h) came in the most complete form with balanced and moderate judgement.

Thus, nothing will be found in it rigorous or difficult on a person unless its counterpart is found. **(P.5)** in another place in which there is Ease for him // either (in) a hadith or a report or a saying of another Imam or a counter opinion in the school of the harsh scholar that may bring ease to him. Abd – al wahab – as – Sha'raniy said again in *al – Mizan*: "Sufyan –al Thauriy[8] may Allah have mercy on him. used to say: "Do not say the scholars disagreed in this and that but however you should say: "Scholars have offered flexibility (to the scope of the law) for the community by this (difference)".

(Based on the above) I want to say: The difference of scholars is an indication of the flexibility of this religion [9], just as it is permissible for person to follow a strange view in his school and can also follow a school of law other than his own in case he did not find in his school any textual authority (with a clear and defined legislation) on the matter and neither did he find any person or body who has vast knowledge of the meanings of the school.

Al – Khurashi[10] said in his book *Mawahib – al – Jalil* a commentary of *Mukhtasar al – Khalil*: "If a person did not find in his school a clear textual authority about a case and neither did he find somebody that has a knowledge concerning it, the clear and evident opinion (in this case) is that he will seek solution from another school and he should act upon it. He should not act in ignorance according to the saying of Yusuf b. Umar about the saying of *al – Risalah* [11]: "all that you use should be pure lawful even if it were to be a lost or missing property or object".

(He opined) thus "A person should strive hard to find the unanimous view of his school (on the point in question) then the stronger view then the strange view of the school. Then he should seek for views outside his school He should never go out of the views of scholars" (Quotation ends).

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If you would ask about a person who finds difficulty within him to act upon a view of another Imam, whether his faith is imperfect in respect of the fact that all the Imams are rightly guided by their Lord.

(P.6.) The answer would be as viewed by Abdal – wahab // as – sha'araniy in his book *al – Mizan* when he says: "Yes, the issue is like that, one's faith will never be perfect unless he considers views of other jurists as the same and equal before him (without any ill feeling)" (Quotation ends).

We have earlier introduced explanation of the evidences of the Ease of Islam. This, however was in brief. We now want to explain in detail the Ease of Islam in three things i.e. in practice, in juristic verdict and in judicial rulings. Now concerning practice (*Amal*) Allah the Exalted said: "Allah never charges a soul save its capacity" (Q: al-Baqara:286). The Prophet (P.B.U.H) said: "Whenever I command you with a command you should observe it according to your ability." The report is narrated by Abd-al-wahab as-shara'araniy in his book *Al – Mizan*. (The Hadith is also narrated by al-Bukhari and Muslim in their Sahih collections)[12]

And concerning *al-fatwa* (juristic verdict)[13] al-Imam -as –shatibiy[14] said as quoted in *Kibayat – al – Muhtaj* of Ahmad Baba[15]. "Our teacher, Abu Sa'id acquainted us with a juristic Verdict he issued in his hand writing in which he regarded (utterance of a person) as having legal implication. Then we disagreed with him. We later met with him one day and he said "I intended to acquaint you with my source in my juristic Verdict and its like. My aim in it was to simplify". He then showed us some cases from the books of *an-Nihaya* and *Ahkam* of Ibn al-faris and others in which it was juristically decided that the pronunciation of a person in oath is authentic and reliable even if it contravenes his *mens reus* (intention). (This is) according to the view of some scholars in the (Maliki) School and others. He then said I would remind you about a very important principle, known through chain of

Scholars concerning issuing juristic Verdicts.

(P.7) That is, they (i.e. the scholars) // do not bear heavily on the person that seek for their legal opinion in a matter. Abdulwahab as –Sha'araniy said in his book *al Mizan* "If you may ask concerning a scholar who gives a juristic Verdict based on the four schools of law, whether he must not give a legal Verdict to a follower [16] except with the most preferable view in terms of transmission, or he can answer him with whatever he wishes from the opinions of the School. The answer is, what is appropriate for (the jurist consult) is to answer people's questions with the most preferable (view), because the follower asked him only in order to answer him with the most preferable view of his school not with what he himself has held. Except if the non-preferable view is more prudential to the religion of the person asking the question, the jurist then could answer him with the non-preferable view and there is no interdiction (in that).

After a short talk, he then quoted Abdar - Rahman as Suyuti [17] saying: He who answers peoples questions based on the four schools of law (ie Maliki, Hanafi, Shafi'i and Hanbal) needs to know the preferable view of every school (on any point in question) with which he can answer the follower except if he knows about the person asking the question that his knowledge and religion are reliable and credible and (the follower) will be delighted with the answer given, even if it is non preferable (to his school). In a case like this the jurist consult does not need the knowledge of the preferred view of each of the schools on the issue (in question)'' (Quotation ends). Assuming you ask whether we can give juristic verdicts based on the four schools of law in our Sudanic region or we should be strict to the Malik's school [18] May Allah's blessings be upon him. The answer is, we should not give juristic verdict in our Sudanic regions except according to the school of Imam Malik, and may Allah's Blessings be bestowed on him. This is because; the other schools are not in

(P.8.) existence in these regions, as // they do not exist in the Magrib regions (i.e. West African regions). Ahmed az – Zarruq[19] said in his book *al-Qawa'id*: "It is for this reason, (that is lack of all the schools of law in existence in the West African regions) that As-Sahnun[20] and others gave a legal verdict saying, that issuing legal verdicts in these regions should only be given according to Malik school, the same view was held by Ibn al- Katib" (Quotation ends).

If this is clear to you, then you should understand that our regions (i.e the Hausa land) are in the same position with the West African regions in terms of lack of all the schools of law and hence restriction of juristic verdicts to the Malik School becomes a rule. Except, however, if the person is an illiterate and perform an act or practice that is authentic according to all the schools and he asked us after its occurrence and we knew its authenticity in all the schools. In that case there is no interdiction, in giving a legal verdict based on all the schools because an illiterate has no school except by name only. Abda-al-wahab as-shara'aniy said: "Al-Jalal –as-Suyuti, may Allah have mercy on him, narrated from many scholars that gave legal verdict according to all the four schools to people especially, the common people who do not confine themselves to any school which they knew not, neither its rules not its texts. Wherever, their action conforms to a saying or view of a scholar, the jurist will answer them saying "No objection (on it)" (Quotation ends). But, however, if all the schools are available in one country like Egypt, there is no objection that an illiterate can ask (P.9) any one he wishes among the leaders of those schools // before performing the act because he has no any designated school. Ahmed az-Zarrug said in his book *al-Qawa'id*: "In the case of people of Egypt, an illiterate has no any school, because all the schools are available to them, such that I even saw from them many jurisprudential cases and legal verdicts on that" (quotation ends). As-Shaykh Izzuddin Ibn Abdussalam as quoated in *Sunan-al-Muhtadin* by Al-Muwwaq, gave a legal verdict that it is not compulsory upon an illiterate person if he follow or adhere to an Imam in

respect of an issue that he must adhere to that Imam in all issues of difference (among the Imams). This is because, people, right from the age of the companions to the time when the schools of law emerged, used to ask different scholars on whatever occurred to them without any interdiction against them from anybody (quotation ends). This is the view of Al-Qarrafi[22] as quoted by al-Mawwaq in his book *Sunan al-Muhtadin* and Abd-al-wahab as-Sha'araniy in his book *al-Mizan*.

Based on the above I (the author) wish to say: "this view is more appealing to the demand of Shariah, which is unity of the Ummah. Abd-al-wahab as-Sha'araniy said in his book *al-Mizan:* "The demand of shariah is unity and repulsion of disunity as much as possible, as it has been the **(P.10)** practice of the leaders among the // pious people such as Abi Muhammad al-Juwainiy[23] and his likes, for, he wrote his book, *Al-Muhit* and did not oblige himself to follow any designated school of law in it. He said such is an obligation upon the Godly and pious people, just as it is permissible according to them to practice an act on which scholars have disagreed.

He then said, after a short talk: "Among those scholars that used to give juristic verdicts based on the four schools of law are: As-Shaykh Abdulaziz ad-Dariniy[24], Shaykhul Islam Izzuddin Ibn Jama'ah al-Maqdasi[25], As-shaykh-al-Allama Shihabuddin al-Barhi[26] may Allah have mercy on him and as – shaykh Ali Ad-Darir[27].He then said, after a short talk "If someone would ask how authentic will it be for those scholars to give legal verdicts based on all the schools despite the fact they themselves were followers (of certain designated schools) and the concern of a follower is he should not go out of the saying of his leader? The answer (to this question) is, probably one of them might have reached the status of *Mujtahid al Muntasib (*an associate jurist)[28]. A scholar on this rank is bound by the rules of his Imam; he should not go out of their folds. Examples of scholars on this rank

(P.11) include, Abu Yusuf[29], Muhammad b. Al-Hassan[30], Ibn al-Munzir,[31] Ibn-al-Qasim[32] // Ashab[33], Almuziniy[34] and Ibn Shurayh[35]. These scholars even if they issue a legal verdict with what has not been stated by their Imams, they should not be deemed to have gone out of the rules of their Imams. And it might also happen that these scholars that gave legal verdict to people based on all the four schools probably Allah had revealed to them the spring of the shariah and they witness the interconnection of all the views of the leading scholars to it (i.e. the shariah). They used to give people legal verdict on a balanced scale not on the general consideration, they neither gave a concession to an able person nor did they charge the weak. They were just like deputies of the leaders of the four schools in establishing their schools, and they had knowledge of all the evidences of the schools.

Then he said after a lengthy talk: "It is far away from the truth, to assume that the *fatwah* of those scholars on all the schools, was (inspite of their status) based simply on their belief and submission (to the views of the schools) without the knowledge of the sources of those schools and the deep meanings of their view. The same position applies to the person that opted to follow a view or opinion other than the one defined and sanctioned by his Imam, such person should be assumed to have done that because of his knowledge about the linkage of that view he followed with the source of the holy law (shariah), just in the same way as the view of his Imam is linked (to the holy law) equally.

(P.12) // Also anybody that gave a legal verdict but opted for a view other than the view of his Imam could be assumed to have done that not because he has knowledge of the proof of that view but just because he believed in its authenticity in reality'' (Quotation ends).

Thus, I (the author) wish to say: "All the above, is an exposition of the evidences on the Ease of Islam in terms of practice, and juristic Verdicts (*fatawa*). And on judicial rulings, Abd-al-wahab

as-Sha'araniy explained in some portions of his books on covenants that in certain circumstance, we should wave the evident jurispindential rules and resort to the general principles (of shariah) to avoid a detriment and to secure a *Maslaha* (public good) [35]. He stated that this has been a known tradition (to scholars) that the principle of Ease is resorted to, in determining a judicial ruling. It is a popular view that an orphan girl is given out in marriage only when she attains puberty. This is the view of *al-Mudawwana* and *Risalah*. However, this is not the absolute practice. The usual practice is that an orphan girl may be given out in marriage for fear of mischief at the age of ten.

And in *Mukhatasar Khalil*, the author said: "except, however, the case of an orphan girl, for fear of mischief on her part, if she attains ten (years) and the judge is consulted (she could be married out)". With this the principle of Ease is considered by allowing her marriage (before she attains poverty which is the general rule). Again the law (*shariah*) enjoins consideration of *Sulhu* (i.e. **(P.13)** reconciliation of litigating parties) in a legal suit for fear of // enmity among relations (if judicial ruling is enforced). Abu Bukar Ibn Asim al-Qaisiy [36] said in his book, *Tuhfat-al-Hukkam*: "Reconciliation is required, if the judicial rule is not clear (to the judge) but if the truth (of the matter) is determined. then there is no reconciliation, if there is no fear of cessation of relations (if the judicial ruling is enforced)'' [37] (Quotation ends).

Therefore I (the author) want to say: "If you understand all the foregoing explanation, you will understand the Ease of the religion of Allah in three things which are the practical worship, the juristic verdict and judicial ruling. It is part of the Ease of Islam that one should not confine and bind himself by a designated school in relation to those three things mentioned above, that is not a regulation of the Shari'a but is only a matter of policy. In *at-Taudhi* of Khalil bin Ishaq[38] in the book of judicial issues, the author said: "If a *Mujtahid* can not be found, then a person should find a follower of a *Mujtahid* and then it will be binding on him to follow the view of the follower of the

Mujtahid. Al-mazariy's view on what the author (i.e. Khalil bn Ishaq) means in his saying above was that if the person should rule or decide not according to his school he will be accused of injustice and following his lust. For this (reason) he is enjoined to follow his school for as a matter of policy but not as a regulation of the Shariah, for, the regulation of Shariah is based on the fact that the jurist consult and the judge are enjoined to follow the truth from wherever it comes to light to them. He (al-Mazariy) interpreted the saying of the author (i.e. Khalil bn Ishaq in *al-Taudhih*): 'In another view, it is not binding (on the person who could not find a *Mujtahid* to follow a follower of a **(P.14)** *Mujtahid'*, saying // this view is in *al Jawahir* from al-Turtushi. The text of what he said is: "It is not binding upon any one among the Muslims to follow the leader of his school in determining new cases and their legal positions. Whoever is following Maliki School is not necessarily bound to follow the view of Malik in all his juristic deductions; rather he should follow whatever conclusions he deduced through his effort (*Al-Itjihad*). This view is the view of all the schools. And if it is stipulated as a condition for the judge that he most judge according to a designated school, the appointment is genuine but the condition is void, whether the condition agrees with the school of the judge or not'' (Quotation ends).

Thus I (the author) say: "This view is more appealing to the demand of the law (i.e. Shariah) which is Unity. Abdalwahab As-Sha'araniy said in (his book) Al-Mizan: "I thank God, certainly I love Unity (of the Muslims) and I hate their disunity. He then said: "part of the motives that encouraged me to write (the book, *al-Mizan*) for my brothers, is to open a gate way to practicalise the content of the saying of Allah, (S.W.T.) in the Qur'an:

(P.15) "He has ordained for you the religion which He commended unto //Noah and that which He inspired in thee (Muhammad) and that which we commended unto Abraham and Moses and Jesus, that yee establish the religion and be not divided therein" (Q: as-Shura: 13). He then

said, after a very long talk: "If you look into it (the verse) with fairness, you will confirm with true conviction that all the leaders of the schools of law and their followers, May Allah be pleased with them, are guided by their Lord in apparent and in reality. And you will never oppose a person that holds fast to a school among their schools or change a school or Imam with another." (Quotation ends).

He then said after a very long talk: "It is a sign of true faith of a follower to believe that all the **(P.16)** leading scholars of the Muslims // are guided by their Lord, that such follower should not have any stress or ill feeling within himself when he follows another Imam in an issue. Whoever has that can be challenged to answer why he should bear stress and ill feeling in his heart despite his conviction that another Imam is also on the right path. There his claim will be refuted and the non-authenticity of his belief will become clear to him if he has a sense of understanding. He then said after a lengthy talk "This quality is supported by the acknowledgement of the great scholars in all the ages, on the person that changes from a school to another (that there was no blame against him) except, suspicion on him having defamation against the Imam that he leaves his school. Otherwise their acknowledgement on that person to change his school is a clear evidence (that the person has no any blame on him for changing his school), because all the schools to them are paths to the Garden (*Al-Jannah*), and following any of them, will lead one to success, and the Garden (of *al-Jannah*)".

Al-Imam Ibn Abdulbari[39] May Allah have mercy on him said: "There is no any report that reached us indicating that a scholar (*Imam*) commanded his followers to strict themselves to his school of law and to consider other schools as non authentic. However, what is reported from them pertaining to that, was their acknowledgment to the people to follow juristic views expressed by the various

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(P.17) scholars, for, all of them // are guided by their Lord. He also used to say: There is no Hadith, whether authentic or weak, that reached us indicating that the Prophet (PBUH) commanded anybody among the Muslims to strictly follow only one designated school of law and to consider other schools as non authentic. This is because every jurist (*Mujtahid*) is right (in his juristic efforts)'' (Quotation ends).

Al-Qarrafiy[40] reported a consensus of the companions, May Allah be pleased with them, that whoever asked Abubakar and Umar, May Allah be pleased with them, and followed (their view) can also ask another companion (of the prophet) and follow his view, without any interdiction (in that).

And the scholars unanimously agreed that whoever accepted Islam is free to follow any scholar he likes, without any interdiction, whoever claims abrogation of those two cases of consensus, should produce evidence (for his claim)'' (quotation ends).

Al-Imam Az-Zunnati[41] (from the Malikiyyah school) used to say: "It is allowed (for one) to follow any leader among leaders of the schools of law in new happenings or cases (*an-Nawazil*). So also it is allowed (for one) to change from one school to another but with three conditions. Firstly, he should not combine the two schools in such a way that his action will contradict a ruling established by a consensus of opinion among scholars (*Al-Ijma*). Like a person marrying a lady but **(P.18)** without dower, guardian and witness, because marriage in this manner was never reported // by any scholar. Secondly, he should have belief of the merit and excellence of the scholar he is following, when his information reached him. Thirdly, he should not follow (a scholar) while in blindness about his religion like when he follows *Rukhsah* (a concession) without its due conditions'' (quotation ends).

Al-Qarrafi said: "It is allowed (for a person) to change from a school of law to any other one, as far as, his actions will not undo any judicial ruling. And that is in four positions. That is, his actions should not contradict any ruling established by either:*Ijma*[42] or *an-Nas*[43] or *al-Qiyas al-Jalil*[44] or *al Qawa'id* .[45]

Al-Jalal as Suyuti, May Allah have mercy on him, said: "Among those about whom we have received report of their transfer from one school of law to another without any interdiction by scholars of their age, is as Shykh Abdalaziz b. Imran al-Khuza'ai. He was one of the great scholars of the Maliki School of law. But when Imam sa-Shafi'i[46] came to Bagdad, alkhuzai followed him. He read Shafii's books and spread his knowledge. Among them was Muhammad Ibn Abdullahi bn. Abdul Hakam[47]. He was following the Maliki School of law but when as-Shafii came to Egypt, he transferred to Shafii School of law. He used to call people to follow as-Shafii.

(P.19) He used to say // "this is not just a school but a way (to follow)" Al-Imam Shafii used to tell him "You will later return to the school of your Imam (i.e. Maliki School)". After the death of Shafii he returned to his school, as said by as Shafii. He was expecting that Imam as-Shafii will appoint him as his representative (Khalifah) on his instruction circle (i.e. class). But when as-Shafii assigned al-Buwaiti as his representative (Khalifah), Ibn Abdulhakam returned to his former school of law (i.e. Maliki school) . And this confirms the physiognomy of as-Shafii, May Allah be pleased with him. Another scholar was Ibrahim Khalid-al-Bagdadi. He was following Hanafi School but when Imam as-Shafii came to Bagdad, he left his school and followed as Shafii. Among them also was Abu Thour. He used to have a school but left it and followed as Shafii Abu Ja'afar b. Nasr At-Tirmidhi was another scholar among them. He was a Hambali follower: but when he performed pilgrimage (Hajji) he saw the need for him to transfer to Shafii School. He studied jurisprudence (Fiqh) from the students of as shafii like ar Rabi and others. Abu Ja,far at Tahawi [48] was another

scholar among them. He was a follower of Shafii. He studied under his uncle al-Muzni, and then he changed to the Hanafi School. Al-khatib al Bagdadi[49] al-Hafiz was also one of them. He was a follower of Hambali, and later changed to Shafii School.

(P.20) Ibn Farith[50] // the author of *kitab al-Mujimal fil, Lugah*, was another example, he was a follower of Shafii, following his father, he later changed to Maliki School. As saif al Amidi, the famous scholar of *Usul* [51] was also one of them; He was a follower of the Hambali school and later he changed to Shafii School As –shaykh Najmud Din Khalf –al –Magdisi was another scholar. He was a follower of Hambali and later he studied under as-shaykh Muwaffiq ad –Din. He also studied the school of Abi Umar and later he changed to the Shafii School. He rose and became famous. As Shaykh Muhammed b. ad Dihan an-Nahwi was one of them. He was a follower of the Hambali and later changed to Shafii School. Later again he changed to Hanafi school at the time when the Khalif of his time requested for a scholar that is learned in Arabic syntax (*Nahwu*) to teach his child. Again he changed to the Shafii school at the time when teaching in the *Nizamiyyah*. He school became famous and the owner of the school stipulated as a condition that nobody should reside in it unless if he is a follower of Shafii school. And at that time there was nobody learned in Islamic jurisprudence and Arabic syntax more than him. Another scholar was as-shaykh Taqiyyud - Din Ibn Daqiq al Eid,[52] He was initially a follower of the Maliki school following his father, later he changed to Shafii School.

(P.21) Another scholar is shaykh -al-Islam kamal- ad-Din bin Yusif ad-Dimashqi. He was a // follower of the Hambali school and later he changed to shafii school. Also among them was al-Imam Abu Hayyan. He was following the Zahiri School initially but later he changed to the Shafii School. That's the end of aljalal-as Suyuti's statement. The author of the book *Jami al-Fatawah* From the Hanafi School said "It is permissible for a follower of the Hanafi school to change to

shafii school and the reverse (that is a follower of shafii to change to Hanafi school). But the transfer should be absolute (that is not partial). However a partial transfer like in one single case is not permissible, like the case whereby a person of Hanafi School had an excessive bleeding. In this case it is not permissible for the person concerned to pray without washing the blood in accordance with Shafii School. And should he pray in this situation (i.e. without washing the blood) his prayer is invalid.

One of the scholars said "It is not befitting for a common person to change from one school to another whether he is following Hanafi School or Shafii school". But however the popular opinion is the opposite of this. Another scholar said "It is permissible for a person following Shafii School to change to Hanafi School and not the reverse (i.e. a follower of Hanafi school should not change to Shafii school). Al-Jalal as Suyati said: "This is a claim without any evidence to prove it. Our scholars, whom we met never used to deny a person that change from Maliki school to Hanafi **(P.22)** school or a person from Shafii school changing to Hambali school and later // to Maliki school. However they only showed disapproval to one who changed (from one school to another) for suspicion of playing with the schools. Ar-Rabi, also resolved that the above is permissible An-Nawawi[53] also has the same view (with ar Rabi). The explanation of the book of *ar Raudah* on that is: When the schools of law are documented and compiled is it permissible for a follower (*al Muqallid*) to change from a school to another?. If we assume that the follower (*i.e. al Muqallid*) is bound to strive to get the most learned (among the Imams of the schools) and he became firm in his presumption that the second Imam (to whose school he transferred) is the most learned, in this case it becomes permissible or even compulsory for him to change. And if we assume that we give him option, (i.e. to change or not to change) it also becomes permissible for him, just as in the case where he follows the two schools pertaining the *Qibla* in alternative days". That is the end of the

statement of the book of *ar Raudah*. The Salaf (i.e. the early generation of the Muslims who were righteous) did not see any offence in that (i.e. changing from one school to another), otherwise they would not have confirmed the action of those who changed from one school of law to another. The *Salaf* (early Muslim generations) knew that the Shariah contained all the schools of law, otherwise they would have seriously condemned or denied the action of those who changed from one school to another. And the approval of the early Muslim generation (*Salaf*) (on the action of those who changed from one school of law to another) may not be unconnected with one of two issues. Either they were acquainted with the source of the Shariah and they knew how all the schools of law were inter connected to it, or because of their faith and confidence in the authenticity of the statements of the leaders of the schools of law. Thus, if one from among the followers of the Maliki School of today would say:

(P.23) "how bad is the action of the one who changed // from one school of law to another school" we would answer him saying: "How bad! Is your statement? Because a leader of your school (i.e. the Maliki school) as Sheikh Jamal-ad-Din Ibn al-Hajib [54] (may Allah show mercy on him) permitted it (i.e. changing from one school to another). Therefore, this statement is mere bigotry and fanaticism, because all the leaders of the schools of law are equal before the truth. No school of law has a monopoly of the Shariah over another.

Al-Jalal as Suyuti, May Allah show mercy on him, was asked about a follower of the Hanafi school of law who was saying "It is permissible for a person to change to the Hanafi school, but it is not permissible for him that is following the Hanafi school to change to Shafii school or Maliki or Hanbali school. As-Suyati replied: "This is indeed a selfish proclamation by the sayer, there is no evidence to prove it neither from the Qur'an, nor from the Sunnah. And there was no report (Hadith) authentic or weak that is reported to us indicating a distinction of one designated leader

among the leaders of the schools of law over another leader. And the precedence of the time of Abu Hanifah May Allah be pleased with him, will not urge his proof. Even if it is assumed correct, then the following of Abu Hanifah would be compulsory at any situation and following other leaders would not be allowed at all. And this would be in conflict with *al-Ijma* (the general consensus of scholars) on the issue. It would also be in conflict with what al-Bayhaqiy narrated in the book of *Al Madkhal* on the authority of Ibn Abbas, May Allah be pleased with him, that the Prophet (PBUH) was reported to have said: "Whatever is given to you of the book of Allah (al-Qur'an) it is compulsory upon you to practice it, there is no excuse for any one who leaves it.

(P.24) // If there is no explanation in the book of Allah, then you should inquire (about it) in my past tradition and follow it. If there is no explanation (about it) in my tradition, you should follow what my companions say, for, my companions are like stars in the sky, whoever you follow (among them) you will be guided. And the difference of my companions is a mercy for you" [55]

(Quotation ends) Al-Jalal as-Suyatiy, May Allah have mercy on him said: "If the rule to prohibit transfer from one school of law to another should be specific to the school of Imam Abu Hanifa[56] alone other schools are bound to be affected by the rule. Thus by implication of this rule transfer from an old school, to a later school would be prohibited (in general) like a person following Shafii school changing to Maliki school. Or a person following Hanafi School changing to Shafii school not the opposite (that is a follower of Shafii school changing to Hanafi school). And any opinion that has no evidence to prove it is rejected. The Prophet (PBUH) said: "Any action that we have not commanded is rejected" (narrated by al- Bukhari in his *Sahih* collection 4/286) [57]

Then Abdalwahab as-Sha'araniy said: "I saw another lengthy *fatwa* (a legal verdict) issued by him (i.e. As-Suyutiy) in which he enjoined (the Muslim community) to believe that all the leaders of the schools of law are guided (to the right path) by their Lord, even though they differ in terms of

knowledge and honour. It is thus not permissible for one to show preference to one of the scholars in such a way that it will mean a defect in another leader. This is based on what is reported on the prohibition of showing preference to some prophets and messengers of Allah (over others), may Allah's peace and blessing be upon them. The scholars prohibited such preference that will lead to a defect or degrading of another prophet, especially if that will lead to dispute and slander.

(P.25) Indeed // difference of opinion happened between the companions of the Prophet in respect of jurisprudential issues, despite their noble position, but, however, there was no any available report that reached us indicating that one of them had any dispute or held enmity against another because he held a different opinion with him. Neither did any one of them condemn another or accuse him of defect or fault as a result of difference of opinion. It is reported in a hadith: "Difference of my community is a blessing" He said: the difference of the people before us was a punishment or a disaster for them (quotation ends). He then said: "The Rahma (mercy) mentioned in the above hadith means, making the religion flexible for the community (by removing any form of difficulty and stress). If it were assumed that one of the leaders of the school of law is erring in reality, then the difference (of the leaders of the schools of law) would not be a mercy (for the community). He said: "I have deduced from the hadith: "My companions are like the stars. whichever one you emulate you will be guided", that certainly if we follow any leader we will be guided, for, the prophet (P.B.U.H.) offered for us an option of following the view of any leader we wish without enforcing any designated view. This is because all of them are guided by their Lord. And if it is assumed that only one of the jurists is right and the rest are wrong, then, the guidance will not be acquired by that who followed the rest of the jurists.

Muhammad bn Hazm used to say on the hadith: "If a jurist tried to deduce a legal rule, but missed or failed, he will have one reward, but if he is right he will have two rewards " (narrated al-

Baihaqi in his *Dala'il an- Nubuwwah*: 7/185) [58] that the meaning of the wrongness mentioned in the hadith, is inability to find evidence (on the legal rule he deduced) not the type of wrong that takes one out of Shariah. For if it is assumed that he has gone out of the shariah because of it, then he will not deserve any reward (quotation ends). Harun ar – Rasheed [59] entered into the place of Imam Malik may Allah be pleased with him and said to him "O! Aba Abdallah (a nick name of Imam Malik) let me distribute this book that you wrote (i.e *al – Muwatta*), I will spread it to the Muslim World, and I will enforce it on the Muslim Community (as their code of law). Then (Malik) said to him "O! Commander of believers, indeed the difference of scholars is a mercy from God for this community. Every scholar follows that which its evidence becomes sound before him and every one (of them) is guided to the right path, every one of them intends God.

(P.26) Al – Imam Malik used to say: "In many times, Harun // ar Rashid used to consult me about his intention to paste the book, al Muwattah in the Ka'aba and to enforce its on the people (as their official code). And I said to him: do not do it, for, the companions of the prophet (P.B.U.H.) have differed in jurisprudential issues and they have scattered in the world, and every one of them is right and correct (in his view)[60]. He then said: May Allah increase your good fortune, "O! Aba Abdullahi" (quotation ends).

O my brother, if you are a follower of Malik school look, at the saying of your leader (Malik): "Every one is correct and right." I heard our teacher, Shaykh – al – Islam Zakariyya, may Allah have mercy on him, saying: "At the time when al – Mansur[61] performed the pilgrimage, and said to al – Imam Malik: "I intend to give instruction that this your book that you wrote be copied and then I will send it to all the Muslim cities and I will command them to follow it and not to follow any other book".

(P.27) // al - Imam Malik then said (May Allah have mercy on him): "Do not do that, O! Commander of believers, for, the people (i.e. the subjects) were conveyed different views and opinions (of scholars). They have heard reports, and narrated reports and every people have followed what was related to them, and they worshipped God with it. Therefore, leave the people alone with what they have chosen for themselves in every town" (Quotation ends). Then if you would ask: "what is the legal position of him who changed from one school to another in general, sense, with the aim of achieving a worldly gain like a job or a position or closeness to the kings and rulers? The answer is the saying of Abd – al – Wahab as sha'araniy, he said, after relating the above saying, of our leader, Malik, without any separation, "I saw in the hand writing of Jahal ad-Din as Suyuti (May Allah have mercy on him), the text of his answer when he was asked about changing from one school to another saying: "My view is that the person who changed (from one school to another) has many conditions and circumstances.

Firstly, he may be motivated to change from one school to another by a worldly issue like gaining a job or position or closeness to the kings and rulers, which he may desire for his deserved comfort. The position of this is similar with him who migrated (with the Prophet from Makka to Medina) **(P.28)** with the aim of marrying a woman called Ummu Qays[62] // for, that was his major objective.

Secondly, he may be motivated to change his school by a worldly issue like the first one but however he is ignorant, he does not know jurisprudence. He is only a follower of the school by name like most of the followers. If he happens to be one of the workers and servants of those in power and authority and influence in the state or one of the civil servants in the colleges. In case of such a person, the issue is simple, he can change his school which he claims to be following strictly. His position does not reach the stage of prohibition, for, he is ignorant, and he does not

have a school (except by name only). His example is like him who has newly converted to Islam, he can follow any school he wishes among the schools of the leading scholars.

Thirdly, he may be tempted by a worldly gain that emanate from the dispraised whims of his soul. The issue of this is very harsh; perhaps his case may reach the level of prohibition, for his play with legal rules of the *Shariah*, simply for achieving a worldly end.

(P.29) Fourthly, his change may be for a religious purpose. Though, he is learned in his school, // he only changed his school because he found the other school more considerable to himself, for what he saw of its clear evidence and strong intellect. For this one it is either obligatory on him to change school or it is permissible for him (to change) as Ar-Rafii said: "The scholars confirmed the action of him who changed to the Shafii school at the time when he arrived Egypt. There were a lot of people who were followers of Imam Maliki (but later changed to the Shafii school).

Firstly, his change might be motivated by a religious purpose but however, he is not learned. He has occupied himself with his school but did not attain any knowledge. And he found the other school more simpler to him such that he hopes a hasty acquaintance and understanding of it, it is better for his type to follow a school of one of the four leaders of the schools of law, than to remain and continue in ignorance. Because he has no any school except by name and it is a detraction for a believer to stay in Ignorance and very rarely would his worship be sound (with ignorance). Al-Jalal as-Suruty said:

(P.30) "I assumed this is the reason why at Tahawiy changed // to the Hanafi school from the Shafii school. For, he used to study under his uncle, Al – Imam Al- Muzni and one day the lesson became hard for him,. Then Al - Muzin swore that he (i.e. Al-Tahawiy) would never achieve any thing, al Tahawiy later changed to the Hanafi school and God offered him victory by which he wrote a big book in which he did a commentary of the meanings of *al -athar* (prophetic reports).

(The book was named *Sharh Ma'ani-al-athar*) He used to say "if my uncle had lived to date and saw me today he would certainly had observed *Kaffarah* (atonement) for his oath".

Sixthly, the change may neither be for any worldly end nor for a religious motive, that is neither of the two ends. This could be allowed for an ignorant person, but for the learned it is not recommended, or it is prohibited, for, he has acquired the knowledge of the first school and he would require yet another period of time to acquire the knowledge of the second school and that may distract him, from the important issue which is practicing what he learned before (i.e. the knowledge of the first school). He may even die before achieving his motive from the second school.

(P.31) // Thus the best for this category, is to remain in their school. That's the end of the statement of Al-Jalal as Suyutiy, may Allah have mercy on him. Then Abd-al-wahab as-Sha'araniy, after narrating the saying of Jalal-al-Din as Suyutiy on those categories, said:

It becomes clear to you, my brother, from all that we have confirmed in this chapter on the non denial of all the scholars against him who changed from one school to another that the religion is flexible. They view the Shariah as flexible and that all the leaders (of the schools of law) are on the right path and guided by their Lord. The people of Kashf [63] have all concurred on that, and it is impossible for this type of men to concur on error. They said: "Every view among the views of the scholars of this community is in conformity with the Shariah in the actual issue, even though this may not be clear to some followers. Just as every view of the scholars is in conformity with the law of a Prophet among the past Prophets (A.S) and that whoever follows and practices what the scholars concurred on, it is as if he has practiced the major laws of the Prophets (A.S) and he may **(P.32)** have reward like that of all those who followed the prophets (A.S.) // in honour and respect for the community of Muhammad (PBUH). He then said, I heard my Master, Aliy Al Khawas may

Allah have mercy on him. saying: Whoever his heart is enlightened with the light of God will know that the silence of scholars on that who changed from one school to another, is just only for their knowledge that the Shariah contained and encompasses all the schools of law. Thus, the person who considers his Imam's view above the view of another Imam is assumed he has not reached the perfect stage of knowledge for holding that view (quotation ends). After a lengthy statement he then gave an **(P.33)** example of the Shariah of the Prophet Muhammad (PBUH) in a tree diagram. [64] // and he said "My brother. look at the source of the Shariah which is indicated at the bottom of the tree and look at the branches and the products (fruits), you will find them emanating from the main ;stream of the Shariah.

The major branches are examples of the views of the leaders of the schools of law, and the **(P.34)** minor branches // are examples of the views of the disciples of those leaders who are followed. And the red dots on the upper top of the minor branches are examples of cases deduced from the views of scholars at one period in time up to the emergence of ***al-Mahdi***[65] May Allah's peace be upon him, when strict following of schools of law that used to be in existence before him will be abolished. This is made clear by the people of Kashf. The Mahdi will rule the community with the Prophet Muhammad's Shariah (PBUH) in terms of application such that even if the Prophet himself were to be around, he will confirm all his rulings as he indicated in the Hadith in **(P.35)** which he made mention of the Mahdi, saying: "he will follow my footsteps and he // will not commit error.

Then when Prophet Isah (A.S) descends [66], judgement will be shifted to another leader who will be inspired with the Shariah of the Prophet Muhammad (PBUH.) His position after his coming will be neither a Prophet nor a scholar from the past and the later scholars. Thus every one among

the prophets and saints is bound by the prophet Muhammad's *shariah* (PBUH) and their knowledge originated from the stream of his law and the tree of his knowledge [67]. There is no view among the views of the leader of any law (Shariah) except it has its original sources from this law

(P.36) (i.e. the law of our Prophet) and its // major and minor branches, just as it will be clear to every one who studies and reflects on that tree diagram. Whoever reflect and contemplate on that tree diagram will certainly find that every view is connected to the view before it.

That's the end of his statement, and with it the book *Irshad al Ummah Ila Taysir al Millah*, comes to the end. The conclusion was predestined by God to be Tuesday 25th Rajab, year 1228 [68] after the *Hijra* of the Prophet (PBUH.).All praises be to Allah who blessed us with faith and Islam and guided us (to the right path) through our teacher Muhammad (SAW), May the best of his blessing and sublime salutations be upon him. O. Allah! Have a general mercy for the community of Muhammad (PBUH.). Completed with praise to God and by His excellent support, may Allah's blessings and salutation of peace be upon His messenger (Muhammad). All praise be to Allah the Lord of the universe.

4.2 NOTES TO THE TRANSLATION OF THE EDITED TEXT

1.as-Sha'araniy (d: 973 A.H): He is Abd-al-wahab as-sha'araniy, a Shafii jurist, a great Mystic from Egypt, he lived in Cairo. Author of many books, a celebrated scholar, in the Muslims world. His work include "*Al-Bahral Maurid fi al Mawathiq wal Uqud*", *al Badr al Mumir*", *al Jawahir wad Durar al Kubra*", *Lata'if al Minan*", "*Lawaqih al Anwar fi tabaqat as Sadat al akhyar*", (See al Munjid, the chapter on Biographies P. 333). The author of the Book under study (as Shaykh Usman b. Fodio) was influenced greatly by this scholar, quoted him more than any other scholar in this book. You hardly read a page or two without seeing the name "as Sha'araniy" repeatedly. This in essence shows the extend of the influence of this great scholar on the author, among other scholars.

2.The Hadith is also reported by Ibn Abd-al Barr in his book *'at Tamhid*' (Vol. 8 PP. 148-149), , al-Haithamiy in his book, *Majma az Zawaid*, (Vol. 9, P.15).

3.al-Qastillaniy (d: 923 AH): He is Ahmad, Shihab –ad-Din alQastillaniy. The famous commentator of Sahih al Bukhari. A great scholar of Hadith, a historian, an Egyptian by origin, his works include "*Irshad-as-Sari fi Sharh – Sahih al Bukhari*", *Fath ad Dani fi Sharh Hirz-al Amani fi al Qira'at*" *al Ibtihaj fi Sharh, Sahih – Muslim b. al Hajjaj* (See al Munjid P. 438)

4.The Hadith is also reported by az- Zubaidiy in his book, *Ithaf-as-Sadat almuttaqin* (vol. 6, p. 368), in his book, *Kanz-al-Ummal*, (Had. No. 5343) at Tabrizi in his book, *Mushkat al Masabih* (Had. No. 1246), alHafiz Ibn Hajar al Asqalani, in his book, *Fath-al Bari*, as-Suyuti in his book *Jam'ul Jawami* (Had. No. 548-) Ibn Abd-al-Bar in his book, *at Tamhid*, (Vol. 5, P. 121).

5.The hadith is also reported by muslim in his *sahih* collection, in his chapter on jihad [Had. No.806], Abu Daud in his chapter on *Adab* [Had. No.20],al, Hafiz Ibn Hajar in his book, *al Fath-al-Bari* [vol. 1 p. 663], al Imam al Bagwi in his book Sharh as sunnah [vol. 10. p.68], al Munzuri in his book *atTargib wa at Tarhib* [vol .3 p. 417],al Muttaqi –al- Hindi in his book *Kanz-al- Ummal* [Had. No. 5220], al Baihaqi in his book *Dalail –an- Nubuwwa* [vol. 5, p.43], at Tabaraniy in his book *mujam al kabir* [vol. ii . p. 33].

6.The hadith is also reported by al –Iraqiy in his book "*al Mugni an Hamli al Asfar*" [vol.1.P. 98], az-Zubaidi in his book " Ithaf – as – sadat al Muttaqim" [vol. 1 P.204], al Albani in his book as silsilat ad Daifah [Had. No. 57], al Muttaqi –al – Hindi in his Kanz –al –Ummal [Had. No. 68686].

However, this hadith is not authentic according to al Imam as Subki when he says " I have not found any chain wether authentic or weak or fabricated for it. The hadith is also narrated among the fabricated traditions. [see sifat- salat- an Nabiy by al Albani pp.58-59 and Tadhkiratal – Maudu'at by al Fatiniy p. 90].

7.It appears, here that the author relinquished his condition when he stated at the beginning of the book " I will not mention a word in this book unless I attribute it to its sayer or the book from which it is copied." Here the author quoted from a poem but did not mention the source clearly. However, this could be an oversight from the author for nobody is perfect.

8.Sufyan at-Thauri (d. 861 A.H): He is Abu Abdullahi, Sufyan at-Thauriy. A celebrated scholar of Hadith, one of the leading jurists. Born in Kufa and died in Al-Basra. Among his works are al – Jami Alkabir, Aljami as Sagir, and a book on *Mirath*. (See Almunjid)

9.Al – Albani (1991) however observed this view as contradictory to the Qur'anic verses. He profounded that there are also confirmed texts from some Imams refuting it. For instance Ibn Alqassim was reported to have said: "I heard Malik and Layth saying that the differing of the

companions of the Messenger of Allah (S.W.T.); It is not as people say: "There is flexibility in it; no, it is not like that, but it is a matter of some being mistaken and some being correct" (Ibn Abdalbarr, in Jami Bayyan al ilm Vol. 2 PP 81-2). Ashab also said: "Malik was asked about the person who accepted a Hadith narrated by reliable people in the authority of the companions of the Messenger of Allah (PBUH)" "Do you see any flexibility there?" He said: 'No by Allah, unless he finds the truth. Truth can only be one. Can two contradictory views, both be correct? (it can not be plural). Truth is only one.' See Ibn Abdal Barr in Jami al Bayan al Ilm vol. 2: p. 81-2).

10.Al-Khurashiy (d. 1101 A.H): He is Abu Abdallah Muhammad b. Abdullah al Khurashiy. He was a famous Malik jurist. Among his works is Hashiyat al Khurashiy ala Mukhtasar al Khalil, one of the reference books of Maliki School. (See Diya as Siyasat, edition and commentary of Ahmad Muhammad Kani P. 86).

11.Ar-Risalah: One of the major reference books of Maliki school of law. The book is widely read in West Africa. Ibn Abi Zaid al Qairawaniy wrote it.

12.See also Ahmad in his al Musnad (Vol. 2, Hadith No. 2,508) Darul Qutuniy in his as-Sunan (Vol. 2 P. 281), Ibn Hajar in at Talkhis (Vol. I P. 156) and at-Fath (Vol. 13 P.261 and Vol. 2 P. 588). (See al-Mawsu'ah of Abu Jahir Muhammad as Said Zaghil).

13.Al-Fatwah: Literally means a verdict. Technically it means a legal opinion or a juristic verdict on an issue in question. A Mufti is a jurist who gives a legal or a religious verdict on an issue put in question. A Mustafti is a person, (usually a layman) who seeks for a juristic verdict on an issue.

14.As-Shatibiy (d. 790 A.H): Abu Ishaq Ibrahim as-Shatibiy. A Maliki jurist, from Garnata. A scholar of Tafsir and Usul. Among his works are al-Muwafaqat fi usul ahkam, al Itisam, Usul an Nahwu. (See al-Munjid A am P. 327)

15.Ahmad Baba (d. 1036 AH): He is Ahmad Baba b. Ahmad b. Umar b. Muhammad at Tumbukti. He was born to a family that was famous in knowledge in Timbuktu in Mali. He received knowledge from his father and he became famous among the scholars of his time. Among his literary works are: Nail al Ibtihaj bi Tatriz al Dibaj, Kifayat al Mulitaj and al Kashf wal Bayan.

16.A follower: The concept has been fully explained in chapter two.

17.As-Suyutiy (d. 991 AH): He is Abdurrahman b. al-Kamal b. Bakr b. Muhammad b. Shaykh Hammam ad-Din al-Khudairiy al-Asyutiy. He was born in Cairo in 849 AH in the month of Rajab. He lived as an Orphan. He was said to have memorised the Qur'an when his age was below eight years. He was said to have compiled about 460 books according to as-Sha'araniy. His works covered all the areas of Islamic Sciences which included among others, Tafisr, Hadith, Al-Fiqh, an Nahwu,al-Usul, etc. Among his famous works are: alltqan, al-Muzhir, ad-Durr al-Manthur, al-Jami as-Sagir. He became famous in his time and was bestowed with versatile knowledge. He died in Cairo in the year 911 A.H. (See al-Iqtirah, of as Suyuti, edition of Taha Abdrazzaq Sa'ad PP. 7-27)

18.Imam Malik (d. 179 A.H.): He is Abu Abdullah, Malik b. Anas b. Malik b. Abi Amir b. Amru b. alHarith. His great grandfather, Abu Amir, was a great companion of the Prophet (PBUH). He was born in Madina, according to the most famous view in the year 93 A.H. He lived in Madina as its scholar and jurist. He was the leader and founder of the Maliki School of law. His school was followed and became the dominant school in the areas of al-Hijaz, Basra, Egypt, Africa, Spain, Magrib and Sudan, among others. Among his famous work is his popular book al-Muwatta, which is the Magnum opus of all his literary works on Islamic jurisprudence. He died in the year 179 A.H. in the month of Rabi al Awwal. (See the commentary of Azzarqani on Muwatta by Imam Muhd Zarqami, Vol. 1 p. 2)

19.Ahmad Azzaruq (d. 899 A.H): He is Ahmad Azzaruq al-Barnasiy alfasi. A famous Maliki jurist and a follower of the Shazali Sufi Order. Among his books are Sharh-al-Hikam, Sharh Muktasar Khalil. He died in a place called Takdin in the territories of Tripoli in the year 899 A.H. (See Diya as Siyasat of Shaykh Abdullahi b. Fodio edition and commentary of Ahmad Muhammad Kani. P. 186)

20.As-Sahnun (d. 240 A.H): He was Abdassalam Sahnun. One of the celebrated Maliki jurists and one of its great scholars and leaders. He was appointed the judge of al-Qarawani. He compiled al-Mudawwana al-Kubra, which is the highest reference book of the Maliki School. (See al Munjid, al Alam, P. 298.)

21.Al-Muwwaq: The researcher could not find any thing pertaining to this scholar from the biographical and bibliographical materials consulted.

22.Al-Qarrafi (d. 664 A.H): He was Ahmad b. Idrith al-Qarrafiy. the famous and celebrated scholar of the Maliki School. In his time he was the leading scholar of the Maliki jurisprudence. He wrote many books, the famous among which is adh-Dhakhirah fi al Fiqh. (See Diya'us Siyasat of Abdullahi Fodio edition and commentary of Ahmad Muhammad Kani).

23.Al-Juwainiy (d. 488 A.H): He was Abu al Ma'aliy Abdal-Malik b. Abi Muhammad, Abdulahi al Juwaini. A Shafii jurist. He lived in Nisaphur. Among his works include, al-Burhan fil Usul, as-Shamil, al Irshad fi Usul ad Din, al Waraqat fi Usul al-fiqh. (See alMunjid, al Alam P. 209).

24 – 27: Nothing I got pertaining them.

28.Mujtahid: Is a juristic status that is attained through the possession of the highest level of scholarship in Islamic jurisprudence by which a scholar can deduce laws and draw juristic conclusions on issues arising, using the sources and principles laid down in Islamic legislation process.

29.Abu Yusif (d. 182 A.H): Abu Yusif b. Ibrahim al-Qadi. He was born in Kufa, he studied under Abu Hanifa and one of the great companions of Abu Hanifa. He was appointed as judge of Bagdad in the days of alMahdi, alHadi and Harun ar Rashid. He was the author of Kitab al Kharaj (alMunjid, al Alam P. 23).

30.Muhammad b. Alhassan (d. 189 A.H): Muhammad b. Alhasan as-Shaybani. He and Abu Yusuf were the two closest companions of Abu Hanifa. Muhammad b. al-Hassan has the honour of spreading the Hanafi School of law. He was appointed the Judge of ar-Riqqah in the days of Harun Rashid. He was the author of al-Jami al Kabir and al-Jamil as Sagir. (See al-Munjid, al-Alam, P. 339).

31.Ibn al- Munzir: Idid not find any thing about him.

32.Ibn Al-Qassim (d. 191 A.H): Abdurrahman Al-Utaqiy. An Egyptian Maliki jurist, and most famous of his disciples. He spread the Maliki school of law in the Magrib. (See Al-Munjid Al-Alam p. 12).

33.Ash-hab (d. 204 A.H.): Ashab b. Abdalaziz b. Daud b. Ibrahim Al-Qaisiy Al-Amiriy. An Egyptian by origin, one of the intermediate companions of Imam Malik. He reported from Maliki, Al-Layth, Al-Fudayl b. Iyadh and others. He learned al-Fiqh from Malik and other scholars of Madina and Egypt. He was the leading scholar in Egypt after Ibn al Qassim (See Diya'as Siyasat of Shaykh Abdullahi b. Fodio. Edition and commentary of Ahmad Muhammad Kani P. 110).

34.Al-Muzniy (224 A.H): Isma'il b. Yahaya Al-Muzniy. A disciple of Imam as Shafii and an advocate of his school. He was the author of Al-Mukhtasar (see Al-Munjid, Al-Alam P. 531).

35.Maslaha: Means preservation and promotion of the objectives of the Sharia, which include the protection of religion, human life, intellect, personality and property. Everything, which helps to

protect and promote these objectives, is seen as a Maslaha. The application of the principle of Maslaha means a form of employment of the general jurisprudential principles and objectives and the sources of Shariah together in legislation. In other words it is the deduction of judicial conclusions subject to the governing general jurusprudential rules and objectives. The Maliki and Hambali jurists have accepted the principle of Masalaha as a source of law (see al-Muwafaqat P. 302).

36.Abubakar bn. Asim (d. 829 A.H): Al-Qadi Abu Bakr Umar bn. Muhammad b. Asim al-Andalusiy Insiy al – Garnatiy. He was a judge and a great scholar of Fiqhu and other Islamic Sciences. Among his literary works, is the famous book Tuhfat – al – Hukkam (see al-Bahja, the commentary of Tuhfa, Vol. 1, P. 2 – 3)

37. Ibn 'Asim in Tuhfat – al Hukkam PP. 38-9.

38. The famous Maliki scholar, Khalil b. Ishaq. He was a famous Maliki jurist from Spain; He became famous for his book Siraj-al-mulk (see al—Munjid, al-Alam, P. 356)

39.Ibn Abdal-Barr (d. 380 A.H) Yusuf Abu Umar b. Abdul Barr. The leading scholar of his time. A great scholar of Hadith from Andalus (Spain). He compiled many books on the Muwatta of Imam Malik. Among them is At-Tamhid. He was also the author of Kitab alkafi fil Fiqh. (See Diya as Siyasat P. 147).

40 – 41: I did not get any thing about them.

42.Ijma: Means consensus of opinion of Muslims scholars after the Prophet (SAW) concerning the legal ruling of an issue in question. There are many evidences from the Qur'an and the Sunnah indicating the authority of Ijma. Some of them include Surat – al – Baqara, Verse 143. (See al-Uthaimin, in al-Usul fi ilm al Usul, P. 57)

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43.An-Nas: A clear textual evidence of the Qur'an or the Sunnah. establishing a legal ruling on an issue.

44.Al-Qiyas: Means analogical deduction. In other words, it is a deduction of a legal conclusion on a new happening or case from the rule of an existing issue by comparison. If the new case in question has similar feature, which is the cause for the ruling in the existing case, the ruling of the existing issue will apply to the new case. Evidences from the Qur'an and the Sunnah indicated the authority of Qiyas in Islamic legislation. See Sural al Shurah, Verse:17. The highest form of Qiyas is alQiyas al Jaliy, meaning evident analogy. (See al-Usul fi ilm-al Usul, by al-Uthaimin, PP. 61-4)

45.Objectives of Shariah include among others, the preservation and promotion of those necessary things which observance is considered necessary such as one's religion, life, property, intellect, personality. They also include those needs that are complementary and the amenities. (See al-Muwafaqat P. 302).

46.As-Shafii (d. 204 A.H): Muhammad b. Idrith as-shafii, leader and founder of the Shafii school of law. One of the four Sunni Schools of law. Born in Gazza and lived in Makkah. He lived with Imam Malik in Madina and studied under him. He wrote many books, the famous among which include kitab al umma on jurispudence, almusnad – as shafiu on Hadith, as-Sunan and ar-Risalah on the science of Usul he died in Egypt, and his tomb is known in Cairo. (see al munjid, al Alam, P.327).

47.Ibn Abd al Hakam: I did not get any thing about him.

48.At – Tahawiy (d – 933 A.H):- Ahmed at Tahawiy a great jurist, and leader of the Hanafi jurists of his time in Egypt. He had many litary works to his credit. Some famous among them include.sharh ma-aniy al Athar on Hadith, al mukhtasar on jurispudence kitab al Aqidah, on the science of theology, Bayan as Sunnah wal jama,ah.(see al-Munjid, al Alam, P.355).

49.Al – khatib al Bagdadi **(d.1002 A.H):** - Abubakar Ahmed al khatib al-Bagdadi a Historian a scholar of Hadith and an usulist from Bagdad. He travelled to many places in the world in search of Hadith. He was a follower of Shafii school of law and a sufi of the Ash,ari sufi school. He wrote many books; the famous among them include Tarikh Bagdad in four volumes al kifayah fi ilm ar Riwaya in ten volumes on the science of Hadith criticism. (see al munjid, al Alam, P.232).

50.Ibn faris (d.1004A.H):- Abul Husaini Ahmed ibn faris, a linguist and follower of the Shafii school of law. He taught in Hamdan. Among his disciples is Badi az zaman al Hamzani. He was the author of many books on linguistics, the famous among them include, al Mujmal fi al lugah, which is an encyclopaedia of linguistics, As sahibi fi fiqh al lugah, Maqyis is al lugah (see al muujid, al Alam P.12).

51.Al – Amidi (1233C.E) Saifud – din al Amidi a great scholar of usul. He taught in Damascus. Among his literary works is al ihkam fi usul al Ahkam. (see al Munjid al Alam, P.68).

52.Ibn Daqiq al- Ed (d. 702A.H): Muhammad ibn Daqiq al – Ed. A famous scholar of Hadith from Egypt. He was a judge. Among his literary works is ihkam al Ahkam, a commentary of a famous book of jurisprudence, umdatul Ahkam.(see al – Munjid, al alam,P.7).

53.An – Nawawi (d.676 A.H): Yahya b. sharaf an – nawawi, a celebrated scholar and among leaders of knowledge of his time. He lived in Nawa in Hawran. He wrote many books. He was the author of the famous books of Hadith, Riyad as-Salihin. He also wrote: al – arba un an Nawawiyyah, minhaj at Talibin, Tahzib – al asma wal – lugat, commentary of sahih al muslim. (see al munjid, al alam.P.581).

54.Ibn al Hajib (d. 1249 A.H.) Abu Amru, Uthman b. uman Kamaladdin, ibn al Hajib A famous scholar of Arabic Syntax from Egypt and among the leading scholars of linguistics of his time. A Maliki jurist. Born in Isna in Egypt. He taught in the Umayyads mosque in Damascus. Among his

literary works are al Kafiya, as-shafiya on Arabic syntax and Morphology, al maqsad-al-jalil fi ilm – al Khalil, al Mukhtasar al muntaha on the science of Islamic jurisprudence. (see al Munjid, al alam,P.6).

55. This Hadith is not authentic infact it is false and it has no any reliable source or foundation according to al – Albani (1991). He quoted Imam as-Subki saying. "I have not come across an authentic or weak or fabricated chain of narration for it" (see sifat salat an – Nabiy by – Albani PP.59-61).

56. Abu Hanifah (d. 150A.H). NU, man b. thabit, Abu Hanifah. The celebrated jurist, leader and founder of the Hanafi School of law and one of the four recognised leading Sunni schools of law. Born in kufa and taught in it. He was requested to be the judge of kufa by Caliph al Mansur but however rejected the offer. This led to his imprisonment till his death. He had many literary works to his credit. He was the first scholar to arrange the knowledge of fiqh (jurisprudence) in to chapters and sections. He offered many juristic inferences in cases of succession and other branches of the Islamic law through. Many jurists reported from him and spread his school in voluminous books. Among his literary works are al , fiqh – al Akbar, Musnad Abi Hanifa. (see al Munjid, al Alam P.18).

57. The Hadith is narrated by Ibn Abd – al- Barr in his book at Tamhid (vol. 2P. 62), Ibn Hajar al – Asqalamiy in his book Fathul Bari (Vol. 13 P. 248), Al-Qurtubi in his commentary on Al-Qur'an, Jamial Alkam Al-Qur'an, and Al-Bukhari in his book As Sahih (Vol. 4 P. 268).

58. The Hadith is narrated by Darul Qutni in his book, Sunan Dar Al-Qutniy (Vol. 4 p. 211) Ibn Hajar Al-Asqalami in his book Talkhis Al-Habir (vol. 4 P. 180), Al-Bayhaqi in his book Dala'il an Nubuwwah (Vol. 7, P. 185). Also Bukhari reported it wih another version (Vol. 4. P. 268). The Hadith was reported on the authority of Amr b. Al-As.

59. Harun-ar-Rashid (d. 193 A.H). The famous Abbasid Caliph. Born at Rayy. He was appointed Caliph after the assassination of his brother al-Hadi. His reign was a golden age for the science of Arabic literature. He was famous for his justice. (See al-Munjid, al-Alam, P. 589)

60. This incident is also reported by al-Imam az-zarqani in his famous commentary on al-Muwatta (Vol. I PP. 2-4) of Imam Malik. As-Shaykh al-Albani also confirmed in his book, Sifat Salat an Nabi (PP. 60-3) that the story is famous from Imam Malik. However he refuted the last portion of the story (i.e "Each of them was correct"). Saying: "This incident of Imam Malik is well known but his saying at the end" "But each of them was correct" is one for which I find no basis in any of the narrations or sources I have came across, by Allah, except for one narration collected by Abu Nu'aim in his book Hilya al Awliyah (6/332) but with a chain of narrators which includes Al-Miqdam b. Dawud who is classified among the weak narrators by ad-Dhahabi in ad-Du'afah. (See Sifat Salat an Nabiy by Al-Albani translated by Usama b. Suhaib P. xxiii)

61.Al-Mansur (d. 158 A.H.): Abu Jafar Abdullahi Al-Mansur, the second Abbasid Caliph. He built Bagdad and named her Madinat as Salam and made her his Capital. He died on pilgrimage. (See Al-Munjid, Al Alam p. 549).

62. The author here refers to the incident reported in connection with the famous Hadith in which the Prophet (SAW) is saying "All actions are judged according to intention" reported on the authority of Umar B. Alkhattab. It was reported that the Hadith was in connection with the migration of the Prophet (SAW) and the Muslims from Mecca to Medina. Some Muslims migrated for the sake of worldly lusts and some for women. It was reported that one of those categories of Muslims, migrated for the sake of marrying one lady called Umm Qays, after whom he later came to be renamed , as "Muhajir Umm Qays" meaning one who migrated for the sake of Umm Qays. The

incident was reported by Ibn Daqiq al Ed in his commentary on the famous book of Hadith Al-Arabun an Nawawiy (P. 2). Also Al-Hafiz Ibn Hajar Al-Asqalani reported it in his book Fath Al-Bari (1/20).

63.**Kashf:** A Sufi doctrine signifying a status or position at which the Godly secrets are revealed to the saint.

64.The tree diagram appears at the appendix.

65.The famous scholars of Hadith like Ibn Taymiyyah confirmed the authenticity of the reports on the emergence of the Mahdi as according to the Sunnah. Some of the scholars of Hadith that narrated reports on the coming of Al-Mahdi include: Abu Daud, At-Tirmdhi, Ahmad Ibn Hambal, Ibn Majah, AlHakim. The reports were narrated on the authority of Ibn Masud and others from the Prophet (PBUH) and were confirmed to be true and authentic by great scholars of Hadith like Ibn Taymiyyah. However, the issue of Almahdi should not be taken as conceptual ised by the Shiah and other deviant sects. It should be taken in the light of the Ahlal Sunnah wal Jama'ah's view. (See al-Mahdi wa Ashrat as Sa'ah by As-Sabuni pp. 9-14)

66.There is no any doubt about the truth or authenticity of the coming of Prophet Isa (AS) at the end of this world. Authentic reports have been narrated on this in the two most authentic books on earth, which are only second to Al-Qur'an. These books are, Sahih alBukhari and Sahih Muslim. Imam Muslim narrated a report on it in his Sahih in the book of Hajj (pilgrimage). Other scholars that narrated reports on the same in their various books of Hadith include, Imam Ahmad bn. Hanbal in his book Musnad (2/240), Imam Al-Baihaqi in his book, Sunan Al Kubra (5/2), Imam Abdurrazzaq in his book Al-Musannaf (20842), Al-Hafiz Ibn Hajar A-Asqalaii in his book Fath Al Bari (4/414). Al-Imam As Suyuti in his Tafsir Ad-Durrul Manthur Imam At-Tirmidhi in his Sunan (2233). (See Al-Mahdi Wa Ashrat As Sa'ah by As-Sabuni pp. 30-9)

67.This should have been substantiated with an evidence of proof, from either the Qur'an, Sunnah or other recognized sources of Shariah.

68.The year (1228) is expressed in the text as *'SHARHAK'* which means one thousand, two hundred and twenty eight, in the traditional system of dating adopted from the traditional science of *Hisab* (Maths).

The researcher discovered a lot of variations between the samples (manuscripts) used in this study. The variations discovered have been harmoniously treated. Most of the variations found relate to omission of word, phrases and even full sentences most of them were observed by the researcher to be from the copyists, for they are elementary things, which could not be assumed to have come from such a personality of the author's calibre.

The references cited by the author in the book have almost been identified except some few of them and explanatory notes have been provided to those that are identified. The books and personalities cited by the author in the text were found to be from the scholars of Hadith, the *sufis* and the classical jurist.

The researcher observed that the author had influence of some sufi views like al-khashf in this book, and he very often quoted the popular sufi scholar as sha'araniy. Except some few quotations from the muhaddithin (i.e. scholars of Hadith) like al-Bukhari, al-Qasfilani, Ibn Abd-al-Bar and those from the classical jurists like al-Qarrafi e.t.c, the major quotation of the book are from as sha'araniy. You hardly read a page or two in the book without coming across the name, as-sha'araniy.

The book under study is on *Madhahib al Fiqh al Islamy* (the Islamic schools of jurisprudence) and *Taqlid*. The author tried to emphasise that there is no any obligation in the Qur,an or in the Sunnah or in the Ijma on the Muslim to follow any designated school of law. A Muslim is free to follow or change any school of law he wishes without any interdiction. The author offered an exhaustive discussion with evidences on that. This therefore has brought to light the position of those schools, which has for long been in contention between scholars.

The researcher, in view of the above recommend the book, for students and teachers taking or teaching a course in Islamic jurisprudence at the lower and higher levels of education. The book will also be a very good and valuable material for our Judges in the Shariah Courts. The book will certainly guide them in their judicial proceedings for a section of the book has been devoted to that aspect. The researcher also recommends the book for our scholars who are in the field of *Da'awah*. The book will guide them in respect of issuing legal verdict, which is very important avenue of learning, for, half of knowledge is acquired through it, as popularly known among scholars.

Moreover, the teachings and ideas expressed in this book are indeed great and could be used and utilised to solve most of the problems of the Muslim Ummah in particular, like ignorance, fanaticism and the various sectarian and intra religious clashes and conflicts among the Muslims.

Further more, the researcher recommend that the study of the Sokoto *Jihad* literature be encouraged and supported by our institutions of leaning by way of researches at the under graduate and post graduate levels, for, more works are still needed in this area. Because the ideal teachings contained in their works are the best remedies for all our Social, Political, Economic and Educational problems.

GLOSSARY

Alibawa: a Fulani tribal group

al-Amal: an act of practical worship.

al-Amr bil Ma'ruf – Wan-Nahyu an al Munkar: Commanding virtues and forbidding vices.

Bidi'ah: Innovations imported into the religion which have no bases from it.

Caliphate: The Islamic State.

Da'awah: Islamic Propagation

Da'i (Pl. Du'at): Islamic Propagator.

Fatwah: a legal opinion of a jurist on an issue of religious importance.

Fiqh: The understanding of Shariah (divine law).

Fudi: meaning a learned person.

Hadith: A reported tradition of the Prophet (SAW)

Hijrah: Literally abstenance, technically, means a holy migration from the land of disblief to the land of Islam.

al-Hukm: a judicial ruling.

Ijma: Consensus of opinion among the companions of the Prophet (SAW) or the Muslim Scholars in general on a point of law. It serves as the third source of Islamic law.

Ijtihad: It is derived from the root 'Jahd' which means excerting oneself to the utmost or the best of one's ability. Technically it refers exerting efforts of the faculties of reason to the utmost for the purpose of forming an opinion in a case of law respecting a doubtful and difficult point. (Muhd, A. 1986:96).

Imam: Literally, a leader, a pattern, a model, but Islamically it refers to one who leads a congregation in prayer, an outstanding scholar, a founder or leader of a school of law in Islam eg Abu Hanifa, Malik, as-Shafi'i and Ahmad.

Injil: The Holy Scripture revealed to Prophet Isa (AS)

Jahiliyya: The Pre Islamic period.

Jalasa: Literally, is an Arabic verb meaning to sit. Technically it is used a symbol of Maghrib traditional calligraphic system of Dating. Other symbols mentioned in the work are Bakara, Sharhak and Shukur. Each is used to signify certain numbers.

Jama'ah: a Community of believers.

Jihad: Literally means an effort, a struggle. Technically it means a holy war.

Jihadist: One who participates in Jihad.

Karamah: honor, regard and respect. It is used for charisma.

Kasarawa: a Fulani tribal group.

Khatimah: Conclusion, the end part of a book.

Madh hab: a School of law, an orthodox right of Fiqh.

Maqasid: Objectives of Shariah.

Maslaha: public good and welfare.

Muqaddimah: Introduction, prelude, preamble.

Qisas: Islamic Law of retribution.

al-Qur'an: The Muslims Holy Book, the last revelation revealed to the last Prophet, the Prophet Muhammad (SAW).

Raka'a: a segment of a Prayer, which consists of Ruku (vowing), Julus (sitting), Sujud (Prostration) and Qiyam (standing).

Ramadan: The ninth month on the Islamic Calendar. The Muslims observe Fasting in the whole of this month.

Safar: The second month on the Islamic Calendar.

Salaf: the early generations of Muslims who are reputed for their Piety, faith and erudition.

Shariah: the Islamic Law.

Shaykh: Literally means an aged man. Technically, it means a learned man of authority, a teacher.

Sufi: a mystic

Sullebawa: a Fulani tribal group

as-Sunnah: The prophetic way of life, his model and examples consisting of his sayings, deeds and silent approvals.

Ta'aliq: Comment, explanation, remarks.

Tahqiq: Verification, confirmation and ascertaining.

Tahrir: editing, recording.

Taqlid: Blind following

Tauhid: The Unitarian concept of God found only in Islam in which Allah (God) the Most High is considered as being uniquely One in His essence, qualities and actions.

Tayammum: Sand purification

Tora: The scripture given to Prophet Musa (A.S)

Toronkawa: the Fulani tribe to which Shaykh Uthman inclined. They are reputed for their learning and Piety.

Ulama: Islamic Scholars

Umma: Community of believers

Wazir: an official title equal to a Minister

Zakat: a compulsory charity collected by the Islamic State from Muslims once per annum from those who have surplus wealth more than a designated minimum.

Zuhud: Self-denial.

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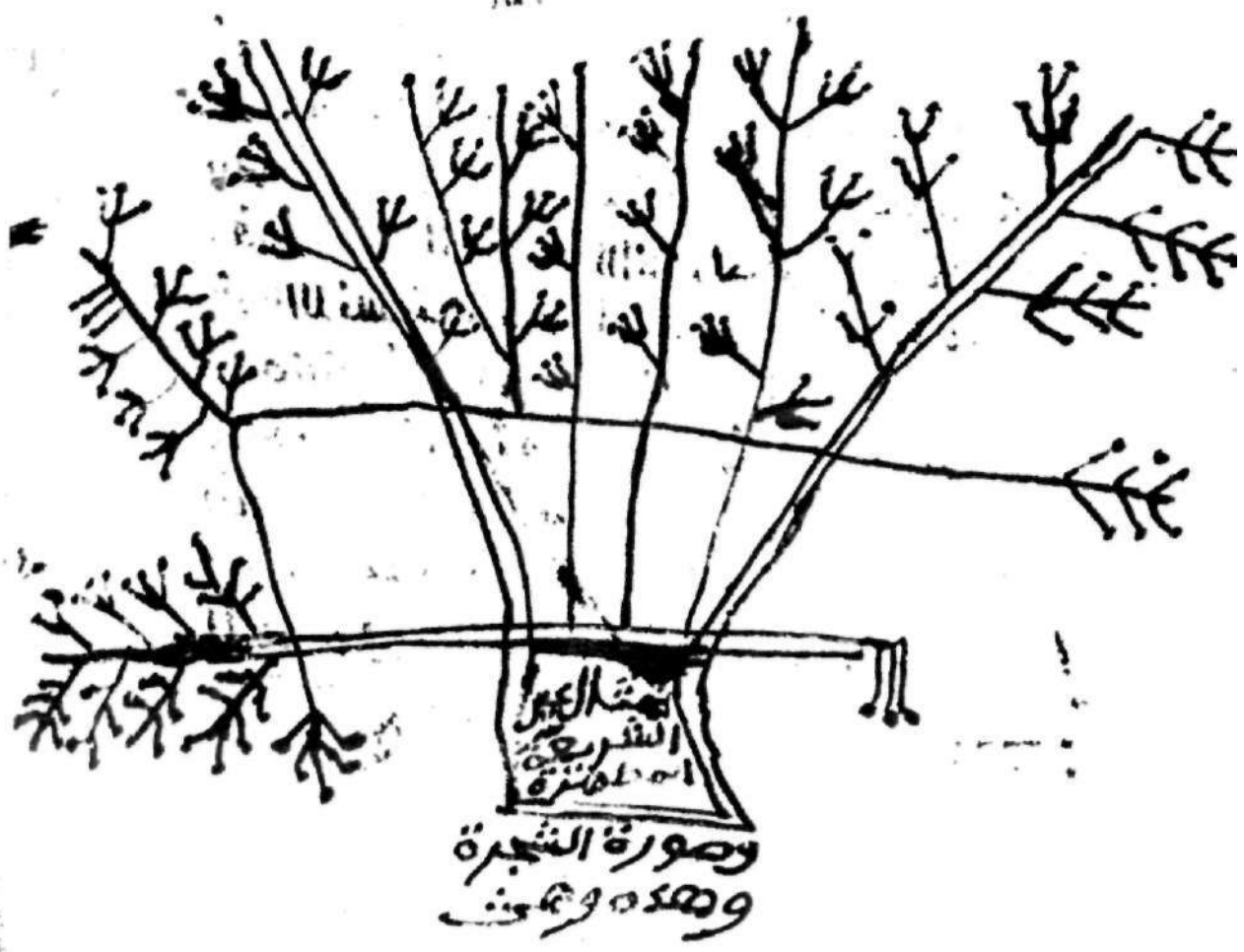
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هذا كتاب إرشاد الأمة
إلى تيسير الصلة
تأليف الشيخ السيد
نور الزمان
بشلان بن
وفقه الله
تغمده برحمته آمين
آهـ



بسم الله الرحمن الرحيم اللهم صل على سيد
نا محمد واله وصحبه وسلم تسليما قال العبد الـ
الحقير المضطر لرحمة ربه مختار بن محمد بن مختار
المعروف بابن بودي بقصده بر ... ء امين
الحمد لله الذي انعم علينا بنعمة الايمان والاسلام
وهدانا لسبيد نا ومولانا ... ثم ...
الصلاة والسلام على من بعثه بهذا الدين ارشاد
التوجيه بالعلوم ايا
اخواني اقول لكم اولا كما قال محمد المصطفى لمعاذ
اول كتابه تعليم الاخوان ليسلم جميع ما اقول
لكم فوز ولكني ابين لكم ما قاله مصطفى لاصحا
والصفة
الدراسيين العلوم الشـ ...
* وفقنا الله على كل كتـ ...
نقلت

بسم الله الرحمن الرحيم صلى الله على سيدنا محمد وعلى آله وصحبه
وسلم تسليما قال العبد الفقير المفتقر لرحمة ربه عثمان بن حسن بن
عثمان المعروف بابن جودي يحمده الله برحمته آمين الحمد لله الذي
انعم علينا بنعمة الايمان والاسلام وهدانا بسيدنا ومولانا محمد
عليه من الله تعالى افضل الصلاة وازكى السلام اما بعد فهذا كتاب
ارشاد الامة الى تيسير الملة جاقول وبالله التوفيق واعلم يا اخواني
* انه اقول لكم اولا كما قال محمد الطغوي هو اول كتاب تخليد الاخوان
ليس الخ كل ما اقول لكم قول ولكنه ابين لكم ما قاله علماؤنا
السنة رضي الله عنهم ولا انقل لكم الا كلام الراسخين في العلم وارشدكم
* وجعلتكم على كل كتاب نقلت منه انتهى ولا اذكر لكم في هذا الكتاب
قولا الا نسبته لقائله واذكر الكتاب الذي نقلت منه لينظره من
الى طمأنينة النفوس كما هو عادتي في غالب تواليفي واقول لكم
ايضا كما قال عبد الوهاب الشعراني جاء والله ناصح للامة ما انا
بمتهم ولا مظهر علما لحفظ النفس فيما اعلم ومقصودي في
تاليف هذا الكتاب بيان الخير الذي يهم لبنة الاخير لكم
لا الايقاعكم في باب التساهل في المعاصي والبدع المذمومة العوائد
الردية بل لتقتدوا به عليه الصلاة والسلام والسلف الصالح رضي
الله عنهم في اختيار ايسر الامور في كل ما لم يكن فيه اثم ولا

بسم الله الرحمن الرحيم صلى الله على سيدنا محمد
وآله وصحبه وسلم تسليما قال العبد الفقير لرحمة
ربه عثمان بن محمد بن عثمان المعروف بابن فودى
تعمده الله برحمته، امير الحمد لله الذى انعم
علينا بنعمة الايمان والاسلام وهدانا بسيدنا ومو
لانا محمد عليه من الله تعالى افضل الصلاة وازكى
السلام اما بعد فهذا كتاب ارشاد الامة الى تيسير
الملة فاقول وبالله التوفيق فاعلموا ايها الاخوان
انى اقول لكم اولا فقال محمد الطغو غى فاول
كتابه تحليل الاخوان ليسالوه وكل ما اقول لكم
قول ولكنى ابين لكم ما قاله علماؤنا علماؤ
السنة رضى الله عنهم ولا انقل لكم الا كلام الرا
سخين فى العلم وارشدتم وفقتكم على كل كتاب
نقلت منه انتهى. لا اذكر لكم فى هذا الكتاب
قولا الا نسبته لقايله او اذكر الكتاب الذى نقلت
منه لانه اقرب الى طمانينة النفوس كما هو
عادتى فى غالب تواليفى وافول لكم ايضا كما
قال عبد الوهاب الشعرانى فانى والله ناصح
للامة ما انا بمتقنت ولا مظهر علما لحظ
النفس فيها اعلم ومقصودى فى تاليف هذا
الكتاب

بيان

