



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

International Conference on
IJTIHAD AND IFTA'
In The 21st Century:

Challenges & Prospects

10-12 Shaaban 1429h

12-14 August 2008

Organized by
Department of Fiqh and Usul al-Fiqh,
Kulliyah of Islamic Revealed Knowledge and Human Sciences
& International Institute for Muslim Unity (IIMU)
International Islamic University Malaysia

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VOLUME 1
ENGLISH & MALAY PAPERS

Date

10th -12th Sha'ban, 1429 A.H.
12th -14th August, 2008 A.D.

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Department of Fiqh & Usul al Fiqh &
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IJTIHA

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Abstrak

Kertas kerja ini ijtihad di dalam disusun khusus pengenalan kepada satu analisis sejagat cadangan alternatif topik, usaha masyhuk Syariah untuk p. Basically, this is a study of ijtihad in the modern world. The study was constructed through a comparative study. Second, a study of the institution. Such a study of the profession in strengthening

Pengenalan

Di sepanjang sejarah terhadap kehidupan manusia, jihad, yang bermaksud kemampuan atau kekuatan untuk mengenali perbezaan term jihad pula. Selain itu, ijtihad bermaksud manakala jihad bermaksud. Keduanya adalah bidang ilmiah dan pemikiran ijtihad

THE PROPOSED DESIGN FOR JURISTS' COUNCIL IN UNITY OF MUSLIMS IN MODERN WORLD

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Abstract

This paper has proposed to establish " World Council for Ijtihad and Ifta" among jurists of all Islamic Schools . It is evident that Islam is a living and universal religion which emphasis to its followers to hold a consultation and make unity with together. In the other hand the world in the 21st century move to globalization and integration in culture, economy, language and communication. Also Muslims believe that they have Quranic and Divine framework for unity among Muslims to administer the human society in all times and places. It is necessary that jurists have a council and assemble to solve the problem about new phenomena and modern matters in harmonic ifta, (such as: Human Cloning, Transsexuality, Fertilization, Banking, travel to space, usage of internet and so on) .Of course, there are many injunctions and regulations which are pronounced according to their national culture, customs and local conditions such as the forms of Hijab , food, private transactions. Although in the present time, various assemblies and conferences are active in order to serve Muslims unity but most of them are founded for political goals and to solve the political problems among Islamic nations. It is our wish that all Muslim nations (UMMAH) have near communication and free dialog with other behind the political limitation (such as visa, political boundary and religious prejudice) for achieving to unity and harmonic conduction. This paper shows the ways of unity in ifta.

Introduction:

This paper attempts to show the framework of the Qur'an for unity of Muslims in any age by using counseling.

The Arabic term of Ijtihad- which literally means "**strenuous effort**"- has historical practice of systematically interpreting Islamic religions texts.

Ijtihad means intellectual endeavor to seek the solutions of day. It is a rational and analogical approach, based on the teaching of the Sunnah, for interpreting religious matters.

The Qur'an has given us fundamentals but we must interpret these fundamentals with the spirit of the time in which we live. For example the

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Jurist is modern and progressive, can interpret the passenger or driver to drive a car or fly an airplane and the Jurist who is retrogressive, he will say, in the time of Holy Prophet (pbuh), travel was only possible with animals, so we should not permit to interpret the related Quranic verses or the Prophet's saying to other things.

Muslims and Unity:

Islam lays great stress on the importance of unity. It is a religion that tolerates other religions and discrimination has been strictly prohibited in Islam. Islam gives clear injunctions for the respect, safety, security and unity Muslims as well.

The Qur'an in Sura Al-Hujurat says:

*"O man, Allah created you from a male and a female and made you into nations and tribes that you know each other, the most honorable of you with Allah is the one who has piety(49:13)
Qur'an addressed all of Muslims as well as all mankind (Muslims and non-Muslims as His creation).*

Basic principles of Muslims Unity:

Muslims are asked to work together towards goals set by the noble Quran and the prophet (PBUH) through his Sunnah. They are brothers and sisters, because they are same in ideology of the unity of God and the unity of mankind.

These are the foundational principles of Islam. The Quran and the Sunnah of the prophet (pbuh) ordered the Muslims to work for the Unity of the ummah. Muslims are required to be merciful to unity and be like the body where if any part hurts the whole body should feel pain, but are Muslims practicing this injunction of the Quran and the Sunnah of the Prophet and his successors? Is this goal possible to be achieved or is the talk of Muslim unity out of date?

There are certain thinkers who hold that there is no people in the world today that have been divided as Muslims. They are divided along religious, political, ethnic, cultural, regional and sectarian lines. These divisions extend further into subdivisions which created differences among Muslims.

We answer them that in spite of these divisions, the Islamic framework is still alive and the Qur'an is ever present in the Muslim society. If we come back to face with Islamic teachings which are accepted by all Muslims beyond the

various sects or subdivisions, We will hope to achieve the Unity of Muslims, these fundamental factors to reach the Unity in believe and practice are Qur'an and the Prophetic Sunnah.

One of the most important causes of Muslim Unity is the lack of the Islamic faith's fundamental requirement of knowledge of the Qur'an and Sunnah. They lack knowledge even of the simple and basic laws of Islam, and ignore of the Shari'ah and fiqh. It is necessary that Muslims understand there are basic sources for the Shari'ah. These are: 1-Qur'an 2-Sunnah of Holy prophet (PBUH) including his saying, practicing and affirmation.

New Modern World and Jihad:

The Shari'ah covers every activity by an individual or society. Today we live in a highly complex and technologically advanced world which results in very complex problems, to give some examples such as genetic engineering, in vitro fertilization, transplants, space travel and etc. To solve problems like these, the Prophet of Islam (PBUH) himself introduced the interpretation of Shari'ah called Jihad.

Jihad is confined to the purely legalistic framework of fiqh. Jihad is the methodological means that allowed Muslims to confront ignorance, and deviation, but when it was abandoned by the Muslims themselves, all manner of efforts, this led to close the door of Unity and sincerity.

The Ummah must understand that jihad provides the fundaments meant to reestablish its place in world civilization and to liberate the Muslim mind, the Ummah needs jihad in every aspects of its life, in addition if we undertake a new reading of the Quran and the Sunnah about Muslim Unity.

The first step toward this is an environment of complete freedom of thought and expression beyond prejudice and sectarian interpretations of Shari'eh.

Shari'eh is not merely a codification of law. It is the main pillars of Islamic teaching and God's divine command to establish a global Islamic state to achieve the union among Muslims.

It may be noted that particular interpretation of Quranic verses in law making and sectarian jihad lead the Muslim world to huge differences and division, but public opinion and conciliation in Jihad in a jurisprudential council or foundation especially the difference of opinion must be positive

when it is on principles no personal. Then Quran condemns sectarianism (3: 13).

From the above Qur'anic facts, we deduce the result that Islamic believers would be in peace, justice and equality with each other.

Council in Islam Necessity of :

It is obvious that the council, in which a group of learned persons attend, can better and easier be informed and made aware of the interests or corruptions of a matter than a man. The manner of prophet's life (Shari'ah) shows the importance of consultation to solve the Muslim problem individual or social decisions.

An overview to the documentations of council inference according to the religious texts, shows that consultation has been phrased in the Qur'an and the prophet has been ordered to it. The holy Qur'an has phrased the consultation in two instances: In the first: Qur'an orders to the prophet(s) to consult. (3\159) And in the second the Qur'an so describe the believers that they do their works through consultation. (3\38)

In addition the prophet(s) used to consultate in his practical manner, for instance in the war of Uhod, he proceeded to consultation about the manner of defense and positions of the camps, and in the war of Badr and Ahzab he also proceeded consultation which resulted in defending outside of the city and encamping near the wells of Badr in the war of Badr and digging a ditch in the war of Ahzab for defending.

The necessity of Jurist's council for the unity of the Islamic world:

By development of science and technology in the present world, it is necessary that Shari'ah and Jurisprudence are specialized in a few branches of Fiqh, for example one jurist in economic or political matters, and other in social medicine subjects and so on. Because the new phenomena expanded from day to day. Also Mojtabid and Jurist should be specialized in certain areas of science. In this environment the consultation and coporation among Jurists would be noticed. Of course the particular Ifa would be used merely for a certain region or zones not for Muslims through out the world.

This paper has proposed to establish a "world council for *Jithad and Ifta*" among Jurists of all Islamic schools and sects.

It is evident that Islam is a living and universal religion which emphasis to its followers to hold consultation and unite. On the other hand, the world in the 21st century moves to globalization and integration in culture, economic, language and communication. Also Muslims believe that they have Qur'anic and Divine framework for unity among Muslims to administer the human society in all times and places. It is necessary that jurists have a council and assemble to solve the problem about new phenomena and modern matters in harmonic Ifa. (such as: Human Cloning, Transsexuality, Fertilization, Banking, travel to space, usage of internet and so on).

Fiqh is an important branch of Islamic sciences which provides the happiness, peace, and safety for Ummah with its teaching from man's birth to death even after death. It represents injunctions and regulation about marriage, trade and transaction, war and defense. How can it be possible for a jurist to gain ifa and practice jithad in all these courses? On the other hand, sectarian and prejudicial view points are the enemy of unity and destroy any peace and union.

Of course, there are many injunctions and regulations which are pronounced according to their national culture, customs and local conditions such as the forms of Hijab, food, private transactions

Although in the present time, various assemblies and conferences are active in order to serve Muslims unity but most of them are founded for political goals and to solve the political problems among Islamic nations.

It is our wish that all Muslim nations (UMMAH) have near communication and free dialog with other behind the political limitation (such as visa to go to Islamic countries, political boundary and religious prejudice).

For achieving to unity and harmonic conduction, this paper shows the ways of unity in ifa.

Peaceful Dialogue and conversation among jurists in this proposed council could be approach to coordinated Ifa and jurisprudential decrees in all Muslim nations and many differences in Ifa will be removed. For example there isn't any harmonic method in the matter of seeing the moon in the first night of the month of Ramazan and so on. This jurist's council could prefer the accepted methods to achieve a unique ifa and preserve from divisions. And also this

unity and harmony will be appear in other new phenomena such as human fertilization, human cloning, space travel, banking and etc.

It will be possible if jurist's practice would be beyond the political and sectarian interests, prejudice, and fanaticism. The principles of *jihad* which can be used in this council should be common and acceptable sources for every school; they should not belong to a particular sect or school. These sources are:

1-Holly Quran: Quranic principles and themes ,the Mekkan and Madani surah, *asbab-al-nuzul* (occasions of revelation and other knowledge about it).

2-Sunnah: prophet's traditions from authentic sources of Hadith, knowledge of *isnad* (chain of narration) and content of text, and the critical method of authentication.

3- Context: situation of time and place and understanding of changing economic, political and social condition especially in future global.

4- The Reason: Usage of rational and reasonable method of mind to infer the *ifta* and jurisprudential opinions.

5- Regarding the interest and benefit of Muslims and general interests of community (masaleh), in the other word , the general principles and objectives of *Shariah* when extending laws to new cases not covered by the previous methods. It is a secondary source because, the actual Divine rules given in the Quran and the Sunnah are limited. The Quran has no more than 600 verses directly related to rules. Muslims agree that the entire Quran is from God and is authentic. *Ahadith*, however, include statements that are definitely from the authority of the Prophet Mohammad (pbuh). Jurists go into great detail in explaining rules and limits of interpretation, analogy and reasonable methods. And they have basic purpose to explain and articulate the rule of God (hukm of *shariah*).

Conclusions:

Muslims are required to work together towards a common goal set by the noble Quran and traditions of Holy prophet through his Sunnah.

These are the foundational principles of Islam which guarantee the unity of Muslims and Ummah. Establishment of a union council of jurist's for coordinated *ifta* and religious decree is an important way for Muslim unity to practice in harmony for global matters not local or sectarian subjects. It is our wish that all Muslim nations (UMMAH) have near communication and free

dialog with other behind the political limitation (such as visa to Islamic countries, political boundary and religious prejudice).

This proposal is a great hope which is referred to by this paper.

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