

Islamic Doctrine  
versus  
The U.S. Constitution



**ISLAMIC  
DOCTRINE**

*versus*

**THE U.S.  
CONSTITUTION**

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*The Dilemma for  
Muslim Public Officials*

**Stephen M. Kirby, Ph.D.**

Center for Security Policy Press

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*For here we are not afraid to follow truth wherever it  
may lead...*

- Thomas Jefferson writing to William Roscoe about Jefferson's newly founded University of Virginia, December 27, 1820

## **Muslims in Public Office**

*It's more than just about having three Muslims in Congress. I think symbolically it has great value, but I won't rest until 2020 we have five more members of Congress; 2022 and 24, we have ten more Muslims in Congress. In 2030 we may have about 30, 35 Muslims in Congress. Then we're talking about Madame Chair Rashida. We're talking about Madame Chair Ilhan. Hell, we could be saying Speaker of the House Ilhan, Speaker of the House Rashida, Senator Rashida, Governor Ilhan, President Fatima, Vice President Aziza, Inshah' Allah...Each and every one of us has a directive to represent Islam, in all of our imperfections, but to represent Islam and let the world know that Muslims are here to stay, and Muslims are a part of America. And we will, we will have a Muslim caucus that is sizable, that is formidable, and that is there for you.*

- U.S. Congressman Andre Carson (a Muslim convert),  
Indiana 7<sup>th</sup> District  
*CAIR* [Council on American-Islamic Relations] *Community Congressional Reception*, January 10, 2019

## **Questioning Islam or Muslims is not Islamophobia**

It is not appropriate to label all, or even the majority of those, who question Islam and Muslims as Islamophobes.

- *CAIR Report 2013, Legislating Fear: Islamophobia and its Impact in the United States*, p. ix

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## FOREWORD

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**I**ncreasing numbers of Muslim candidates for office are entering the U.S. political system at every level from local to state and federal; and, while we applaud civic engagement by all citizens in our democratic system, we also are mindful that Islam is a faith like none other in the obligation levied on its followers to place Islamic Law (shariah) above any other law, including the U.S. Constitution. Obviously, this sets up a conundrum for those candidates for political office who are devout and practicing Muslims. Indeed, Andre Carson (IN-D), who currently represents Indiana's 7<sup>th</sup> District in the U.S. House of Representatives, has openly urged fellow Muslims in explicit terms to represent Islam as an elected official in the U.S. government:

*Each and every one of us has a directive to represent Islam, in all of our imperfections, but to represent Islam ...<sup>1</sup>*

Such declarations set up a direct challenge to Article VI Clause 2 of the U.S. Constitution, to which each and every Member of Congress, House and Senate, is pledged under oath to uphold.

*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.<sup>2</sup>*

And yet, the very next clause in Article VI states that “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”<sup>3</sup> But what if we (as do Islamic authorities) recognize that “Islam is not a religion (but rather a complete way of life)”? For example, we could make reference to one of the most widely used textbooks about Islam for Muslim middle school students in American madrassas, “What Islam is All About,” by Yahya Emerick.<sup>4</sup> The actual chapter heading for the second chapter in this book is written in bold-faced type and reads: “**Islam is Not a Religion.**” Now, in this context, it becomes possible to assess Islam and statements of loyalty to it by elected officials such as Andre Carson not only in the context of the First

Amendment to the Constitution (which protects freedom of religion), but in light of Article VI Clause 2, which would allow an accurate assessment of Islam as an alien legal system (Islamic Law or shariah) that is antithetical to the U.S. Constitution in many respects.

This is what author and scholar of Islam Stephen M. Kirby, Ph.D., has done for the Center with his newest book, *Islamic Doctrine versus The U.S. Constitution: The Dilemma for Muslim Public Officials*. Drawing upon a series of essays first published at PipelineNews.org, Dr. Kirby has elucidated the very direct conflicts between Islamic Law and the 1st, 2nd, 4th, 8th, 13th, and 14th Amendments to the Constitution. But one might ask, aren't all Members of Congress obligated to swear or affirm an oath to support that Constitution? So, how could a Muslim official take such an oath and yet remain true to both his faith and the Constitution he has pledged to uphold?

As Dr. Kirby explains, not all Muslims actually *are* true to the Islamic faith or their obligation to obey shariah. Further, and drawing on his deep knowledge of Islam's canonical sources (Qur'an, Sunna, shariah, and the leading authoritative *tafsirs*), he describes the various ways in which even a faithful Muslim could get around such obligations. Among these are the very nature of an oath in Islam: for example, only an oath sworn in the name of Allah is considered valid. Of course, as Dr. Kirby reminds us, if all else fails, because Muhammad himself is recorded as saying that "... By Allah, if I take an oath to do something, and then (later) find something else better than it, I do that which is better and make expiation for the oath,"<sup>5</sup> it may be quite easy for an observant Muslim to follow suit.

This is but one example of Dr. Kirby's extensive treatment of oath-taking by U.S. government officials who happen to be Muslim. Dr. Kirby turns next to a brief review of what Islamic doctrine in fact consists, including the actual obligation (not just dispensation) to lie to infidels (non-believers in Islam) under certain circumstances. Critically, he notes that there is no such concept as individual liberty, right to government by consent of the governed, or equality before the rule of man-made law under Islam. Then from the 4<sup>th</sup> through the 9<sup>th</sup> Chapters of this superb new monograph, *Islamic Doctrine versus The U.S. Constitution: The Dilemma for Muslim Public Officials*, Dr. Kirby launches into the crux of the topic, using the 1st, 2nd, 4th, 8th, 13th, and 14th Amendments of the U.S. Constitution to illustrate in specific detail exactly how Islamic Law (shariah) directly contradicts the established legal system of the United States.

From the complete lack of protection under shariah for the particular freedoms of speech and religion as enumerated in the 1<sup>st</sup> Amendment, or the 2<sup>nd</sup> Amendment's right to bear arms, to the 4<sup>th</sup> Amendment's protection against "unreasonable searches and seizures," the 8<sup>th</sup> Amendment's prohibition against "cruel and unusual punishment," and the 13<sup>th</sup> Amendment's prohibition of slavery, Dr. Kirby's deep knowledge of Islamic doctrine, history, law, and scripture draws the sharp contrast with Islamic Law. Even with this limited treatment of only five of the U.S. Constitution's total of 27 ratified Amendments, the glaring incompatibility of shariah with the Supreme Law of the Land in this country is obvious and perhaps shocking for some who may not have considered it before.

As this book goes to print, the U.S. is heading into another presidential election year (2020). The sobering reality of what devout, faithful, observant Muslims actually believe and are bound to obey must be a factor in the responsibility of every citizen to be both informed and engaged in the political process. Dr. Kirby's scholarship in this regard could not possibly be more timely and is made of even more practical use by the 10<sup>th</sup> and final chapter in the book, where he proposes a number of considerations and possible questions for the American citizen who may want to attend a campaign event where a Muslim candidate will be available for Questions and Answers.

In this way, the entire text of *Islamic Doctrine versus The U.S. Constitution: The Dilemma for Muslim Public Officials* may be thought of as a handbook for the citizen voter. It is with great appreciation for the thoughtful and deeply informed way in which Dr. Stephen Kirby has approached this topic that I offer my gratitude for this latest addition to the published library of the Center for Security Policy.

Clare Lopez  
Vice President for Research  
and Analysis  
Center for Security Policy  
November 19, 2019



# INTRODUCTION

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*The Constitution of the United States of America is the supreme law of the United States. Empowered with the sovereign authority of the people by the framers and the consent of the legislatures of the states, it is the source of all government powers, and also provides important limitations on the government that protect the fundamental rights of United States citizens.*

<https://www.whitehouse.gov/about-the-white-house/the-constitution/>

## **The Dilemma for Muslims in Public Office**

**A**rticle VI, Clause 3 of the *United States Constitution* prohibits a “religious test” from being required in order to qualify for any office or “public trust” in the United States. But in the last few years we have seen some interesting examples in which a person’s religion was examined when that person was being considered for public office.

For example, in September 2017, Senator Diane Feinstein expressed concern about a judicial nominee’s Christian religion and stated:

*Whatever a religion is, it has its own dogma. The law is totally different. And I think in your case, professor, when you read your speeches, the conclusion one draws is that the dogma lives loudly within you...<sup>6</sup>*

In December 2018, Senators Mazie Hirono and Kamala Harris expressed concern about a judicial nominee’s membership in the Knights of Columbus, a 137-year-old fraternal Catholic charitable organization. These Senators considered positions taken by the Knights, which simply conformed to Catholic teachings, as “extreme” and raised the question about whether the nominee would end his membership if he were confirmed as a judge.<sup>7</sup>

It seems now that even current elected officials are not exempt from this religious scrutiny. In April 2019, Pete Buttigieg, a potential Democrat presidential candidate and current Mayor of South Bend, Indiana, was asked if he thought President Trump was a Christian. Buttigieg responded:

*I'm reluctant to comment on another person's faith, but I would say it is hard to look at this president's actions and believe that they're the actions of somebody who believes in God.<sup>8</sup>*

That same month, Buttigieg had criticized Vice President Pence for his opposition to homosexual marriage based on Pence's Christian faith; Buttigieg added:

*I don't have a problem with religion, I'm religious too. I have a problem with religion being used as a justification to harm people.<sup>9</sup>*

There was even an April 2019 article in *The Atlantic* about how potential Democrat presidential candidates were now bringing up their religious beliefs, and some were even referring to the Bible and to the importance of Christ.<sup>10</sup>

Even though the *Constitution* prohibits a religious test to hold public office in the United States, these examples show that when it comes to contenders for public office, scrutiny of and attestations about one's Christian beliefs have become common in the public sphere.

With this in mind, let's look at a portion of Muslim Congressman Andre Carson's comments in the epigraph of this book:

*Each and every one of us has a directive to represent Islam, in all of our imperfections, but to represent Islam ...<sup>11</sup>*

Carson's focus seemed to be on getting his fellow Muslims more engaged in public life and even running for public office. And he is asking them to represent Islam while doing so. A large body of this book is dedicated to learning about Islam so that we can understand what Carson is urging his audience to "represent." What we shall find



is that many of the tenets of Islamic Doctrine are in direct conflict with the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 8<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup> Amendments to the *Constitution*.

But individuals aspiring for, or holding public office at all levels of government in the United States have to swear or affirm an oath of office that includes a statement to support that *Constitution*. So how can a Muslim take such an oath of office and still be true to his faith? As we shall see, Islamic Doctrine provides ways.

In this book we shall start out by considering what taking an oath of office entails, and then look at what Islamic Doctrine teaches about taking oaths. We shall then examine in detail how Islamic Doctrine is in conflict with the six Amendments mentioned above.

It is only natural to ask a Muslim running for office, or one currently in office, how they personally resolve the seeming irreconcilable conflict between laws in the *Constitution* and tenets of Islamic Doctrine. Chapters 10 and 11 of this book provide questions that can be asked of a Muslim candidate or public official during a town hall or similar type meeting. The purpose of these questions is to not only get an answer from the Muslim candidate or public official, but to also educate those in attendance about certain aspects of Islam.

### **An Important Distinction**

It is important to distinguish between Islam and Muslims. Islam is the religion based on the commands of Allah found in the Koran and on the teachings and example of Muhammad. Muhammad is Islam's final prophet who spoke for Allah, whom Muslims are commanded to obey, and who set the timeless example for Muslims to follow.

Muslims are those who believe in and follow the religion of Islam. Muslims come in all shapes and sizes, and have varying degrees of devotion toward, and knowledge about, their religion.

### **About the Source Material**

The majority of the sources used in this book are English translations of authoritative works by Muslim scholars, usually translated by Muslims and published by Muslim publishing houses.

The Koran verses presented in this book are from the *Interpretation of the Meanings of The Noble Qur'an*, trans. Muhammad Muhsin Khan and Muhammad Taqi-ud-Din Al-Hilali (Riyadh, Kingdom

of Saudi Arabia: Darussalam, 2007). In the footnotes I have shortened its title to *The Noble Qur'an*. Koran verses are indicated in this manner: Koran 2:106; this means Chapter 2, Verse 106 of the Koran. In some of the Koran verses the reader will notice words in parentheses. These words have been inserted by the particular translator to assist the reader in better understanding the meaning of the translation.

I used two different abridged English translations of the authoritative Koran commentary *Tafsir Ibn Kathir*. Each translation was done by one or more Muslim scholars, and each was published by a Muslim publishing house. The difference between the two translations revolves around what was abridged. The translation published by Darussalam Publishers consists of ten volumes and covers all of the chapters of the Koran; the translation published by Al-Firdous Ltd. consists of eleven parts and only covers the Koran through Koran 11:5.

### **Koran Commentaries and *Asbab al-Nuzul***

Muhammad warned against trying to understand the Koran on one's own:

*Ibn 'Abbas said that the Prophet said, 'Whoever explains the Qur'an with his opinion or with what he has no knowledge of, then let him assume his seat in the Fire.'*<sup>12</sup>

So, the approach I have taken in this book is the approach taken for centuries by Muslim scholars and those wanting to learn about Islam: consulting authoritative written commentaries on the Koran (the *tafsirs*). The *tafsirs* explain the meanings and the contexts of verses in the Koran, and the authoritative *tafsirs* are the primary sources for understanding the Koran. I have used these authoritative *tafsirs*:

#### ***Tafsir Al-Qurtubi, Vol. 1***

Al-Qurtubi lived from 1214-1273. His *tafsir* is "one of the great classical commentaries" which contains an "enormous wealth of traditional understanding" of the verses of the Koran.<sup>13</sup> This volume covers Chapters 1 and 2 of the Koran and is the only part of his *tafsir* that is currently available for purchase in English.

### ***Tafsir Ibn Kathir***

Ibn Kathir lived from 1323-1396. His multi-volume *tafsir*

*... is the most popular interpretation of the Qur'an in the Arabic language, and the majority of the Muslims consider it to be the best source based on Qur'an and Sunnah.*<sup>14</sup>

### ***Tafsir Al-Jalalayn***

This *tafsir* is the work of two people (the two Jalals): Jalalu'd-Din Muhammad ibn Ahmad al-Mahalli - 1389-1459; and Jalalu'd-Din as-Suyuti - 1445-1505.

This one volume *tafsir* of 1,378 pages

*...has, since its publication more than half a millennium ago, been considered the essential first text in the study of the meaning of the Qur'an by teachers and students of the Qur'anic text throughout the entire Islamic world...It has always been held in the highest esteem by all the scholars of Islam...*<sup>15</sup>

### ***Tafsir Ibn 'Abbas***

Although this *tafsir* is often attributed to Ibn 'Abbas, Muhammad's cousin and an authoritative commentator on the Koran, its authorship is uncertain. There was a report, however, of the text being in existence around 900.<sup>16</sup> Nevertheless, it is considered "a pivotal work for the study of Islamic exegesis" because, among other things: The core of this work consists of the traditions attributed to Ibn 'Abbas; and

It contains reports going back to Muhammad or Ibn 'Abbas.<sup>17</sup>

### ***Tafsir as-Sa'di***

As-Sa'di lived from 1885-1956.

*This comprehensive ten-volume exegesis of the Qur'an...[makes] the meanings and explanation of the Qur'an easy to understand for the English-language readers...*<sup>18</sup>

## ***Tafsir Ahsanul-Bayan***

This is the newest *tafsir*. The purpose of this *tafsir* was to provide a

*...commentary of the Holy Qur'an for students which should be free from the old unauthentic Israeli [sic] stories, weak and feeble sayings, philosophical and unnecessary discussions but that should reveal the exact meaning and explanation which was explained by the Prophet and his Companions.<sup>19</sup>*

It was originally published in the Urdu language in 1995 and later translated into English in a five volume set.

I have also used *Al-Wahidi's Asbab al-Nuzul*. Al-Wahidi was an 11<sup>th</sup> Century Muslim scholar. His work was based on the branch of "science" of the Koran titled *Asbab al-Nuzul*, which focuses on "the occasions, reasons or causes of revelation" of a verse in the Koran.<sup>20</sup>

The translator of this work pointed out:

*Not only is this book the earliest extant work in the genre, but it is also the standard upon which all subsequent works on the occasions of revelation were modelled.<sup>21</sup>*

And Al-Wahidi explained the significance of his book:

*It is unlawful to advance an opinion regarding the occasions of the revelation of the Book [Koran] unless it is based on narration and transmission from those who have witnessed the revelation and were aware of the occasions, in that they seriously sought to know them. The Sacred Law threatens the ignorant who stumble in this science with hell fire...As for nowadays, every person invents something and contrives lies and fabrications, and by doing so he throws himself in the grip of ignorance, paying no heed to the threat issued to the ignorant regarding the occasions of different verses. This is what has driven me to dictate this book which brings together all the different occasions, so that those who seek this subject as well as those who deal with the revelation of the Qur'an can consult it, know what is true, do away with falsification*

*and lies, and then strive to preserve it after seeking its knowledge and receiving by transmission.*<sup>22</sup>

## **Hadiths**

A *hadith* is a story related by a companion of Muhammad about a teaching, example, or statement of Muhammad they had personally seen or heard. I have relied on the six authoritative collections of *hadiths* known as the “Six Books of *Hadith*,” or “The Sound Six”: 1) *Sahih Al-Bukhari*; 2) *Sahih Muslim*; 3) *Sunan Ibn Majah*; 4) *Sunan An-Nasa’i*; 5) *Sunan Abu Dawud*; and 6) *Jami’ At-Tirmidhi*.

The largest collection of *hadiths* is found in the *Musnad Imam Ahmad Bin Hanbal*. At this time only four volumes of the *Musnad* have been translated into English, and I have relied on *hadiths* from this *Musnad*.

In many of the *hadiths*, the reader will see words in parentheses. These words have been inserted by the particular translator to assist the reader in better understanding the meaning of the translation.

## **Islamic Doctrine and Sacred Law**

The doctrines of Islam are based on the commands of Allah in the Koran and on the teachings and example of Muhammad. Islamic Sacred Law (also known as *Sharia*, or *Sharia Law*) is the application of Islamic Doctrine. The Muslim world is mainly divided between Sunni (80-85%) and Shia (10-13%), and there are five major schools of Islamic Sacred Law that I have referred to in this book. As we shall see there is some variation among these schools in terms of applying certain aspects of Islamic Doctrine.\*

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\* The 20<sup>th</sup> Century Muslim scholar al-Uthaymeen provided six reasons why there might be differences of opinion among Muslim scholars:

1. The relevant evidence was not known to the scholar who erred in his judgment.
2. The relevant hadeeth is known to the scholar, but he does not have any confidence in it’s [sic] narrator and regards it to be in contradiction to a stronger evidence, so he holds on to that which he believes is stronger.
3. The hadeeth was known to the scholar but he did not recollect it.
4. The scholar is aware of the evidence but understands it incorrectly.
5. The scholar is aware of the hadeeth but it is in actual fact abrogated.

Four of the five major schools of Islamic Sacred Law are Sunni, listed here in order of size:

1. **Hanafi:** The oldest and considered the most “liberal.” Founded by Imam Abu Hanifah al-Nu’man ibn Thabit (699-767)
2. **Shafi’i:** Founded by Imam Muhammad ibn Idris al-Shafi’i (767-820)
3. **Maliki:** Founded by Imam Malik ibn Anas al-Asbahi (711-795)
4. **Hanbali:** The most conservative. Founded by Imam Ahmad ibn Hanbal (780-855)

The major Shia school is the Jafari School, founded by Imam Ja’far ibn Muhammad al-Sadiq (702-765).

The dates used in this book are Anno Domini.

Stephen M. Kirby  
October 7, 2019

- 
6. The scholar believes that the particular evidence in question conflicts with either a stronger text or a consensus of the scholars.
  7. The scholar gives a ruling on the basis of a weak hadeeth, or his argumentation and deduction is poor.

Shaykh Muhammad Ibn Saalih al-‘Uthaymeen, *Differences of Opinion Amongst the Scholars, Their Causes and Our Position Towards Them*, trans. Abu Safwan Farid Ibn Abdulwahid Ibn Haibatan (Birmingham, UK: Al-Hidaayah Publishing, 2007). Al-‘Uthaymeen pointed out that these seven causes were just ones he wanted to point out, and that actually “there are many more and it is ‘an ocean which has no shore.’” (p. 39).

# 1.

## TAKING THE OATH OF OFFICE

---

People in public office at the local, state, and federal levels are required to take an oath of office that requires them to swear, or affirm, to support the *United States Constitution*. This is based on Article 6, Clause 3 of that *Constitution* (the “Oaths Clause”):

*The Senators and Representatives [in Congress] before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution...*

As David Shestokas noted:

*This constitutional requirement is binding upon every government official in the United States from state governors and judges to members of city councils, police officers, firefighters or board members of mosquito abatement districts and library boards.*<sup>23</sup>

The Framers of the *Constitution* considered the “Oaths Clause” a way of integrating the original thirteen states into a federal union. It was also a way of binding those taking that oath “to abstain from all acts inconsistent with it,” and “to observe the limits” it placed on their authority.<sup>24</sup> So taking an oath to support the *Constitution* is a way of providing common cause among different people with each acknowledging that the same *Constitution* will uniformly guide and limit their actions. Taking such an oath also sends that same unifying message to those watching.

The wording of this oath for federal public officials is specified in federal law. Title 5, Section 3331 of the *United States Code* provides that wording:

*I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.*

Title 4, Section 101 of the *United States Code* provides the framework for the wording of this oath for public officials at the state level:

*Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."*

At the local level, the wording of the oath of office varies but includes a commitment to support the *Constitution*.

Let's look at some considerations when it comes to Islamic Doctrine and Muslims taking an oath of office to support the *United States Constitution*.

## **Man-made Laws**

A fundamental issue is the fact that the *Constitution* consists of laws that were written by men. Islamic Doctrine teaches that the laws of Allah, and by extension the teachings and example of Allah's prophet Muhammad, are always superior to man-made laws if there is a conflict, and it is an act of disbelief (*kufr*) for a Muslim to enact and/or follow man-made laws that are in conflict with the laws of Allah:

*Promulgating man-made laws that are contrary to the rulings of Allah and His Messenger concerning matters of blood, honour and wealth, is an act of major kufr which puts one beyond the pale of Islam. There is no doubt whatsoever concerning that, and there is no difference of*



*opinion concerning it among the Muslim scholars. Promulgating such laws is competing with Allah, may He be exalted, in His rule and is going against Him in His laws... How can legislation that is contrary to the laws of Allah not be kufr, when it inevitably implies permitting that which is forbidden and forbidding that which is permitted, or giving the legislators the right to do that, so they have the right to permit whatever they want and to forbid whatever they want; whatever the majority agrees upon must be carried out and the one who goes against it is punished and criminalised. This is the ultimate kufr.<sup>25</sup>*

We shall see that there are many man-made laws in the *Constitution* that are in direct conflict with the laws of Allah; this appears to create an inherent conflict for a Muslim swearing to support the *Constitution*. As we shall see, however, Islamic Doctrine provides ways around this.

### **A valid oath under Islam**

What does Islamic Doctrine teach about taking an oath? According to Islamic Doctrine,

*An oath is only validly effected [sic] if sworn by a name of Allah Most High, or an attribute of his entity.\**

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\* Ahmad ibn Naqib al-Misri, *Reliance of the Traveller (Umdat al-Salik)*, A Classic Manual of Islamic Sacred Law, edited and translated by Nuh Ha Mim Keller (Revised Edition 1994; rpt. Beltsville, Maryland: Amana Publications, 2008), o18.3, p. 620. Also see Imam Muwaffaq ad-Din Abdu'llah ibn Ahmad ibn Qudama al-Maqdisi, *The Mainstay Concerning Jurisprudence (Al-Umda fi 'l-Fiqh)*, trans. Muhtar Holland (Ft. Lauderdale, FL: Al-Baz Publishing, Inc., 2009), p. 269.

In 1990, Dr. Taha Jabir al-Alwani, President of the Fiqh Council of North America, and President of the International Institute of Islamic Thought located in Northern Virginia, said this about the above English translation of *Reliance of the Traveller* (p. xviii):

There is no doubt that this translation is a valuable and important work, whether as a textbook for teaching Islamic jurisprudence to English-speakers, or as a legal reference for use by scholars, educated laymen, and students in this language...its aim is to imbue the consciousness of the non-Arabic-speaking Muslim with a sound understanding of Sacred Law...

This means that for an oath to be valid under Islam it must be sworn in the name of Allah or in the name of one of his attributes, such as the All-Merciful, or the Knower of the Unseen. There are ninety-nine such attributes or names of Allah, and these names are found in various verses of the Koran.<sup>26</sup>

So when a Muslim swears in a federal oath of office to support the *Constitution* and ends that oath by stating the required words, “so help me God,” as required by Title 5, Section 3331 of the *United States Code*, is that Muslim actually swearing that oath in the name of Allah, the god whose commands and attributes are found in the Koran?

To answer that question we need to consider the fact that Christianity played a significant role in the early development of the United States. Dr. Mark David Hall wrote that the Founders “referenced the Bible more than all Enlightenment authors combined,” and that the Bible “was cited far more often than any other book, article, or pamphlet.” Hall also noted that the Founders “identified themselves as Christians, were influenced in important ways by Christian ideas, and generally thought it appropriate for civic authorities to encourage Christianity.”<sup>27</sup>

During the 19<sup>th</sup> Century the United States continued as a predominantly Christian nation,\* and it is interesting to note that in the middle part of that century various actions were taken by the federal government that emphasized that fact.

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In 1991, this English translation of *Reliance of the Traveller* was certified to correspond “to the Arabic original” and conform “to the practice and faith of the orthodox Sunni Community” by the Islamic Research Academy of Al-Azhar University in Cairo (p. xx).

\* E.g., 1) Dr. Graham Warder, “Religion In Nineteenth-Century America,” *VCU Libraries Social Welfare History Project*, January 29, 2014, <https://socialwelfare.library.vcu.edu/religious/religion-nineteenth-century-america/>; 2) “The Second Great Awakening,” *Christianity.com*, <https://www.christianity.com/church/the-2nd-great-awakening-11630336.html>; and 3) John Fea, “America Has Always Been a Christian Nation,” *Patheos*, December 8, 2010, <https://www.patheos.com/resources/additional-resources/2010/12/america-has-always-been-a-christian-nation>.

It was during this time period that:

*The motto IN GOD WE TRUST was placed on United States coins largely because of the increased religious sentiment existing during the Civil War.*

This idea was initiated by an 1861 letter from a Protestant minister to the Secretary of the Treasury that stated:

*One fact touching our currency has hitherto been seriously overlooked. I mean the recognition of the Almighty God in some form on our coins.<sup>28</sup>*

And in 1862 the U.S. Congress added the words “so help me God” to the federal oaths of office.<sup>29</sup>

The words “so help me God” were added by the U.S. Congress to federal oaths of office during a time that saw an increase in Christian religious sentiment. Is there any support for the idea that when these words were added, the word “God” was also meant to include the Muslim god Allah?

The answer is “No,” because the God of Christians and Jews, and Islam’s god Allah are not the same. For instance, here is what Allah has to say in the Koran about Christians and Jews:

Allah states that the only religion acceptable to him is Islam (e.g., 3:19 and 3:85); Christians and Jews are disbelievers\* (e.g. 2:120, 3:99, 3:110, and 5:65), and Jews are among the worst enemies of Muslims (5:82); Allah curses Christians and Jews (9:30) and states that those who believe that Allah had a Son commit the one unforgiveable sin in Islam, *Shirk*†(e.g. 4:48 and 4:116); Allah states that those who commit *Shirk* will go to Hell

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\* For an in-depth look at how the Koran and Muhammad differentiated between the “believers” (Muslims) and the Jews and Christians, see my article “The Fantasy Islam of the University of Chicago’s Fred Donner (Part 1),” *Jihad Watch*, January 30, 2019, <https://www.jihadwatch.org/2019/01/the-fantasy-islam-of-the-university-of-chicagos-fred-donner-part-1>.

† *Shirk*: polytheism, worshipping others along with Allah, and/or ascribing partners to Allah (including ascribing a Son to him). By believing that Jesus is the Son of God, Christians commit *Shirk*.

(e.g. 3:151 and 5:72-73); Allah states that Christians and Jews are among the worst of creatures and “will abide in the fire of Hell” (98:6); Allah specifically forbids Muslims from being friends with Christians and Jews (5:51), and instead commands Muslims to fight Christians and Jews (9:29).

Christianity is considered to be a false religion because Allah states that Jesus was not crucified, but it only appeared so (4:157-158). Allah took Jesus bodily into paradise and made one of Jesus’ disciples look like Jesus; it was that disciple who was crucified. So Muslims who know their religion look at a crucifix or a painting of the Crucifixion and see an imposter hanging on the cross. And of course, if there was no Crucifixion, there was no Resurrection. So Islam teaches that Christianity is a false religion based on a fraud.

Taking into consideration the religious environment of 19<sup>th</sup> Century America, there is no support for any claim that during a period of increased Christian religious sentiment, the word “God” that was then applied to oaths and stamped on coins would include the deity of a separate religion that was openly hostile to Christians and Jews.

But what if a Muslim claims that when they swear to support the *Constitution* they are personally referring to Allah, the god of Islam, when they say the words “so help me God” in their oath of office?

In the first place, Muslims are generally advised against using any other word than “Allah” when referring to the god of Islam:

*But what the Muslim should use in his worship... and all other circumstances when referring to Allah, may He be exalted and glorified, is the word “Allah” as it is, because that has become a symbol for the Muslims and something that distinguishes them, and it helps to avoid any confusion between what they mean and what others mean when they say “God” [my emphasis], as others may sometimes be referring to Allah, but sometimes they may be referring to something else... when offering du‘aa’ or swearing oaths, he has to avoid doing that with words other than the*

known Arabic words for the divine names and attributes  
[my emphasis], as they are confirmed in the Qur'aan [sic]  
and Sunnah. \*

So according to this ruling, Muslims are supposed to use the name Allah instead of God in order to differentiate themselves from what non-Muslims mean when those non-Muslims say God. And this applies to swearing an oath. This underlines again the fact that Allah is not the same as the God of Jews and Christians.

In the second place, we shall see that there are many tenets of the *Constitution* that are in direct conflict with many tenets of Islamic Doctrine. So how can a Muslim swear to Allah, the god of Islam, that he will support a document that in large part is in direct conflict with many of the teachings and commands of Allah?

This means that when a Muslim public official swears to support the *Constitution* and ends that oath with the words, "so help me God," they are in reality giving an oath to someone other than Allah. And according to Islamic Doctrine, that oath is therefore neither valid nor binding.

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\* "Translating the names and attributes of Allah into other languages and swearing by them," *Islam Question & Answer*, April 16, 2012, <https://islamqa.info/en/answers/171528/translating-the-names-and-attributes-of-allah-into-other-languages-and-swearing-by-them>.

In this book you will also see Muslim references made to "Lord." Using that word with capital letters is an exclusive reference to Allah, the god of Islam:

The word Lord with a capital L is used in the lexicon of Islam to refer to the One and Only God – Allah. In Islam there is no ambiguity about the meaning of this word. While it is true that one may occasionally use the word lord (whether capitalized or not) to refer to a human being, in Islamic discourse the reference of this term is always clear from the context. Whereas for Christians, Hindus and other polytheists, the word Lord with a capital L may refer to Allah, to Jesus or to some imagined deity, for Muslims, there can be no plurality of meaning. Allah alone is the Lord, and the Lord is Allah – not Jesus, not Rama, not any other being.

Dr. Hatem al-Haj, *Fiqh of Worship, Commentary on 'Umdat al-Fiqh (The Reliable Source of Fiqh)* (Riyadh, Kingdom of Saudi Arabia: International Islamic Publishing House, 2011), p. 19.

## If something better comes along or there is hardship

Islamic Doctrine teaches that even though an oath is sworn in the name of Allah, it is not necessarily binding if something better happens to come along. Muhammad said:

*By Allah, if I take an oath to do something, and then (later) find something else better than it, I do that which is better and make expiation for the oath.\**

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\* Muhammad bin Ismail bin Al-Mughirah al-Bukhari, *Sahih Al-Bukhari*, trans. Muhammad Muhsin Khan (Riyadh, Kingdom of Saudi Arabia: Darussalam, 1997), Vol. 8, Book 83, No. 6649, p. 341. This is also noted in books from three of the four major Sunni schools of Islamic Sacred Law:

1. (Hanafi School) Abu Hanifah Nu'man ibn Thabit ibn Nu'man ibn al-Marzuban ibn Zuta ibn Mah, *The Kitab al-Athar of Imam Abu Hanifah: The Narration of Imam Muhammad Ibn Al-Hasan Ash-Shaybani*, trans. 'Abdassamad Clarke (London: Turath Publishing, 2007), 228.709, Footnote 1867, p. 418;
2. (Maliki School) Malik ibn Anas ibn Malik ibn Abi 'Amir al-Asbahi, *Al-Muwatta of Imam Malik ibn Anas: The First Formulation of Islamic Law*, trans. Aisha Abdurrahman Bewley (Inverness, Scotland: Madinah Press, 2004), 22.7.11, p. 187.
3. (Hanbali School) *The Mainstay Concerning Jurisprudence*, p. 273.

Breaking an oath if something better comes along is also mentioned in a modern work: Abu Bakr Jabir Al-Jaza'iry, *Minhaj Al-Muslim* (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2001), Vol. 2, p. 454.

Minhaj Al-Muslim is:

A comprehensive work by the great scholar Abu Bakr Jabir Al-Jaza'ri [1921-2018] comprising all that concerns a Muslim regarding creed, manners, providing direction for righteous character, acts of worship, and dealings with his colleagues...The author wrote this book, Minhaj Al-Muslim, at the request of the people of Wahdah', a city in Morocco. They desired such a book that included all of the necessary topics like correct belief, etiquette, manners, worship, business and transactions etc...We have prepared this work in two volumes in the English language due to the large amount of material that the book covers. We hope Allah will reward all of us for the benefit it may provide for the readers.

<https://dar-us-salam.com/english/fiqh-islamic-law/133-minhaj-al-muslim-2-vol-set.html>

*Minhaj Al-Muslim* is "one of the most popular books in the Arab world."

Hussein Elkabany, "Prominent Algerian scholar dies in Saudi Arabia," Anadolu Agency, August 15, 2018, <https://www.aa.com.tr/en/africa/prominent-algerian-scholar-dies-in-saudi-arabia/1232027>

Would breaking one's oath be worth enduring the required expiation? According to Islamic Sacred Law and Koran 5:89, the expiation for a broken oath consists of doing one of the following:

1. Free a sound Muslim slave;
2. Feed ten people who are short of money;
3. Provide clothing of any kind for ten such persons, even if it consists of a wrap-around or clothing previously washed, though not if ragged;
4. And if one is unable to do any of the above, one must fast for three days, (these don't have to be three consecutive days).<sup>\*</sup> Fasting occurs only during the daytime.

And a Muslim is also allowed to break an oath if it causes a "hardship":

*Breaking the oath is allowable if adherence to it causes you hardship. The expiation is: Feeding or clothing ten poor individuals. For those who can't, they may fast three days.<sup>30</sup>*

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<sup>\*</sup> *Reliance of the Traveller*, o20.2, p. 623 (Shafi'i School); and *Minhaj Al-Muslim*, Vol. 2, pp. 456-457. The Maliki School also believes the three fasting days don't have to be consecutive; however, the Hanafi and Hanbali Schools believe that the three days must be consecutive – see *The Kitab al-Athar of Imam Abu Hanifah*, 228.710, p. 419; and Muhammad ibn 'Abd Ar-Rahman as-Safadi, *The Mercy in the Difference of the Four Sunni Schools of Islamic Law*, Trans. Aisha Bewley (London: Dar Al Taqwa, 2004), p. 161.

Voluntary fasting is encouraged among Muslims and is rewarded by Allah. There were times when Muhammad and his family had a shortage of food, so he would decide to engage in "voluntary fasting":

It was narrated that 'Aishah said: "The Messenger of Allah would enter upon me and say: 'Do you have anything (any food)?' If we said: 'No,' he would say: 'Then I am fasting.' So he would continue fasting, then if we were given some food, he would break his fast." She said: "Sometimes he would fast and (then) break fast (i.e. combine fasting and breaking fast in one day)."

Muhammad bin Yazeed ibn Majah al-Qazwini, *Sunan Ibn Majah*, trans. Nasiruddin al-Khattab (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2007), Vol. 2, No. 1701 and Comments, p. 504. This approach to voluntary fasting by Muhammad was also reported in Abu 'Abdur-Rahman Ahmad bin Shu'aib bin 'Ali bin Sinan bin Bahr An-Nasa'i, *Sunan An-Nasa'i*, trans. Nasiruddin al-Khattab (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2007), Vol. 3, Nos. 2324-2332, pp. 257-261.

As we can see, Islamic Doctrine allows an oath to be broken if something better comes along or if the oath creates a hardship. And the expiation for breaking an oath under Islam is not particularly onerous, especially if one chooses to fast.

According to Koran 66:2, Allah anticipated that Muslims would break their oaths and provided them a way of doing so:

*Allah has already ordained for you (O men) the absolution for your oaths.*

The 20<sup>th</sup> Century *Tafsir Ahsanul-Bayan* explained this verse:

*Allah has permitted the breaking of oath [sic], providing one atones for it. That is, one may do a thing which he swore not to do through atonement, details of which are to be found in [Koran 5:89].<sup>31</sup>*

In another Koran commentary, the following *hadith* was used to illustrate Koran 66:2 and the breaking of one's oath. In this *hadith*, a Muslim had intercourse with his wife while fasting during Ramadan. He went to Muhammad and confessed the matter:

*The Prophet said, "Have you enough to manumit a slave?" He said, "No." The Prophet said, "Can you observe Saum (fast) for two successive months?" The man said, "No." The Prophet said, "Can you afford to feed sixty poor persons?" The man said, "No." Then the Prophet said to him, "Sit down," and he sat down. Afterwards an 'Araq, i.e., a big basket, containing dates was brought to the Prophet, and the Prophet said to him, "Take this (basket of dates) and give it in charity." The man said, "To poorer people than us?" On that, the Prophet smiled till his premolar teeth became visible, and then told him, "Feed your family with it."<sup>32</sup>*

In this matter Muhammad did not abide by the expiation options listed in Koran 5:89. After finding out that the man could not fulfill any of the options Muhammad had presented, however, Muhammad rewarded the man with a basket of dates for his family and allowed the man to leave without fulfilling any expiation. The end result was



that the man had broken an oath, but due to his poverty he was rewarded and allowed to leave.

So Allah had anticipated that Muslims would break their oaths, and Muhammad even rewarded a Muslim for doing so.

### **Knowingly swearing a false oath without penalty**

On another occasion Muhammad actually allowed someone to swear an oath that Muhammad knew to be false, without penalty, because Muhammad said that the oath-maker was sincere in how he referred to Allah:

*It was narrated from Ibn 'Abbas that two men referred a dispute to the Prophet and the Prophet asked the plaintiff for proof, but he did not have any proof. So he asked the defendant to swear an oath, and he swore by Allah besides Whom there is none worthy of worship. The Messenger of Allah said: "No, you did it, but you have been forgiven because of the sincerity with which you said there is none worthy of worship but Allah."<sup>33</sup>*

### **The significance of including the phrase *Inshah' Allah***

If a Muslim swears an oath and includes the phrase *Inshah' Allah* (if Allah wills) as part of that oath, then the oath is not binding.\* Muhammad explained it this way:

*It was narrated that Ibn 'Umar said: "The Messenger of Allah said: 'Whoever swears an oath and makes an exception (says 'Insha'-Allah' (If Allah wills)), then if he*

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\* This is stated in books from the four major Sunni schools of Islamic Sacred Law:

1. (Hanafi School) *The Kitab al-Athar of Imam Abu Hanifah*, 230.713-715, p. 421;
2. (Shafi'i School) *Reliance of the Traveller*, o19.5, p. 622;
3. (Maliki School) *Al-Muwatta of Imam Malik ibn Anas*, 22.6.10, p. 187;
4. (Hanbali School) *The Mainstay Concerning Jurisprudence*, p. 269.

This exception is also mentioned in the modern *Minhaj Al-Muslim*, Vol. 2, pp. 453-454.

*wishes he may go ahead and if he wishes he may not, without breaking his oath.”<sup>34</sup>*

And this phrase does not even have to be said out loud; merely moving ones lips to say this phrase makes the oath non-binding,<sup>35</sup> and it is readily apparent that it takes minimal lip movement to silently say *Inshah’ Allah*. Or one can simply say the phrase by moving one’s tongue when making the oath.\*

This understanding about how the phrase *Inshah’ Allah* can make an oath non-binding is valid today.† So a Muslim can to all appearances take an oath, but by silently moving his tongue, or minimally moving his lips to include the phrase *Inshah’ Allah*, the oath can at the same time be made non-binding.

### **An oath has various meanings**

According to Muhammad, there is great flexibility in understanding what an oath means. Muhammad said that the oath-maker and the one listening to that oath can each provide their own interpretation of the oath, *e.g.*:

1. Abu Huraira reported that Allah’s Messenger (SAW) had said: Your oath should be about something which your companion will believe you.<sup>36</sup>
2. Abu Huraira reported that Allah’s Messenger (SAW) had said: An oath is to be interpreted according to the intention of the one who takes it.<sup>37</sup>
3. It was narrated from Abu Hurairah that the Messenger of Allah said: “Your oath is as your companion understands it to be.”<sup>38</sup>

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\* “If a person swears an oath silently, is his oath binding?” *Islam Question & Answer*, March 10, 2016, <https://islamqa.info/en/answers/223059/if-a-person-swears-an-oath-silently-is-his-oath-binding>.

† E.g., “Saying ‘Insha-Allah’ along with a vow, Fatwa No. 86260,” *Islamweb.net*, September 17, 2003, <https://www.islamweb.net/en/fatwa/86260/saying-insha-allah-along-with-a-vow>; and “What is an ‘Oath’ and if you vow to do something and you don’t, then how do you compensate for it? 5- Yamins that are makrooh,” *Questions on Islam*, September 3, 2009, [questionsonislam.com/question/what-oath-and-if-you-vow-do-something-and-you-dont-then-how-do-you-compensate-it](http://questionsonislam.com/question/what-oath-and-if-you-vow-do-something-and-you-dont-then-how-do-you-compensate-it).

Such an approach undermines the idea that there is a bond of common understanding between not only those who are making the same oath, but also those who are witnessing it.\*

The modern *Minhaj Al-Muslim* provided this example under the heading *The Oath is based upon the Intention of the One Who swore to It*:

*The consideration in swearing and not swearing is based upon the intention of the one who is swearing the oath, as actions are based upon intentions and every person will get what he intended. So whoever swears that he will not sleep on the ground and he means the bed [my emphasis], then his oath is considered based upon his intent. Therefore, he has not broken his oath as long as he does not sleep on the bed.<sup>39</sup>*

In this example someone would be hearing a Muslim swear an oath specifying one subject while that Muslim was inwardly, and silently, directing that oath toward a completely different subject!

A 2001 ruling about a Muslim taking the oath of citizenship in a non-Muslim country touched on this:

*If he is obliged to take an oath for getting citizenship, at that moment one should try to allude to the words of oath as much as possible to escape their intended point.<sup>40</sup>*

“Allude” means to make indirect reference to something, and it is from the Latin word *alludere*, which means to “jest, make mocking allusion to.” So this ruling states that Muslims can mentally play with the words of an oath to “escape their intended point,” and the

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\* The suggestion of using “speech which can be understood in different ways” was advice given to a prospective non-Muslim bride about what her future Muslim husband could say to her family if he was to already have a wife before they were married: “Can a Suitor Lie to the Non-Muslim Family of the Girl He Wants to Marry and Say He is Unmarried,” *Islam Question & Answer*, June 12, 2012, <https://islamqa.info/en/answers/179557/can-a-suitor-lie-to-the-non-muslim-family-of-the-girl-he-wants-to-marry-and-say-he-is-unmarried>.

intention of the Muslim takes priority over the intention of the actual words of the oath.

And speaking of mentally playing with the words of an oath, a 2013 ruling was quite up-front about the permissibility of deception:

*The pledge of allegiance is one of the greatest blights associated with endeavoring to get the citizenship of a non-Muslim country. It consists of various vicious matters, including what is related to Kufr (disbelief) itself, like allegiance to the laws of those countries... in case of dire necessity, a Muslim who gives the pledge of allegiance to one of these governments may conceal his intention and use Tawriyah (i.e., saying something which has more than one meaning and intending a meaning different from what the listener is likely to understand), like to intend his allegiance only to the Muslims in those lands and to benefit that country by guiding its people to enter Islam. However, the Muslim does not become a disbeliever by merely repeating these words which contain allegiance to the people of Kufr, as long as his heart remains at rest with faith.<sup>41</sup>*

This is significant because it is one way in which a Muslim can appear to take an oath of office swearing to uphold man-made laws that are in conflict with the laws of Allah, while his intentions are completely different. We will look more closely at deception and the phrase *as long as his heart remains at rest with faith* when we consider Koran 16:106 in Chapter 3.

A 2003 ruling included this comment, which seems to sum this up well:

*The scholars said: If that is needed to serve some legitimate shar'i interest that outweighs the concern about misleading the person to whom you are speaking, or it is needed for a reason that cannot be achieved without lying, then there is nothing wrong with using deliberate ambiguity as an acceptable alternative.<sup>42</sup>*

But in terms of a Muslim taking an oath of citizenship in a non-Muslim country, there is an important stipulation mentioned in *Fatwa 83407* by the *Assembly of Muslim Jurists of America*:

*There is no harm in citizenship if it is taken as means of organizing the affairs of the residents outside the lands of Islam and establishing da'wah and founding their institutions. This is so long as its (the citizenship's) possessor keeps his loyalty to his creed and nation (i.e. Islam and the Muslims [sic])...<sup>43</sup>*

Establishing *da'wah* means to spread the word of Islam among non-Muslims. So according to this *fatwa* Muslims are allowed to obtain citizenship in a non-Muslim country for purposes of spreading Islam, as long as they remain loyal to their “creed and nation (*i.e.*, Islam and the Muslims).” If this is a stipulation for taking an oath of citizenship, it is probably an applicable stipulation when it comes to a Muslim taking an oath of office in the United States.

So even though at the federal level the oath of office requires the oath-maker to swear the oath *without any mental reservation or purpose of evasion*, Islamic Doctrine allows a Muslim making that oath:

1. To state one thing in the verbal oath while his silent intentions can be completely different from what was intended by that oath and what he is verbalizing;
2. To mentally play with the words of the oath to “escape their intended point”;
3. To be deliberately ambiguous and state “something which has more than one meaning and intending a meaning different from what the listener is likely to understand”; and
4. To make it as long as he stays loyal to Islam and the Muslims.

### **No reference to a deity in the oath**

There is another consideration. At state and local levels the “so help me God” phrase is not necessarily included in the oath, which means that there would be no reference to a deity. Islamic Doctrine, however, states that for an oath to be valid it must be sworn in the name of Allah or in the name of one of his attributes. Consequently,

from an Islamic Doctrinal standpoint, a Muslim taking the oath of office at the state or local level in which there is no reference to a deity is, by virtue of that omission, not taking a valid oath.

At best, that Muslim is simply giving a personal guarantee that he will support the *Constitution*, and according to Muhammad, a Muslim is allowed to violate that personal guarantee with minimal consequences. This was illustrated in the orders Muhammad would give to some of his military commanders as he sent them out against non-Muslims:

*When you lay siege to a fort and the besieged appeal to you for protection in the name of Allah and His Prophet, do not accord to them the guarantee of Allah and His Prophet, but accord to them your own guarantee and the guarantee of your companions for it is a lesser sin that the security given by you or your companions be disregarded than that the security granted in the name of Allah and His Prophet be violated.<sup>44</sup>*

Muhammad's message to his military commanders was that they could personally promise protection to besieged non-Muslims. But when it became advantageous for the Muslims, the commander could "disregard" that promise and do what he wanted with the non-Muslims, who had likely already surrendered and been disarmed.

What is the expiation for having disregarded that personal guarantee? Considering that the expiation for breaking an oath made in the name of Allah can be as little as fasting for three days, and the days don't even have to be consecutive, we can infer from Muhammad's words that the expiation for breaking a personal guarantee is even less "demanding."

## **Swearing an oath on the Koran**

There is no requirement that when a Muslim makes an oath he has to place his hand on the Koran in order for that oath to be valid.\*

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\* See, for example: "What is the ruling on one who swore on the Mushaf (Qur'an) when he was not in a state of purity?" *Islam Question & Answer*, November 10, 2014, <https://islamqa.info/en/answers/203252/what-is-the-ruling-on-one-who-swore-on-the-mushaf-quran-when-he-was-not-in-a-state-of-purity>; and "Ruling on placing

Swearing an oath in the name of Allah or one of his attributes is what makes the oath valid. But using a Koran when one takes an oath is not prohibited.

In 2007, a myth was created that a Congressional oath of office had been sworn on the Koran. In that year, newly-elected Congressman Keith Ellison, a Muslim convert, received extensive news coverage when he was photographed holding his hand on “Jefferson’s Koran” while he was supposedly taking his Congressional oath of office. In reality, Ellison had earlier joined the other members of Congress in taking the official oath of office. The media attention had been directed toward Ellison’s subsequent “private,” ceremonial oath of office. Here is how Ellison had described the matter a few days prior:

*When I’m officially sworn in, I will do it the same exact way as every other Congressperson-elect who was sworn in...We will all stand up and in unison lift our hand and swear to uphold that Constitution, and then later, in a private ceremony, of course I’ll put my hand on a book that is the basis of my faith, which is Islam...<sup>45</sup>*

In spite of Ellison’s acknowledgement that he would be holding his hand on the Koran during a “private ceremony” that took place *after* he had already taken the official oath of office, the myth was born that he had taken his official Congressional oath of office holding his hand on the Koran.

The second Muslim was elected to Congress in 2008, but there was no use of a Koran for the ceremonial oath of office, perhaps because of political considerations. In March 2008, Andre Carson, a Muslim convert, won a special Congressional election in Indiana’s 7<sup>th</sup> District; he would be up for re-election that November. But his first challenge would be to face some seasoned Democrats in the Democratic primary in May. And Carson was aware that “a firestorm of criticism” had resulted from Ellison having used a Koran for his ceremonial oath of office the year before. On March 13<sup>th</sup> Carson placed

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one’s hand on the Bible when swearing,” *Islam Question & Answer*, February 24, 1999, <https://islamqa.info/en/answers/4023/ruling-on-placing-ones-hand-on-the-bible-when-swearing>.

his hand on a copy of the *Constitution* during his own ceremonial oath of office. According to “one Muslim political insider,” this decision was likely based on “Carson’s looming election campaign,” which was “a chief concern for him.”<sup>46</sup>

The myth about a Congressional oath of office being taken on the Koran was given new life on June 4, 2009, however, when then-President Obama had this to say about Congressman Ellison in his speech at Cairo University in Egypt:

*And when the first Muslim American was recently elected to Congress, he took the oath to defend our Constitution using the same Holy Koran that one of our Founding Fathers—Thomas Jefferson—kept in his personal library.*<sup>47</sup>

In 2016, Ilhan Omar was elected to the Minnesota state legislature. In January 2017, she joined the other newly elected state legislators on the State House floor and took the official oath of office. Later, she took a ceremonial oath of office holding her hand on the Koran. With each oath she swore to support the *Constitution of the United States* and the *Constitution of Minnesota*.<sup>48</sup>

The myth of swearing an official oath on the Koran became widespread after the 2018 Congressional elections. In January 2019, two newly-elected Muslim members of Congress, Ilhan Omar (MN-5) and Rashida Tlaib (MI-13), took their official oath of office with the other members of Congress. Afterwards each took a separate ceremonial oath of office with a hand on the Koran. But the myth about swearing the oath of office on the Koran was spread by subsequent articles with titles clearly stating that Omar and Tlaib had used the Koran when taking their official oaths of office. Only by taking the time to actually read the article would one find that the Koran was used for the “ceremonial” oath of office.\* And

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\* For example: Tania Karas, “Two reps were sworn in on the Quran. It’s a symbolic moment for Muslim Americans,” *Public Radio International*, January 3, 2019, <https://www.pri.org/stories/2019-01-03/two-reps-are-being-sworn-quran-it-s-symbolic-moment-muslim-americans>; and Kaitlyn Schallhorn, “New lawmakers used historical texts, family heirlooms during swearing-in ceremonies,” *Fox News*, January 4, 2009, <https://www.foxnews.com/politics/new-lawMAkers-used-historical-texts-family-heirlooms-during-swearing-in-ceremonies>.



unfortunately, there were also many articles that continued to claim that what was taking place with the Koran actually involved the official oath of office.\*

There was a recent incident, however, in which the Koran was actually used for an official swearing-in ceremony. On February 8, 2019, Fadwa Hammoud was sworn in as Michigan's first Muslim Solicitor General while holding her hand on the Koran. A video is available of her swearing-in ceremony. The actual swearing-in ceremony starts at time marker 1:10 and, with her hand on the Koran, one can hear Hammoud swear to support the *Constitution of the United States* and the *Constitution of Michigan*, without mentioning any reference to a deity.<sup>49</sup> According to Islamic Doctrine, she was simply making a personal guarantee to support those constitutions.

## **The implications**

Here is what we have learned about Muslims taking an oath of office in the United States:

1. The laws of Allah are always superior to man-made laws, and it is an act of disbelief (*kufir*) for a Muslim to enact and/or follow man-made laws that are in conflict with the laws of Allah.
2. For an oath to be valid under Islam it must be sworn in the name of Allah or in the name of one of his attributes.
3. When Muslims say the prescribed phrase "so help me God" as part of their oath of office, they are actually referring to someone other than Allah, the god of Islam. Therefore, according to Islamic Doctrine, that oath is neither valid nor

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\* For example: 1) Amanda Jackson, "Muslim and Jewish holy books among many used to swear-in Congress," *CNN*, January 3, 2019, <https://www.cnn.com/2019/01/03/us/congress-swear-in-religious-books-trnd/index.html>; 2) Josh Magness, "New Muslim congresswoman to be sworn in with Thomas Jefferson's centuries-old Quran," *Miami Herald*, January 3, 2019, <https://www.miamiherald.com/news/nation-world/national/article223866655.html>; and 3) Joyce Karam, "First two Muslim women sworn into US Congress," *The National*, January 4, 2019, <https://www.thenational.ae/world/the-americas/first-two-muslim-women-sworn-into-us-congress-1.809276>.

binding. Muslims might claim that they are personally referring to Allah when they say the words “so help me God” (although they are supposed to use the word “Allah” so there is no confusion about to whom they are referring). But how can one swear to Allah, the god of Islam, that one will support a document that in large part is in direct conflict with many of the commands of Allah and the teachings and example of his prophet Muhammad?

4. Allah anticipated that Muslims would break their oaths and actually provided them a way of doing so. Muslims are allowed to break their oath if something better comes along or if the oath creates a hardship, with the expiation for such action being not particularly onerous; and, following the example of Muhammad, Muslims might be able to break an oath and actually be rewarded for doing so.
5. Following the example of Muhammad, Muslims might be allowed the possibility of actually swearing a false oath without penalty if they are sincere enough about how they refer to Allah.
6. If a Muslim includes the phrase *Inshah' Allah* in his oath of office, even silently, this makes his oath non-binding. So a Muslim can to all appearances take an oath, but by silently moving his tongue, or silently, minimally moving his lips to include the phrase *Inshah' Allah*, the oath can at the same time be made non-binding.
7. Islamic Doctrine allows the listeners and the oath-makers to each have their own interpretation of what the oath means. But it is the intention of the oath-maker that determines the true meaning of the oath. This allows a Muslim to state one thing in the verbal oath while his silent intentions can be completely different from what was intended by that oath; to mentally play with the words of the oath to “escape their intended point”; and to be deliberately ambiguous by stating “something which has more than one meaning and intending a meaning different from what the listener is likely to understand”. All of this as long as he stays loyal to Islam and the Muslims.

8. When Muslims swear an oath of office at the state and local level without mentioning a deity, they are at best simply giving their own personal guarantee to uphold the *Constitution*. This is a personal guarantee that their prophet Muhammad said could be broken with minimal consequences.
9. There is no requirement that a Muslim swear an oath of office on the Koran, although it is not prohibited. Nevertheless, such an action has nothing to do with whether or not an oath is valid. And even though a Muslim holds his hand on the Koran to swear an oath, if there is no mention of Allah in that oath, that oath is not valid.

These are serious considerations in terms of Muslim public officials taking an oath of office to support the *Constitution*.

In the next two chapters, we shall examine some additional concepts important to the understanding of Islam. After that, we shall then start examining the relationship between Islam and six of the Amendments to the *Constitution*.



## 2.

### **UNDERSTANDING ISLAM**

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**I**slamic Doctrine is based on the commands of Allah found in the Koran and on the teachings and example of Muhammad, Islam's final prophet and perfect man. Let's start out by looking at the Koran.

#### **The Koran**

Muslims believe that the Koran is the timeless, perfect, and unchangeable word of Allah "revealed" to Muhammad in the 7<sup>th</sup> Century.

The modern Muslim scholar Abu Ammaar Yasir Qadhi emphasized the Koran's timelessness:

*...the Qur'aan was revealed as a guidance for all the nations until the Day of Judgement...<sup>50</sup>*

This understanding of the Koran's timelessness was repeated in a 2017 ruling at *Islam Question & Answer*:

*The words of Allah cannot be limited and restricted to a particular time, because Allah revealed it to be a constitution and guidance for all people in every time and place, and He knows what is best for His slaves and what is appropriate for them in all times and circumstances...<sup>51</sup>*

So the commands of Allah found in the Koran are as valid today as they were in the 7<sup>th</sup> Century, and will remain valid until the "Day of Judgement." By this, I mean the unabrogated commands, which leads us to the Doctrine of Abrogation.

## **The Doctrine of Abrogation**

Understanding the Doctrine of Abrogation (*Naskh*) is fundamental to understanding the Koran and Islam. The Muslim scholar al-Qurtubi wrote this about the Doctrine of Abrogation:

*This subject is very important and scholars must be aware of it. Only ignorant fools deny it because of the effect of events on rulings and recognition of the halal and haram.<sup>52</sup>*

In order to understand abrogation, we must first get a better understanding of the Koran. The Koran is the sacred book of Islam, and it is considered by Muslims to be the timeless, perfect, and unchangeable word of Allah; Muslims believe that the Koran in Arabic is an exact copy of the book that Allah has beside him in Paradise. The verses of the Koran were delivered to Muhammad through the angel *Jibril* (Gabriel) in a series of “revelations.” Muhammad started receiving these “revelations” in Mecca in 610; they continued through his emigration to Medina in 622, and ended only with his death in Medina in 632.

The Koran has 114 chapters (*suras/soorahs*). They are not arranged in chronological order, however. With the exception of the first chapter, they are generally arranged by the length of the chapter, with the shortest chapters coming at the end of the Koran. For example, the first chapter, *Al-Fatihah*, has only seven verses, while the second, third, and fourth chapters have 286, 200, and 176 verses, respectively.

Translations of the Koran usually indicate whether a chapter was “revealed” in Mecca or in Medina. This does not automatically mean, however, that the verse was “revealed” when Muhammad was physically in Mecca or physically in Medina. It is rather a common shorthand approach that refers to the Meccan time period (610-622) and the Medinan time period (622-632), because Muhammad received “revelations” even when he was not physically in either one of those two cities. In the Koran you will find that the chapters of the earlier “revelations” from Mecca are interspersed among chapters of the later “revelations” from Medina.

There is an important significance to when a verse or chapter was “revealed.” While in Mecca, the religion of Islam was just beginning

and it was generally not well received. Perhaps as a result of this, the verses of the Koran “revealed” during the Meccan period were generally more peaceful and accommodating toward non-Muslims than the verses “revealed” later in the Medinan period. The verses from the Medinan period had a general tendency to be more belligerent and intolerant, and more inclined to make sharp differentiations between Muslims (believers) and non-Muslims (disbelievers/unbelievers).

This can lead to an irreconcilable conflict between the message of a Meccan verse and that of a later Medinan verse addressing the same topic. But how can there be such a conflict if the Koran is the timeless, perfect, and unchangeable word of Allah?

This was addressed in Koran 2:106, which was “revealed” in February 624, during the early Medinan period. This verse introduced the concept of “abrogation”:<sup>\*</sup>

*Whatever a Verse (revelation) do We abrogate or cause to be forgotten, We bring a better one or similar to it. Know you not that Allah is Able to do all things?*

So if there is an irreconcilable conflict between the messages of two “revelations” in the Koran, then the most recent “revelation” abrogates (supersedes) the earlier one and is now the one to be followed.

Consequently, a “revelation” made in the Medinan period would supersede a similar, earlier “revelation” made in the Meccan period if there was an irreconcilable conflict between the two. And if there was such a conflict between two Medinan verses, then the one “revealed” later would supersede the earlier one. Both verses remain in the Koran because they are considered the words of Allah, but it is the most recent “revelation” that now carries the doctrinal authority.

There are four ways in which abrogation can occur:<sup>53</sup>

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\* A basis for abrogation is also found in Koran 16:101, a Late Meccan verse (for the determination of this time period, see *The Meaning of the Glorious Koran*, trans. Marmaduke Pickthall (1930; rpt. New York: Alfred A. Knopf, 1992), pp. 7 and 268): And when We change a Verse (of the Qur’an) in place of another - and Allah knows best what He sends down - they (the disbelievers) say: “You (O Muhammad) are but a Muftari! (forger, liar).” Nay, but most of them know not.

But 2:106 is the verse most commonly referred to when discussing abrogation.

1. A Koran verse abrogating another Koran verse.
2. A Koran verse abrogating the *Sunnah* (the teachings and examples of Muhammad that have become rules to be followed by Muslims).
3. The *Sunnah* abrogating a Koran verse - The founders of three of the four major Sunni schools of Islamic Sacred Law allowed this; they reasoned that both the Koran and the *Sunnah* were “forms of revelation from Allah” and could therefore abrogate one another.\*

The requirement for this was that the abrogating *hadith*† had to be considered *mutawaatir*; this meant the *hadith* had “been reported by many narrators and with different chains of

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\* Those founders were Imam Abu Hanifah - Hanafi School, Imam Malik - Maliki School, and Imam Ahmad bin Hanbal - Hanbali School.

Imam al-Shafi'i, the founder of the fourth major Sunni school (the Shafi'i School), believed that the Koran could only abrogate the Koran, and the *Sunnah* could only abrogate the *Sunnah*. Al-Shafi'i's position was also noted in *'Ulum al-Qur'an: An Introduction to the Sciences of the Qur'an*, p. 82.

Here are additional comments about the *Sunnah* abrogating the Koran:

Shaykh Muhammad ibn Salih al-Uthaymin wrote that an “authentic” *Sunnah* can abrogate the Koran; see his comments in Ahmad ibn Abdul-Halim ibn Taymiyyah, *Introduction to the Principles of Tafsir, Explanation by Shaykh Muhammad ibn Salih al-Uthaymin* (Birmingham, UK: Al-Hidaayah Publishing, 2009), p. 157.

Al-Qurtubi wrote: Astute Imams also say that the Qur'an can be abrogated by the Sunna; see Tafsir Al-Qurtubi, p. 324. Sunnah is also spelled Sunna.

† *Hadiths* are second only to the Koran in importance to Islam because they are a major source for the teachings and example of Muhammad. So what does a *hadith* look like? It starts off with a sequential list of the names of the narrators going back to who first reported the *hadith*. Since the list named a chain of narrators over a 200 year time period, it could include a large number of names. However, the list is usually shortened in English translations, e.g.:

It was narrated from Musawir Al-Himyari from his mother that she heard Umm Salamah say: “I heard the Messenger of Allah say: ‘Any woman who dies when her husband is pleased with her, will enter Paradise.’”

*Sunan Ibn Majah*, Vol. 3, No. 1854, p. 64

And English translations often just mention the original narrator, e.g.:

Narrated Abu Hurairah: Allah's Messenger said, “The Hour will not be established until you fight against the Jews, and the stone behind which a Jew will be hiding will say, ‘O Muslim! There is a Jew hiding behind me, so kill him.’”

*Sahih Al-Bukhari*, Vol. 4, Book 56, No. 2926, p. 113.



transmission.”<sup>54</sup> The rationale for this was that the more narrators and different chains of transmission involved, the less chance there would be for the *hadith* to be false. As the Muslim scholar al-Suyuti wrote:

*The mutawatir [sic] is the type that is of [sic] transmitted by a group of men when there is no possibility of their conspiring to lie about their authority, and by the likes of them to the end of transmission.*<sup>55</sup>

#### 4. The *Sunnah* abrogating the *Sunnah*.

And there is another way in which the *Sunnah* and the Koran can impact each other: *Takhsees*.

### **Specification (*Takhsees*)**

Koran verses and the *Sunnah* can also be impacted by “specification” (*takhsees*), which places limitations on an earlier verse or on a particular aspect of the *Sunnah*. Yasir Qadhi explained the difference between *takhsees* and *naskh* (abrogation) in terms of Koran verses:

*‘Specification’ involves one verse limiting or restricting a general ruling found in another verse, whereas naskh involves abrogating the first ruling in toto (i.e., it is not applied in any circumstances or conditions).*<sup>56</sup>

He noted that “after a *takhsees* occurs, the ruling is not totally invalid, but rather valid in a narrower frame.”<sup>57</sup>

A Koran verse can be limited or restricted by the *Sunnah*. Qadhi provided an example of how *takhsees* was applied by Muhammad to the Koran verse that commanded amputation as the punishment for theft (5:38); Qadi wrote:

*The verse is general (‘aam), and implies that the hand of every thief must be cut. The Prophet, however, qualified that the thief in this case must steal above a certain monetary value. If he stole below this value, this ruling will not apply to him. Therefore, the Prophet specified the*

*general ruling of the verse. This, then, is an example of takhsees: the hand of every thief will not be cut; only those thieves who steal above a certain monetary value are punished.*<sup>58</sup>

And here we have an example in which a verse of the Koran limited the *Sunnah*. This is an event that occurred in February 628 when some Muslims became apostates:

*Narrated Abu Qilaba: Anas said, "Some people of 'Ukl or 'Uraina tribe came to Al-Madina and its climate did not suit them. So the Prophet ordered them to go to the herd of (milch) camels and to drink their milk and urine (as a medicine). So they went as directed and after they became healthy, they killed the shepherd of the Prophet and drove away all the camels. The news reached the Prophet early in the morning and he sent (men) in their pursuit and they were captured and brought at noon. He then ordered to cut [off] their hands and feet (and it was done), and their eyes were branded with heated pieces of iron. They were put in Al-Harra [a place of stony ground in Medina] and when they asked for water, no water was given them." Abu Qilaba added, "Those people committed theft, murder, became disbelievers after embracing Islam (Murtadin) and fought against Allah and His Messenger."<sup>59</sup>*

Allah later "rebuked" Muhammad, however, for the extent of these punishments and a verse of the Koran was "revealed" that limited the nature of such punishment:

*It was narrated from Abu Az-Zinnad, that when the Messenger of Allah cut off (the hands and feet) of those who stole his camels and gouged out their eyes with fire, Allah rebuked him for that and Allah revealed (the words): The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides, or be exiled from the land. That is their disgrace in this world, and a great torment is theirs in the Hereafter.<sup>60</sup>*

So instead of burning both eyes and cutting off both of the hands and feet of an individual, punishment of that nature was now to be limited to only cutting off one hand and one foot from opposite sides. This “revelation” from Allah was codified in Koran 5:33.

### **Are Koran Verses Specific or General?**

This is a fundamental question: are the messages of Koran verses specific or general? In other words, when a Koran verse was “revealed,” was its message specific only to a particular occurrence and/or time period? Or is the message of a Koran verse generally applicable without time restrictions?

There are a few Koran verses that were specific to a particular occurrence and cannot be applied generally. Examples of such verses are found in Koran 24:11-20, which dealt with the slander of Muhammad’s wife ‘Aisha during the time period of December 627. Another example is found in Koran 33:50, which exempted only Muhammad from the restriction of having no more than four wives (this restriction on all other Muslim men is found in Koran 4:3). And we have Koran 66:1-5 which dealt with Muhammad and his wives.

With the exception of a few verses such as these, each verse in the Koran is general in meaning, with no time restrictions. As Yasir Qadhi pointed out:

*... it is not possible to restrict the ruling to the circumstances of its revelation, for the Qur’aan was revealed as a guidance for all the nations until the Day of Judgement ...<sup>61</sup>*

### **Muhammad**

He was born Muhammad bin ‘Abdullah (son of ‘Abdullah) in Mecca in the year 570. His father died before he was born, and his mother died when he was 6 years old. Muhammad then lived with his grandfather for two years until his grandfather died. His uncle, Abu Talib, then became his guardian.

Abu Talib was a successful Meccan businessman, and he initially employed Muhammad as a camel driver in his commercial caravans.

Muhammad started working his way up in his uncle's business and continued accompanying the caravans.

Muhammad met Khadija, who was a wealthy Meccan widow and successful businesswoman. She hired him and he eventually became her business partner. They were married in 595 when he was 25 and she was 40. By his late 30's Muhammad was living a life of material comfort. He and Khadija had seven children; but of these, only the four daughters lived to become Muslims and emigrate to Medina. The three boys died at young ages.

It was in 610 when Muhammad claimed to have received his first "revelation" from Allah while he was in a cave (the Cave of *Hira*) outside of Mecca.\* He started quietly preaching about these "revelations" to his family and close friends in Mecca. Khadija became the first Muslim. The second Muslim was Muhammad's ten-year-old cousin, 'Ali bin Abi Talib. But the increase in the number of new Muslims was very slow.

For many years Mecca had been a destination for pilgrims because it was the location of the Ka'bah, a sacred building housing hundreds of pagan tribal gods. Providing food and lodging for these pilgrims was a lucrative business for many Meccans. But in 613, Muhammad started going around openly preaching that there was only one god. Consequently, resistance to this new religion started building among the Meccans, and the Muslims started being harassed and ill-treated.

In 620, Muhammad met with a group of six men from Medina who were making a pilgrimage to Mecca. He converted this group to Islam. Then, in 621, Muhammad met with additional converts from Medina and sent a Meccan Muslim back to Medina to teach others about Islam. The religion of Islam started to grow in Medina, and, around June of 622, Muhammad met with an even larger group of Muslims from Medina. This group swore to protect Muhammad.†

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\* The cave was located on Mt. Nur, about two miles from Mecca. It was described as four yards long and 1.75 yards wide. See Abu'l-Hasan 'Ali ibn Ahmad ibn Muhammad ibn 'Ali al-Wahidi, *Al-Wahidi's Asbab al-Nuzul*, trans. Mokrane Guezzou (Louisville, KY: Fons Vitae, 2008), n. 4, p. 2. Al-Wahidi's work is the third volume in *The Great Tafsirs of the Holy Qur'an* series, sponsored by the Royal Aal al-Bayt Institute for Islamic Thought.

† For a more in-depth look at this seminal period for Islam, see my article "Islam could have died with Muhammad," *Jihad Watch*, February 8, 2018, <https://www.jihadwatch.org/2018/02/islam-could-have-died-with-muhammad>.

In July 622, the Muslims started leaving Mecca for Medina. There were about 70 Muslim males and their families who emigrated from Mecca. Muhammad emigrated to Medina in September of that year, accompanied by Abu Bakr, his close companion and father-in-law. This emigration was known as the *Hijra*, and it was so significant for Islam that the year 622 became the first year of the Islamic calendar.

In early 623, Muhammad started sending out Muslim raiding parties from Medina against Meccan caravans and eventually against neighboring Arab tribes who had not accepted Islam. As the Muslims successfully raided those caravans and divided the plunder, and conquered surrounding Jewish and Arab tribes, the military strength of the Muslims grew, as did the number of converts to Islam.

In 622, there had been about 200 Muslim men, women, and children who had emigrated from Mecca to Medina. Yet in January 630, less than eight years after the *Hijra*, Muhammad returned to Mecca leading an army of 10,000 Muslim warriors and conquered that city. After Mecca fell to the Muslims, Muhammad turned his sights on the rest of the non-Muslim tribes on the Arabian Peninsula.

Muhammad spent the rest of his life living in Medina, and he received “revelations” until his death. He died in Medina on June 7, 632.

The teachings and example of Muhammad are very important to Muslims. The Koran tells us that Muhammad spoke for Allah (Koran 4:80):

*He who obeys the Messenger (Muhammad), has indeed obeyed Allah...*

Muslims are to obey Muhammad (Koran 59:7),

*...And whatsoever the Messenger (Muhammad) gives you, take it; and whatsoever he forbids you, abstain (from it).*

Muhammad even equated his own words with the Koran. He said:

*Whoever clings to what I say and understands it and retains it, then it will be like the Qur'an for him. Whoever considers the Qur'an and what I say unimportant and neglects it loses this world and the Next. My community is*

*commanded to take my words and obey my command and follow my sunna [sic]. Whoever is pleased with my words is pleased with the Qur'an. Allah says, 'Whatever the Messenger gives you you [sic] should accept.' (59:7)<sup>62</sup>*

And Muhammad is the timeless, perfect example for Muslims to follow (Koran 33:21):

*Indeed in the Messenger of Allah (Muhammad) you have a good example to follow for him who hopes for (the Meeting with) Allah and the Last Day, and remembers Allah much.*

Here is some modern commentary about the importance of Muhammad:

1. The modern commentary in *Jami' At-Tirmidhi* had this to say about Muhammad:

*The Messenger of Allah is the perfect role model for his Ummah [Muslim community], and all his actions represent the highest standard of conduct, so that the people should emulate and follow his example.<sup>63</sup>*

2. In explaining Koran 33:21, the modern *Tafsir Ahsanul-Bayan* noted this about Muhammad:

*...he is a paragon worth emulating in all matters, be it worship or social, economic or political affairs. He ought to be followed in all walks of life...none follows the example of Allah's Messenger except one who aspires to meet his Lord and remembers Him much.<sup>64</sup>*

3. The *Islam Question & Answer* website had this to say about Muhammad:

*The fact that the Prophet (peace be upon him) is the Messenger of Allaah indicates that we must believe everything he said and obey every command he gave. It goes without saying that he has told us things and given instructions in addition to what is in the Qur'aan. It is futile to make a distinction between the Sunnah and the Qur'aan when it comes to adhering to it and responding to it. It is obligatory to believe in what he has told us, and to obey his instructions. The ruling concerning those who deny the importance of*

*the Sunnah is that they are kaafirs [disbelievers], because they deny and reject a well-known and undeniable part of the religion.<sup>65</sup>*

So Muhammad provided timeless commands for Muslims to obey and a timeless example for Muslims to follow.

And in Koran 4:115 Allah told Muslims that if they opposed Muhammad's commands and example, they would burn in Hell:

*And whoever contradicts and opposes the Messenger (Muhammad) after the right path has been shown clearly to him, and follows other than the believer's way, We shall keep him in the path he has chosen, and burn him in Hell – what an evil destination!*

As a 12<sup>th</sup> Century Muslim scholar so succinctly pointed out:

*Obedying the Messenger is part of obeying Allah since Allah commands that he be obeyed. True obedience is obedience to Allah's command and therefore obedience to His Prophet.<sup>66</sup>*

The teachings and example of Muhammad related here are from biographies, histories and *hadith* collections written and compiled by authoritative Muslim scholars.<sup>67</sup>





### 3.

## ISLAM ALLOWS MUSLIMS TO DECEIVE NON-MUSLIMS

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**I**t is difficult for many non-Muslims to understand and acknowledge that Islam allows Muslims to lie to and deceive non-Muslims.

There are two specific verses in the Koran that allow individual Muslims to deceive non-Muslims if the circumstances require it. The first verse, Koran 3:28, allows Muslims to pretend to be friends with non-Muslims, even though there are many verses in the Koran prohibiting such friendship. The second verse, Koran 16:106, allows Muslims to publically renounce Islam, even though Muhammad said that anyone leaving Islam should be killed. Let's look at the first of these two verses.

### **Koran 3:28**

There are numerous verses in the Koran that show a hostile attitude toward, and/or prohibit Muslims from being friends with non-Muslims (disbelievers).<sup>\*</sup> One of the clearest examples of these verses is Koran 5:51:

*O you who believe! Take not the Jews and the Christians as Auliya' (friends, protectors, helpers), they are but Auliya' of each other. And if any amongst you takes them as Auliya', then surely, he is one of them. Verily, Allah guides*

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<sup>\*</sup> E.g., 2:105, 2:193, 2:221, 3:118, 4:89, 4:139-140, 4:144, 5:55, 5:57, 8:12-13, 8:22, 8:39, 8:59-60, 8:73, 9:5, 9:23, 9:28, 9:29, 9:30, 9:73, 9:123, 13:18, 13:41, 21:44, 47:4, 47:35, 48:29, 58:22, 60:1, 60:10, 60:13, 66:9, and 98:6.

For more information about this, see my article "Don't Take Jews and Christians as Friends?" *FrontPage Mag*, May 10, 2015, <https://archives.frontpagemag.com/fpm/dont-take-jews-and-christians-friends-dr-stephens-m-kirby/>.

*not those people who are the Zalimun (polytheists and wrongdoers and unjust).*

In a section titled The Prohibition of Taking the Jews, Christians and Enemies of Islam as Friends, Ibn Kathir explained this verse by pointing out that

*Allah forbids His believing servants from having Jews and Christians as friends, because they are the enemies of Islam and its people, may Allah curse them. Allah then states that they are friends of each other and He gives a warning threat to those who do this, (And if any among you befriends them, then surely he is one of them.)<sup>68</sup>*

The *Tafsir Al-Jalalayn* explained that this verse meant Muslims were not to join Jews and Christians “in mutual friendship and love,” or “in their unbelief.”<sup>69</sup>

The 20<sup>th</sup> Century *Tafsir Ahsanul-Bayan* agreed with these earlier interpretations:

*The verse forbids Muslims to keep intimate relations with them and take them as protectors and helpers, because they are the enemies of Allah, the Muslims, and Islam. It should be noted that those who take them as protectors and helpers will be considered among them.<sup>70</sup>*

Another 20<sup>th</sup> Century Koran commentary, the *Tafsir as-Sa'di*, took a similar approach:

*Here Allah instructs His believing slaves [Muslims], when he describes to them the situation of the Jews and the Christians, and their displeasing attributes, that they should not take them as allies, for they are allies of one another...You should not take them as allies, for in fact they are enemies who do not care what befalls you. Rather they would not spare any effort to mislead you.<sup>71</sup>*

These feelings toward non-Muslims were reflected in comments by Siraj Wahhaj, imam of Al-Taqlwa mosque in Brooklyn, New York

and on the Executive Committee of the Muslim Alliance in North America (<http://www.mana-net.org/>):

*Woe to the Muslims who pick kafirs [non-Muslims] for friends. Woe, woe, woe to the Muslims who take kafirs as friends. Kafir will take you away from the remembrance of Allah...Take not into your intimacy those outside of your race. They will not fail to corrupt you. Don't you know our children are surrounded by kafirs. I'm telling you, making the hearts of our children corrupt, dirty, foul. It's clear, the principles are clear. Birds of a feather, they say, flock together. And so, when our Muslims hang out with the non-Muslim, you become just like them. You talk just like them. You do what they do, you dress the way they dress, you act the way they act, you want to be just like them, because their hearts are corrupt, and now they're corrupting your heart.<sup>72</sup>*

Allah's command could not be clearer. So how can one explain an apparently devout Muslim being friends with non-Muslims?

The answer can be found in Koran 3:28:

*Let not the believers take the disbelievers as Auliya (supporters, helpers) instead of the believers, and whoever does that, will never be helped by Allah in any way, except if you indeed fear a danger from them [my emphasis]. And Allah warns you against Himself (His punishment), and to Allah is the final return.*

Ibn Kathir explained this verse and the exception it mentioned:

*Allah prohibited His believing servants from becoming supporters of the disbelievers, or to take them as comrades with whom they develop friendships, rather than the believers...except those believers who in some areas or times fear for their safety from the disbelievers. In this case, such believers are allowed to show friendship to the disbelievers outwardly, but never inwardly. For instance, Al-Bukhari recorded that Abu Ad-Darda' said, "We smile in the face of some people although our hearts curse them."*

*Al-Bukhari said that Al-Hasan said, "The Tuqyah is allowed until the Day of Resurrection."<sup>73</sup>*

The *Tafsir Al-Jalalayn* explained the exception allowed in this verse:

*...unless it is dissimulation out of fear of them so that the befriending takes place with the tongue alone and not the heart. This was before Islam became mighty, when Islam had no power in the land.<sup>74</sup>*

The modern *Tafsir Ahsanul-Bayan* explained:

*In this verse, Allah has strictly forbidden the believers to make friends with disbelievers, because the latter are the enemies of Allah as well as enemies of the believers. Hence, there is no reason to make friends with them. There are many verses in the Qur'an warning believers against making friends with disbelievers, except for reasons of expediency or need or trade. Treaties and pacts of mutual benefit may also be concluded with them...because all these are quite different things and have nothing to do with friendship.<sup>75</sup>*

This modern *tafsir* then explained the exception:

*This permission is for those Muslims who live in a non-Muslim state. If they fear repression, they may profess friendship with the non-Muslims verbally.<sup>76</sup>*

The modern *Tafsir as-Sa'di* explained Koran 3:28 this way:

*Here Allah forbids the believers to take the disbelievers as allies, close friends or supporters, seeking their help in any matter pertaining to the Muslims...because taking disbelievers as allies and close friends is contradictory to faith. This is because faith enjoins taking Allah and His close friends, the believers, as allies, helping one another to establish the religion of Islam and fighting in jihad against His enemies.<sup>77</sup>*

This *tafsir* then explained the exception:

*...when you fear for your lives, then it is permissible to do that which will protect you by saying or making a show of that which will bring about protection.<sup>78</sup>*

So Muslims professing friendship with non-Muslims are not necessarily contravening Koran 5:51 and many other such verses in the Koran. These Muslims might be following the exception allowed in Koran 3:28, smiling *in the face of some people although our hearts curse them*, while remaining faithful to Islam. Or they simply might not be devout Muslims at the time.

### **Koran 16:106**

The same principle is applied in Koran 16:106 where Muslims are allowed to deny their faith under duress. Here is that verse:

*Whoever disbelieved in Allah after his belief, except him who is forced thereto and whose heart is at rest with Faith; but such as open their breasts to disbelief, on them is wrath from Allah, and theirs will be a great torment.\**

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\* Here is the incident that led to Koran 16:106 being “revealed” to Muhammad: Said Ibn ‘Abbas: “This verse was revealed about ‘Ammar ibn Yasir. The idolaters had taken him away along with his father Yasir, his mother Sumayyah...and tortured them. As for Sumayyah, she was tied up between two camels and stabbed with a spear in her female organ. She was told: ‘You embraced Islam for the men’, and was then killed. Her husband Yasir was also killed. They were the first two persons who were killed in Islam. As for ‘Ammar, he was coerced to let them hear what they wanted to hear. The Messenger of Allah, Allah bless him and give him peace, was told that ‘Ammar has renounced faith, but he said: ‘Never, ‘Ammar is filled with faith from his head to his toes; faith is admixed with his flesh and blood!’ ‘Ammar then went to see the Messenger of Allah, Allah bless him and give him peace, crying. The Messenger of Allah, Allah bless him and give him peace, wiped his tears with his own hand and said: ‘if they return to you, let them hear again what you told them.’ Then, Allah, exalted is He, revealed this verse.”

Al-Wahidi’s *Asbab al-Nuzul*, p. 142.

It is interesting to note that ‘Ammar actually did renounce Islam. Muhammad forgave him, however, because he had been coerced. And Muhammad also told ‘Ammar that even though he had been forgiven and accepted back into the fold of

Ibn Kathir explained the meaning of this verse in a section titled Allah's Wrath against the Apostate, except for the One Who is forced into Disbelief:

*Allah tells us that He is angry with them who willingly disbelieve in Him after clearly believing in Him, who open their hearts to disbelief finding peace in that, because they understood the faith yet they still turned away from it. They will suffer severe punishment in the Hereafter, because they preferred this life to the Hereafter, and they left the faith for the sake of this world and Allah did not guide their hearts and help them to stand firm in the true religion.<sup>79</sup>*

Ibn Kathir then explained the phrase *except him who is forced thereto*:

*This is an exception in the case of one who utters statements of disbelief and verbally agrees with the Mushrikin<sup>[7]</sup> because he is forced to do so by the beatings and abuse to which he is subjected, but his heart refuses to accept what he is saying, and he is, in reality, at peace with his faith in Allah and His Messenger.<sup>80</sup>*

The *Tafsir Al-Jalalayn* also acknowledged the exception mentioned in this verse, and then pointed out that this verse was “a severe threat” to those who apostatize.<sup>81</sup>

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Islam, he could still deceive the idolaters by again denying Islam: “if they return to you, let them hear again what you told them.” Muhammad encouraged the deception to continue as long as necessary. And according to Koran 33:21 Muhammad is Islam’s perfect man whose example is to be followed.

\* *Mushrikin* or *Mushrikun*: Polytheists, pagans, idolaters and disbelievers in the Oneness of Allah and His Messenger Muhammad. Christians and Jews are considered to be *Mushrikun* – see *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, p. 290; and “Are the Jews and Christians who exist nowadays mushrikeen (polytheists) and is it permissible to marry their women?” *Islam Question & Answer*, September 26, 2003, <https://islamqa.info/en/answers/44695/are-the-jews-and-christians-who-exist-nowadays-mushrikeen-polytheists-and-is-it-permissible-to-marry-their-women>.

The *Tafsir Ahsanul-Bayan* provided a similar explanation:

*As Al-Qurtubi said, scholars are unanimous that whoever renounces the faith under duress to save his life, his heart content with the faith, he is not to be considered a disbeliever. The punitive laws relating to heresy...do not apply to him.<sup>82</sup>*

This modern *tafsir* then explained the phrase *on them is wrath from Allah*:

*That is the punishment of heresy: Awful doom and the wrath of Allah. A heretic shall be slain. That is his temporal punishment...<sup>83</sup>*

The *Tafsir as-Sa'di* provided a similar explanation of the exception mentioned in Koran 16:106:

*This does not apply to those who are forced and compelled to disbelieve when their hearts remain steadfast in faith and they want to believe, for there is no blame and no sin on them. In the case of one who is compelled and forced to do so, it is permissible for him to speak words of disbelief.<sup>84</sup>*

As-Sa'di then pointed out that Muslims could feel compelled to tell a lie in other situations, also without penalty:

*This indicates that the words of one who is compelled to issue a divorce, manumit a slave, enter into a transaction of sale or purchase and so on, does not count, and no shar'i rulings can be based on that, because if there is no punishment for uttering the word of disbelief in the case of compulsion, it is more appropriate to apply that ruling to other, less serious issues.<sup>85</sup>*

But why should Muslims feel fearful or under duress while they are living in the United States? The answer is found in Koran 4:101, which tells Muslims that the disbelievers (non-Muslims) "are ever to you open enemies." According to the Koran, Muslims in the United States are surrounded by enemies.

So we can see that if Muslims feel it is necessary, they are generally allowed to deceive non-Muslims because it is authorized by the Koran; the only requirement is that they stay true to Islam in their hearts. And pretending to renounce Islam is a valid part of Islamic Doctrine today. Here is a 2015 ruling from *Islam Question & Answer*:

*What your friend told you about it being permissible to speak words of disbelief in order to protect oneself from harm or persecution that cannot be borne is correct. That is affirmed in the Qur'an, and in the Sunnah there are reports which support it, and the scholars did not differ concerning that... In fact what the one who is forced says, even if it is in and of itself shirk, it is not really shirk in his case and he cannot be called a mushrik because of it. Rather he is still a believer; his faith is not affected at all and he has not fallen into shirk. The words that he was forced to say do not count for anything, so long as his heart was still at rest with faith.<sup>86</sup>*

The particular significance of Koran 16:106 is that it allows a Muslim to publically take an oath of office to support the *Constitution* that is in direct conflict with that Muslim's religion, to all appearances giving supremacy to the man-made laws of that *Constitution* over Islam, as long as that Muslim secretly stays true to Islam in his heart. Koran 16: 106 allows a Muslim to swear a false oath to support the *Constitution*.

Let's now look at Islam and the conflict it has with the 1<sup>st</sup> Amendment to the *Constitution*.



## 4.

### **ISLAM AND THE 1<sup>ST</sup> AMENDMENT\***

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The 1<sup>st</sup> Amendment to the *Constitution* guarantees, among other things, freedom of speech and freedom of religion. Our focus is on these two freedoms, and as we shall see, neither one of them is allowed under Islam.

#### **Freedom of Speech**

Freedom of Speech is guaranteed in the United States. When it comes to Muhammad, however, there is no freedom of speech in Islam. Muhammad did not like to be criticized or reviled. He personally ordered the killing of a number of non-Muslims simply because they had criticized or mocked him.

For example, in September 624, Muhammad ordered the killing of Ka'b b. al-Ashraf, a Jewish poet in Medina who had criticized Muhammad. After Ka'b was killed, Muhammad stated that a similar fate would befall anyone else who insulted him:

[After Ka'b was killed] *The Jews and the polytheists among them were alarmed. They came to the Prophet when it was morning and said, "Our companion, who was one of our lords, was knocked up at night and murdered treacherously with no crime or incident by him that we know of." The Messenger of God replied, "If he had remained as others of similar opinion remained he would not have been killed treacherously. But he hurt us and*

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\* This chapter is adapted from the following article: Stephen M. Kirby, "Islam in Conflict with the Constitution: Holding Muslim Public Officials Accountable to the 1<sup>st</sup> Amendment," *PipelineNews.org*, May 27, 2010, <https://www.pipeline.news.org/2019/may/27/islam-in-conflict-with-the-constitution-holding-muslim.html>.

*insulted us with poetry, and one does not do this among you, but he shall be put to the sword.*<sup>87</sup> [my emphasis]

Muhammad also killed poets in Mecca because of what they had written about him. This was mentioned in a letter written after the Muslim conquest of Mecca. It was sent to the poet Ka'b bin Zuhair, who used to satirize Muhammad, from Ka'b's brother:

*Allah's Messenger killed some men in Makkah who used to satirize and harm him, and the poets who survived fled in all directions for their lives. So, if you want to save your skin, hasten to Allah's Messenger. He never kills those who come to him repenting. If you refuse to do as I say, it is up to you to try to save your skin by any means.*<sup>88</sup>

After further correspondence between the brothers, Ka'b travelled to Medina, converted to Islam, and was forgiven by Muhammad.

Muhammad even said there was no punishment for the killing of anyone who reviled and/or criticized him; here are two examples:

*"Ibn 'Abbas told us that a blind man had a female slave...who reviled the Prophet and disparaged him, and he told her not to do that, but she did not stop...One night she started to disparage and revile the Prophet, so he took a dagger and put it in her stomach and pressed on it and killed her...The next morning mention of that was made to the Prophet and he assembled the people and said: 'By Allah, I adjure the man who did this, to stand up.' The blind man stood up and came through the people, trembling, and he came and sat before the Prophet. He said: 'O Messenger of Allah, I am the one who did it. She used to revile you and disparage you, and I told her not to do it, but she did not stop, and I rebuked her, but she paid no heed...Last night she started to revile you and disparage you, and I took a dagger and placed it on her stomach and I pressed on it until I killed her.' The Prophet said: 'Bear witness that no retaliation is due for her blood.'"*<sup>89</sup>

And,

*It was narrated from 'Ali that a Jewish woman used to revile and disparage the Prophet. A man strangled her until she died, and the Messenger of Allah declared that no recompense was payable for her blood.<sup>90</sup>*

These teachings of Muhammad are not limited to 7<sup>th</sup> Century Arabia. Consider the following:

**Kurt Westergaard:** In 2005, cartoons about Muhammad in a Danish newspaper caused destruction and death in parts of the Middle East because there were Muslims who said that these cartoons denigrated Muhammad and ridiculed Islam; and there were repeated attempts by Muslims on the life of Kurt Westergaard, the cartoonist responsible for those drawings.

**Lars Vilks:** In 2007, Swedish artist Lars Vilks drew a picture showing the head of Muhammad on the body of a dog. There were subsequent attempts by Muslims to kill him, and even an attempt to burn down his house.

***The Cartoons That Shook the World:*** This is the title of a book published in 2009 about the 2005 Danish cartoons. The book's publisher, Yale University Press, agreed to publish the book only if none of the Danish cartoons or any other illustrations of Muhammad were included in the book. The author reluctantly agreed. John Donatich, the director of Yale University Press, said that the decision to exclude the cartoons and illustrations of Muhammad was difficult.

*But, he said, "when it came between that and blood on my hands, there was no question."<sup>91</sup>*

***South Park:*** In 2010, the American satirical cartoon series *South Park* had an episode in which Muhammad appeared dressed in a bear costume. Because of threats of violence from a group called *Revolution Muslim*, that section of the cartoon was edited to remove any appearance of or reference to Muhammad wearing a bear costume.

**Molly Norris:** In 2010, Molly Norris was the editorial cartoonist for the *Seattle Weekly* in Seattle, Washington. Inspired by the *South Park* incident, she came up with the idea of having an “Everybody Draw Muhammad Day.” Because of death threats from people who claimed to be Muslims, and from a particular Muslim named Anwar al-Awlaki, and on the advice of the FBI, Molly Norris changed her name and went into hiding.\* She has not re-appeared.

**Charlie Hebdo:** In 2011, a French weekly satirical newspaper named *Charlie Hebdo* ran an edition with a cover page showing a cartoon of Muhammad and that the newspaper’s name had been changed to “*Charia Hebdo*.” The office of the newspaper was firebombed. Nevertheless, in September 2012, the newspaper again published satirical cartoons of Muhammad. Police went on alert in Paris and guarded the newspaper’s office. The French government ordered the closure of French embassies, schools and cultural centers in 20 Muslim countries on the next Friday, the Muslim day of prayer. The satirical cartoons of Muhammad continued to be published, and on January 7, 2015 two Muslim brothers went into the offices of *Charlie Hebdo* and shot and killed eleven people, including a police officer. These two gunmen then killed another police officer outside the offices. Two days later, when the two gunmen were cornered in a building by French security forces, one of the brothers had a telephone interview with a reporter from a French television station.

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\* For additional information about Molly Norris and her “Everybody Draw Muhammad Day,” see: 1) Mark D. Fefer, “On the Advice of the FBI, Cartoonist Molly Norris Disappears From View,” *Seattle Weekly*, September 14, 2010, <https://www.seattleweekly.com/news/on-the-advice-of-the-fbi-cartoonist-molly-norris-disappears-from-view/>; 2) Clifford May, “A U.S. Cartoonist in Hiding: The Molly Norris Precedent,” *Real Clear Politics*, October 5, 2010, [https://www.realclearpolitics.com/articles/2010/10/05/the\\_molly\\_norris\\_precedent.html](https://www.realclearpolitics.com/articles/2010/10/05/the_molly_norris_precedent.html); 3) Steve Almasy, “After four years, American cartoonist Molly Norris still in hiding after drawing Prophet Mohammed,” *CNN*, January 14, 2015, <https://www.cnn.com/2015/01/13/us/cartoonist-still-in-hiding/index.html>; and 4) Brie Ripley, “The vanishing of Molly Norris,” *The Seattle Globalist*, February 9, 2015, <https://www.seattleglobalist.com/2015/02/09/molly-norris-draw-mohammed-cartoon-charlie-hebdo-seattle/32674>.

For a good overview and a rarely seen copy of Norris’ cartoon, see Kjell Knudde, “Molly Norris,” *Lambiek Comiclopedia*, April 3, 2019, [https://www.lambiek.net/artists/n/norris\\_molly.htm](https://www.lambiek.net/artists/n/norris_molly.htm).

The brother told the reporter:

*We defend the prophet. If someone offends the prophet then there is no problem, we can kill him.*<sup>92</sup>

These are words and actions out of the 7<sup>th</sup> Century, but they are just following the *Judgement of the Shari'a regarding someone who curses or disparages the Prophet*:

*Know that all who curse Muhammad, may Allah bless him and grant him peace, or blame him or attribute imperfection to him in his person, his lineage, his deen [religion] or any of his qualities...whether in the form of a curse or contempt or belittling him...the judgement regarding such a person is the same as the judgement against anyone who curses him, He is killed...The same applies to anyone who curses him, invokes against him, desires to harm him, ascribes to him what does not befit his position or jokes about his mighty affair with foolish talk, satire, disliked words or lies, or reviles him...or disparages him...*<sup>93</sup>

Although, instead of immediately killing the accused, a Muslim leader can instead choose to crucify that person.<sup>94</sup>

When it comes to Muhammad, Islam does not allow freedom of speech, even in the United States. And Molly Norris is still in hiding.

## **Freedom of Religion**

Freedom of Religion is guaranteed in the United States. Muslims who want to leave Islam, however, can face the death penalty. This is found both in the Koran and in the teachings of Muhammad.

Koran 4:89 states that apostates from Islam should be killed:

*...But if they turn back (from Islam), take (hold of) them and kill them wherever you find them...*

In explaining this Koran verse, the 11<sup>th</sup> Century Muslim scholar al-Wahidi wrote:

*Mujahid said apropos this verse: "This was revealed about some people who left Mecca to Medina [claiming to be Muslims]...they then renounced Islam...Allah, exalted is He, then revealed their hypocrisy by means of this verse and commanded that they be executed..."<sup>95</sup>*

Muhammad also said it was legal to kill a Muslim who left Islam:

*Narrated 'Abdullah: Allah's Messenger said, "The blood of a Muslim who confesses that La ilaha illallah (none has the right to be worshipped but Allah) and that I am the Messenger of Allah, cannot be shed except in three cases:... (3) the one who turns renegade from Islam (apostate) and leaves the group of Muslims (by innovating heresy, new ideas and new things, etc. in the Islamic religion)." <sup>96</sup>*

Muhammad even specified the means of death for those leaving Islam:

*If someone changes his religion – then strike off his head!<sup>97</sup>*

Although Muhammad did say that crucifixion was a possible penalty for apostasy from Islam:

*It was narrated from 'Aisha that the Messenger of Allah said: "It is not permissible to shed the blood of a Muslim except in three cases...a man who left Islam and waged war against Allah, the Mighty and Sublime, and His Messenger, who should be killed, or crucified, or banished from the land."<sup>98</sup>*

The 10<sup>th</sup> Century Muslim scholar Ibn Surayj suggested an additional way of killing an apostate. He proposed that the apostate be beaten with a wooden club until the apostate died. Ibn Surayj noted that in contrast to using the sword, this was a slower means of death and would allow the apostate time to recant and return to Islam.<sup>99</sup>

It is not surprising then to find the following statement about apostasy from Islam in *Reliance of the Traveller, a Classic Manual of Islamic Sacred Law*:

*When a person who has reached puberty and is sane voluntarily apostatizes from Islam, he deserves to be killed.<sup>100</sup>*

The modern *Minhaj Al-Muslim* had this to say about apostates:

*The apostate is someone who leaves the religion of Islam for another religion, such as Christianity or Judaism, for example, or for something that is not a religion...The ruling of the apostate is that he is invited for three days to return to Islam and he is encouraged intensely to do so. If he returns to Islam, he will be left alone, and if not, he is killed with a sword as a Hadd punishment...And indeed the Muslims have unanimously agreed to what we have mentioned about the laws concerning the apostate.<sup>101</sup>*

The modern *Fatawa Islamiyah: Islamic Verdicts* said this about apostates:

*Such person must be called to repent for three days and relations with him must be severed: If he does so, (all well and good), but if not, he should be killed.<sup>102</sup>*

And how was he to be killed? The verdict in *Fatawa Islamiyah: Islamic Verdicts* was that "his head should be chopped off."<sup>103</sup>

In 2010, while explaining that the penalty for apostasy from Islam was death, Sheikh Muhammed Salih Al-Munajjid wrote this:

*... such strong rulings as this are only applied to such a person whose life is no longer considered to be useful, because he knew the truth and followed the religion, then he left it and forsook it. What soul can be more evil than the soul of such a person? In conclusion, the answer is that Allaah is the One Who revealed this religion and enjoined it. He is the One Who ruled that the one who enters it and then leaves it is to be executed. This ruling does not come from the Muslims' ideas or suggestions. As this is the case, then we must follow the ruling of Allaah so long as we are content to accept Him as our Lord and God.<sup>104</sup>*

A 2018 posting by the editor of *Questions on Islam* explained the penalty for apostasy:

*To change one's religion, means "to join the opposite front and to declare war against Muslims" in terms of balances in the international level and among nations in a sense. Or, it means a snake, a scorpion that poisons people, especially the young people by propaganda against the Muslim community, emitting poison. Therefore, a person is not killed because he changed his religion but because he waged war against Muslims and tries to poison them spiritually...The orders of Allah and His Messenger are the reason for the decree...a person who exits from the religion of Islam, which is a religion that addresses both the mind and the heart as well as the lofty feelings, will not have any virtues related to humanity. From this viewpoint, when a person exits the religion of Islam, he is regarded to have exited humanity too.<sup>105</sup>*

So, we can see that the death penalty for Muslims who leave Islam is still a valid punishment today. And there is a reason for why the death penalty was, and still is, a valid punishment. In 2013, Yusuf Al-Qaradawi, a preeminent Egyptian scholar and then-head of the International Union of Muslim Scholars, stated plainly that if the punishment for apostasy had not been death, Islam would not have long survived after the death of Muhammad:

*If they had gotten rid of the apostasy punishment Islam wouldn't exist today. Islam would have ended since the death of the prophet, peace be upon him. So opposing apostasy is what kept Islam to this day. Surah Al-Ma'idah says: The punishment of those who wage war against Allah and His apostle is that they should be murdered or crucified. According to Abi Kulaba's narration, this verse means the apostates. And many hadiths, not only one or two, but many, narrated by a number of Muhammad's companions state that any apostate should be killed.<sup>106</sup>*



There is no freedom of religion for Muslims who want to leave their faith.

We can see that Islamic Doctrine is in direct conflict with the freedom of speech and of religion guaranteed by the 1<sup>st</sup> Amendment to the *Constitution*.



## 5.

### ISLAM AND THE 2<sup>ND</sup> AMENDMENT

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The 2<sup>nd</sup> Amendment prohibits the government from infringing on the right of the people to keep and bear arms. But under Islam, there would be no right for non-Muslims to keep and bear arms.

Muhamad set the example; this was pointed out in a 2008 comment by Muslim scholar Ahmed Mahmoud Karima:

*The Prophet banned the sale of weapons in internal wars and sedition, as well as the sale, by Muslims, of weapons to Muslims' enemies.*<sup>107</sup>

As was noted previously, Koran 4:101 states that non-Muslims are always “open enemies” to the Muslims.

A 2012 ruling at *Islamway* repeated this idea:

*The Messenger of Allaah (peace and blessings of Allaah be upon him) forbade selling weapons at times of fitnah (tribulation)...*<sup>108</sup>

Based on the context surrounding this statement, it is apparent that this referred to the idea of selling weapons to non-Muslims.

The attitude toward weapons being possessed by non-Muslims was well-illustrated in the 7<sup>th</sup> Century *Pact of 'Umar*. The *Pact of 'Umar* was reportedly a treaty between 'Umar, the second Muslim Caliph, and the conquered Christians of Syria, circa 637. And although Jews were not specifically mentioned in the *Pact*, it was nevertheless generally considered a model for how Muslims were to deal with both Jewish and Christian populations.

The Muslim scholar Ibn Kathir wrote the following about the *Pact of 'Umar*:

*The scholars of Hadith narrated from 'Abdur-Rahman bin Ghanm Al-Ash'ari that he said, "I recorded for 'Umar bin*

*Al-Khattab, may Allah be pleased with him, the terms of the treaty of peace he conducted with the Christians of Ash-Sham [Syria]:*

*'In the Name of Allah, Most Gracious, Most Merciful. This is a document to the servant of Allah 'Umar, the Leader of the faithful, from the Christians of such and such city... We will not...hang swords on the shoulders, collect weapons of any kind or carry these weapons...'*<sup>109</sup>

'Umar was not just any caliph. He was one of the four "Rightly Guided" Caliphs. These were the first four caliphs after Muhammad's death, and they were so named because they are believed to have held the most firmly to the teachings and example of Muhammad.

Let's move from the 7<sup>th</sup> Century *Pact of 'Umar* to the well-regarded 14<sup>th</sup> Century *Reliance of the Traveller*. In this legal manual we find that Muslims are forbidden from selling weapons to a people who are at war with Muslims.<sup>110</sup>

And who is at war with Muslims? It is the non-Muslims, according to Koran 4:101.

Islamic Doctrine also points out that non-Muslims in non-Muslim countries are at war with Muslims because the world is divided into the *dar al-Islam*, the territory under Muslim rule, and the *dar al-harb*, the "territory of war" consisting

*...of all the states and communities outside the word of Islam. Its inhabitants were often called infidels, or better, unbelievers...the dar al-Islam was always, in theory, at war with dar al-harb.*<sup>111</sup>

Majid Khadduri summed it up: "... the normal relationship between Islam and non-Muslim communities is a state of hostility."<sup>112</sup> And those in the *dar al-harb* are even "presumably hostile to the Muslims living in its domain."<sup>113</sup>

There is a verse of the Koran that addresses those who are at war against Islam; Koran 5:33 states:

*The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they*

*shall be killed or crucified or their hands and their feet be cut off from opposite sides...*

What does it mean to “wage war against Allah and his Messenger”? According to the authoritative Muslim scholar Ibn Kathir, to *wage war against Allah and Muhammad* meant to

*oppose and contradict, and it includes disbelief, blocking roads and spreading fear in the fairways.*<sup>114</sup>

Consequently, one is waging war by not believing in, or by simply opposing and contradicting Allah and Muhammad. In other words, non-Muslims are by definition at war with Muslims.

Even though Islamic law allows an infidel to enter a Muslim land under certain conditions, that infidel is still not allowed to buy any “war weapons” while he is in *dar al-Islam*, since it “might result in strengthening *dar al-harb* against *dar al-Islam*.”<sup>115</sup> Conversely, a Muslim is not allowed to sell weapons to those in the *dar al-harb*.<sup>116</sup>

As Majid Khadduri pointed out:

*The general principle implied is that dar al-Islam, being at war with dar al-harb, should not permit the export of war material which might strengthen dar al-harb against dar al-Islam.*<sup>117</sup>

For a good historical overview of the prohibition of weapons for non-Muslims living in Muslim-majority countries, and that this “arms ban for Jews was still effect [sic] in Yemen during the twentieth century,” see “Dhimmitude and Disarmament” by David B. Kopel.<sup>118</sup>

There are contemporary examples of Muslims banning non-Muslims from possessing firearms. *E.g.*, after ISIS (Islamic State in Iraq and al-Sham) conquered the city of Raqqa in 2013, one of the conditions it imposed on the Christian inhabitants was that they were not to carry arms.<sup>119</sup> And in 2015, Christians from Al-Qaryaten were forced to sign a contract with ISIS that included a provision that they were not allowed to own guns.<sup>120</sup>

What are the feelings among other Muslims about non-Muslims being sold weapons?

In a 2004 posting at *Islam Question & Answer* there is this interesting statement:

*The Muslims are unanimously agreed that it is permissible to interact with ahl al-dhimmah (non-Muslims living under Muslim rule) and other kuffaar, so long as the object of the transaction is not haram [forbidden], but it is not permissible for a Muslim to sell weapons or tools of war to those who are waging war against the Muslims, or anything that helps them to support their religion.*<sup>121</sup>

In a 2012 posting at *Islamway* we find such advice as:

*With regard to selling weapons to ahl al-harb (those who wage war against the Muslims), it is haraam [forbidden] according to scholarly consensus...This also applies to every sale, rental or exchange that helps people to disobey Allaah, such as selling weapons to kaafirs [disbelievers], aggressors and bandits...*<sup>122</sup>

We can see that from the 7<sup>th</sup> Century through the modern day, Islam has taught that non-Muslims should not be allowed to have weapons.

The 2<sup>nd</sup> Amendment prohibits the government from infringing on the right of the people to keep and bear weapons. But under Islam, there would be no right for non-Muslims to keep and bear weapons.

## 6.

### ISLAM AND THE 4<sup>TH</sup> AMENDMENT

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The 4<sup>th</sup> Amendment guarantees the

*... right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.*

When it came to Muhammad, the timeless model of conduct for Muslims, however, there was no regard for the idea of non-Muslims being secure in their persons and in their homes.

In March 624, Muhammad issued his first order to kill an individual when he had had enough of 'Asma' Bint Marwan, a poetess who used her poetry to insult him and to vilify Islam. Muhammad said, "Who will rid me of Marwan's daughter?"<sup>123</sup> A Muslim name 'Umayr went in the middle of the night to 'Asma's house and killed her with his sword while she was asleep and her children were lying asleep around her. When he was told about this, Muhammad said, "You have helped God and His apostle, O 'Umayr!"<sup>124</sup> And it is interesting to note that after she was killed, the men of her tribe, Banu Khatma, became Muslims because they had seen "the power of Islam."<sup>125</sup>

The next month Muhammad dealt with Abu 'Afak. Abu 'Afak had refused to become a Muslim and had ridiculed Muhammad after the battle of Badr.<sup>126</sup> Muhammad said, "Who will deal with this rascal for me?" One of the Muslims then went to Abu 'Afak's house and killed Abu 'Afak while he was sleeping.<sup>127</sup>

In April of 627, Muhammad sent a small group of Muslims to the house of Abu Rafi', a Jew who had criticized Muhammad. The Muslims were ordered to kill him. They entered his house at night under a false pretense and killed Abu Rafi' with their swords as his wife stood by shrieking.<sup>128</sup>

And the next month, Muhammad sent a Muslim warrior, 'Abdullah b. Unays, to kill Sufyan b. Khalid. 'Abdullah befriended Sufyan, joined

him in his tent, and then killed him; he cut off Sufyan's head, "leaving his women crying over him." 'Abdullah brought Sufyan's head back to Muhammad, and Muhammad praised 'Abdullah.<sup>129</sup>

Not only individuals, but entire non-Muslim communities were not secure in their homes from surprise attacks by Muslim forces.

In June 628, Muhammad led a Muslim army against the Jewish community of Khaybar. The Muslims attacked at daybreak as the towns people were coming out of their houses, and Muhammad called out, "Allah akbar [sic]! Khaybar is destroyed."<sup>130</sup> The battle cry of the Muslims that day was "O victorious one, slay, slay!"<sup>131</sup>

In December 628, Abu Bakr, Muhammad's father-in-law and trusted friend, led a Muslim raiding party to Najd. Their battle cry was reported as "Amit, amit [put to death, put to death]," and "Kill! Kill!"<sup>132</sup> Salamah bin Akwa', one of the participants in the raid, described what happened:

*It was narrated from Iyas bin Salamah bin Akwa', that his father said: "We attacked Hawazin, with Abu Bakr, during the time of the Prophet, and we arrived at an oasis belonging to Bani Fazarah during the last part of the night. We attacked at dawn, raiding the people of the oasis, and killed them, nine or seven households."<sup>133</sup>*

Salamah stated, "I slew with my hand members of seven families of the polytheists."<sup>134</sup> There was no safety even in their own homes for the members of these seven or nine households.

In June 629, Muhammad sent a "raiding party" of 13-19 Muslim warriors against the Banu al-Mulawwih, a non-Muslim tribe. They waited until the people had gone to sleep before they attacked:

*We gave them until their herds had come back from pasture in the evening. After they had milked the camels, set them to rest by the watering trough, and had stopped moving around, after the first part of the night had passed, we launched the raid on them. We killed some of them, drove away the camels, and set out to return.<sup>135</sup>*

The battle cry of the raiding party that night was variously reported as: 1) "Kill! Kill!"<sup>136</sup>; 2) "Amit, amit."<sup>137</sup>; and 3) "Slay! Slay!"<sup>138</sup>



In May 630, Muhammad ordered a Muslim force to make a “surprise attack” on the non-Muslim tribe of Khath’am. He commanded them to ride by night and hide by day. The Muslim force arrived and attacked the Khath’am while they slept.<sup>139</sup>

In May 632, Muhammad had ordered an expedition to attack the Byzantines at a town named Ubna (known as the Expedition to Mu’ta). Muhammad chose Usama ibn Zayd ibn Harithah to lead the expedition. It was reported that Muhammad said the following to Usama:

*I have appointed you commander of this army. Attack the people of Ubna early in the morning and set fire (to their camp).<sup>140</sup>*

Muhammad’s death on June 7<sup>th</sup> delayed the attack. Soon afterward, when Usama led his force to Ubna, he said,

*But the Messenger of God commanded me and this was his last command to me: To hasten the march and to be ahead of the news. And to raid them, without inviting them [to Islam], and to destroy and burn.<sup>141</sup>*

Usama obeyed that command:

*He attacked them and their watch-word was: ya Mansur Amit [O victorious one, kill]. He killed him who met him, enslaved him whom he could, set fire to their boats, and burnt their dwellings, farms and palm-groves which turned into whirl-wind [sic] of smoke. He drove his horses into their plains.<sup>142</sup>*

Muhammad and his Muslim warriors attacked unsuspecting non-Muslim communities late at night or early in the morning to the indiscriminating battle cries of *Kill! Kill!*<sup>143</sup> and *O victorious one, slay, slay!*<sup>144</sup> These Muslim attacks on the homes and communities of non-Muslims were supported by both the teachings of Muhammad and the commands of Allah in the Koran. We shall take a closer look at the Islamic Doctrinal basis for these attacks against non-Muslims when considering the “Sanctity of Life” in Chapter 9, *Islam and the 14<sup>th</sup> Amendment*.

Other than converting to Islam, the only way that many non-Muslims had of protecting themselves and their property from these attacks was to become a *dhimmi*, who was at best a second-class citizen in a Muslim-controlled land. Majid Khadduri wrote this about the *dhimmi*:

*His rights were fully protected within his own community, but, as a subject of the Muslim state, he suffered certain disabilities which reduced him to the status of a second-class citizen.*<sup>145</sup>

We shall take a closer look at the status of *dhimmis* in Chapter 9, *Islam and the 14<sup>th</sup> Amendment*.

Today there are still places where non-Muslims are not safe in their own homes and communities from Muslims around them - see Raymond Ibrahim's eye-opening series of articles covering the time period of 2010 - Present at *Muslim Persecution of Christians*.<sup>146</sup>

And even when the Last Hour arrives for the world, non-Muslims will still not be protected. Muhammad said:

*And the rocks and trees will say: "O Muslim, there is a disbeliever beneath me, come and kill him." Thus Allah will cause them to perish.*<sup>147</sup>

The 4<sup>th</sup> Amendment guarantees the right of people to be secure in their persons and in their homes from "unreasonable searches and seizures." Under Islam, there are still places where non-Muslims can never be secure in their persons and in their homes.\*

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\* For an in-depth look at the experiences of non-Muslims when Muhammad was commanding his Muslim forces to conquer the Arabian Peninsula at the point of the sword, see my book *Islam's Militant Prophet: Muhammad and Forced Conversions to Islam* (CreateSpace: Charleston, SC, 2016), at <https://www.amazon.com/Islands-Militant-Prophet-Muhammad-Conversions/dp/1536892386>.

## 7.

### **ISLAM AND THE 8<sup>TH</sup> AMENDMENT\***

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**T**he 8<sup>th</sup> Amendment prohibits cruel and unusual punishment. In this chapter we will be examining the following punishments which are allowed, and even sometimes commanded by the Koran and/or the teachings and example of Muhammad:

- Amputation and death for theft
- Amputation of a hand and foot from the opposite sides
- Amputation of the fingers and toes
- Beheading
- Burning people to death
- Crucifixion
- Flogging
- Stoning to death
- Torture

Let's start out with the punishments for theft allowed under Islam.

#### **Amputation and death for theft**

Koran 5:38 states that amputation of a hand is the punishment for theft:

*And (as for) the male thief and the female thief, cut off (from the wrist joint) their (right) hands as a recompense*

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\* This chapter is adapted from the following article: Stephen M. Kirby, "Islam in Conflict with the Constitution: Holding Muslim Public Officials Accountable to the 8<sup>th</sup> Amendment," *PipelineNews.org*, June 3, 2019, <https://www.pipeline.news.org/2019/jun/02/islam-in-conflict-with-the-constitution-holding-muslim.html>.

*for that which they committed, a punishment by way of example from Allah. And Allah is All-Powerful, All-Wise.*

Muhammad also ordered that a hand should be cut off for theft:

*Narrated 'Aishah: The Prophet said, 'The hand should be cut off for stealing something that is worth a quarter of a Dinar or more.'*<sup>148</sup>

And,

*Narrated Abu Hurairah: Allah's Messenger said, "Allah curses the thief who steals an egg (or a helmet) for which his hand is to be cut off, or steals a rope, for which his hand is to be cut off."*<sup>149</sup>

Muhammad said that amputation for theft was "one of the legal punishments prescribed by Allah," and he would even cut off the hand of one of his daughters if she was a thief:

*By Him in whose Hand Muhammad's soul is, if Fatima, the daughter of Muhammad stole, I would cut her hand.*<sup>150</sup>

Muhammad set this example for the progressive punishment of thieves, which included the sequential amputation of both hands and feet, and finally stoning to death. It is interesting to note that each of the first four times this thief was brought to Muhammad for having committed a theft, Muhammad had initially ordered the thief to be killed:

*It was narrated that Jabir bin 'Abdullah said: "A thief was brought to the Messenger of Allah and he said: 'Kill him.' They said: 'O Messenger of Allah, he only stole.' He said: 'Cut off (his hand).' So his hand was cut off. Then he was brought a second time and he said: 'Kill him.' They said: 'O Messenger of Allah, he only stole.' He said: 'Cut off (his foot).' So his foot was cut off. He was brought to him a third time and he said: 'Kill him.' They said: 'O Messenger of Allah, he only stole.' He said: 'Cut off (his other hand).' Then he was brought to him a fourth time and he said: 'Kill him.'*

*They said: 'O Messenger of Allah, he only stole.' He said: 'Cut off (his other foot).' He was brought to him a fifth time and he said: 'Kill him.'" Jabir said: "So we took him to an animal pen and attacked him. He lay down on his back then waved his arms and legs (in the air), and the camels ran away. Then they attacked him a second time and he did the same thing, then they attacked him a third time, and we threw stones at him and killed him, then we threw him into a well and threw stones on top of him."<sup>151</sup>*

Even today if a “mentally retarded person”

*...confesses to having committed theft, it will be accepted only for the purpose of amputation and not for financial liability, that is, his or her confession will have an effect vis-à-vis the right of God (haqq Allah) and not vis-à-vis the rights of other human beings (haqq al-nas).<sup>152</sup>*

So a “mentally retarded person” will not have any financial liability for what he stole, but he will have to answer to “the right of God” by having his hand cut off. It is interesting that mental retardation excuses one only from the lesser of the two penalties.

And the modern *Minhaj Al-Muslim* described how the amputation is to be performed:

*The right hand of the thief should be cut at the joint of the hand (i.e., the wrist [sic])...Then it is completed by placing it (the person's arm) in boiling oil in order to cut off the openings of the veins and stop the bleeding. It is also recommended that the hand be hung on the person's neck for a period of time as a lesson of admonition.<sup>153</sup>*

Hanging the hand on the person's neck is based on the following example set by Muhammad:

*It was narrated that Ibn Muhairiz said, "I asked Fadalah bin 'Ubaid about hanging the hand (of the thief) from his neck, and he said: 'It is Sunnah. The Messenger of Allah cut off a man's hand then hung it from his neck."<sup>154</sup>*

And Siraj Wahhaj, imam of Al-Taqwa mosque in Brooklyn, New York and on the Executive Committee of the Muslim Alliance in North America, reminded his listeners that amputation is still a valid punishment for theft:

*The thief, the one who steals, man or woman, male or female, chop off their hands. If they steal, chop off their hands. This is a commandment of Allah, subhanahu wa ta'ala...And you know what, believe me, you chop off enough hands, all the people will get the example. And the people say, well, I'd better not do that, if I don't feel like getting my hands chopped off. This is an example from Allah, subhanahu wa ta'ala. He is - Al Aziz, Al Hakim - powerful and he is wise.<sup>155</sup>*

And it is an act of apostasy for a Muslim to claim that amputation for theft "is not appropriate in the modern age."<sup>156</sup>

Under Islam, amputation of hands and feet, and even death can be the penalty for theft.

### **Amputation of a hand and foot from the opposite sides**

Koran 5:33 states:

*The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from opposite sides...*

What does it mean to "wage war against Allah and his Messenger"?

According to Ibn Kathir, to *wage war against Allah and Muhammad* meant to

*...oppose and contradict, and it includes disbelief, blocking roads and spreading fear in the fairways.<sup>157</sup>*

So, one is waging war by not believing in, or by simply opposing and contradicting Allah and Muhammad. It seems then that all non-Muslims are by default engaged in waging war against Allah and Muhammad because they are disbelievers, and, as was pointed out

before, in Koran 4:101 Allah states that the disbelievers (non-Muslims) “are ever to you open enemies.” Under Islam the penalty for this can be the amputation of a hand and foot from opposite sides.

There is an eye-opening variation on this when it comes to one of the penalties for *Al-Muharibin* (Muslims who rob and kill defenseless Muslims and spread terror): “his hands are cut off or his feet are cut off.”<sup>158</sup>

### **Amputation of the fingers and toes**

Koran 8:12 states:

*(Remember) when your Lord revealed to the angels, “Verily, I am with you, so keep firm those who have believed. I will cast terror into the hearts of those who have disbelieved...smite over all their fingers and toes.”*

“Smite over” their fingers and toes means to cut them off. Although this verse states what Allah had commanded the angels to do when they reportedly helped the Muslims during the Battle of Badr, it was also a command for what the Muslims (believers) were to do to their enemies:

*Ibn Jarir commented that this Ayah [verse] commands, “O believers! Strike every limb and finger on the hands and feet of your (disbelieving) enemies.”<sup>159</sup>*

Why cut off fingers and toes? In the commentary about this verse of the Koran, the modern *Tafsir Ahsanul-Bayan* explained:

*If the fingers of the hands are cut off, they will become unable to move their swords. Similarly, when the toes are cut off, they will be unable to run away.<sup>160</sup>*

Such amputations are usually known as mutilation, and under Islam this mutilation is allowed.

## **Beheading**

For this we return to Koran 8:12:

*(Remember) when your Lord revealed to the angels, "Verily, I am with you, so keep firm those who have believed. I will cast terror into the hearts of those who have disbelieved, so strike them over the necks..."*

As noted above, Ibn Jarir, an authoritative Muslim scholar, stated that the command to the angels in this verse to *smite over all their fingers and toes* was actually also a command to the Muslims to do the same to their enemies. Therefore, it would be implied that Allah's command to the angels to *strike them over the necks* (behead them) would then also be a command to the Muslims to do the same.

Nevertheless, Allah's command about beheading was later repeated directly to the Muslims in terms of how to deal with non-Muslims; we find this in Koran 47:4:

*So, when you meet (in fight – Jihad in Allah's Cause) those who disbelieve, smite (their) necks till when you have killed and wounded many of them, then bind a bond firmly (on them, i.e. take them as captives)...*

Muhammad also commanded people to be beheaded. He specifically said, "If someone changes his religion - then strike off his head!" This was said in the context of a Muslim leaving Islam.<sup>161</sup>

Muhammad even said it was permissible to behead a person who denied a verse of the Koran:

*It was narrated from Ibn 'Abbas that the Messenger of Allah said: "Whoever denies a Verse of the Qur'an, it is permissible to strike his neck..."<sup>162</sup>*

On one occasion, Muhammad sent one of his warriors to behead a Muslim (*strike his neck*) who had illegally married a woman.<sup>163</sup>

In March 627, Muhammad supervised the beheading of 600-900 captured Jewish males from the defeated Banu Qurayza tribe; those



beheaded included both combatants and non-combatants.<sup>164</sup> As it was later described:

*The Messenger of God breakfasted at the market and gave instructions for a furrow to be dug there [in which to bury those to be killed]...The Messenger of God sat with the distinguished among his companions. He called for the men of the Banu Qurayza, and they came out at a leisurely pace, and their heads were cut off.<sup>165</sup>*

Muhammad had ordered that all of the males who had reached puberty were to be killed, whether combatant or non-combatant.<sup>166</sup> As one pre-pubescent survivor later related:

*It was narrated from Sufyan: "Abdul-Malik bin 'Umair narrated to us; 'Atiyah Al-Qurazi narrated to me, he said: I was among the captives of Banu Quraizah, and they examined (us). Those whose pubes had started to grow were executed, and those whose pubes had not started to grow were not executed. I was among those whose pubes had not started to grow."<sup>167</sup>*

It was a hot summer day, and eventually Muhammad felt some compassion for those waiting to be beheaded:

*The Messenger of God said, "Be good to your captives. Let them rest; quench their thirst until they are cool. Then, kill those who remain. Do not apply both the heat of the sun and the heat of the weapons." It was a summer's day. They let them rest. They quenched their thirst and fed them. When they were cool the Messenger of God began to kill those who were left.<sup>168</sup>*

And from April 624 until January 630, Muhammad had a standing order to mutilate and behead a certain non-Muslim if he was captured:

*I have not seen the Messenger of God send an expedition ever, except he said: If you defeat Habbar cut off his hands and legs and then his head.<sup>169</sup>*

Habbar saved himself by converting to Islam before he could be captured and punished.

In January 630, as Muhammad was leading a Muslim army of 10,000 warriors against Mecca, he ordered the killing of certain Meccans. One of them was 'Abdallah b. Sa'd b. Abi Sarh, who used to be a scribe for Muhammad and wrote down the "revelations" Muhammad received. 'Abdallah had left Islam and become an apostate, however, and it was alleged that 'Abdallah arbitrarily altered "revelations" received by Muhammad, or had boasted about doing so after he became an apostate.<sup>170</sup> Muhammad wanted him beheaded. 'Abdallah was saved from being beheaded only by the inaction of the Muslims around Muhammad:

*[After Mecca had been conquered] He ['Abdallah] fled to 'Uthman [a Muslim leader], who was his foster-brother, and 'Uthman hid him. 'Uthman later brought him to the Messenger of God after the people of Mecca had become calm. He asked the Messenger of God to grant him a promise of safety. The Messenger of God is said to have remained silent for a long time and then to have said yes. After 'Uthman had taken him away, the Messenger of God said to his companions who were around him, "By God, I kept silent so that one of you might go up to him and cut off his head!" One of the Ansar said, "Why didn't you give me a signal, Messenger of God?" He replied, "A prophet does not kill by making signs."<sup>171</sup>*

Beheading is still legal according to Islamic Doctrine<sup>172</sup> and it is frequently done in Saudi Arabia, home of the two holiest cities in Islam.<sup>173</sup>

## **Burning people to death**

Muhammad considered burning Muslims' houses down around them to compel their attendance at congregational prayers:

*It was narrated that Abu Hurairah said: "The Messenger of Allah said: 'I was thinking of commanding that the call to prayer be given, then I would tell a man to lead the people in prayer, then I would go out with some other men carrying bundles of wood, and go to people who do not*

*attend the prayer, and burn their houses down around them.”<sup>174</sup>*

In December 627 Muhammad

*... launched a raid against the tribe of al-Mustalaq and they fought back. So he commanded to set fire to their fortifications all night long with the widespread knowledge that women and children were in there.<sup>175</sup>*

In October 630, there was some resistance among the Muslims toward a military expedition Muhammad was planning against the Byzantines at Tabuk. So Muhammad

*...heard that the hypocrites were assembling in the house of Suwaylim the Jew (his house was by Jasum) keeping men back from the apostle in the raid on Tabuk. So the prophet sent Talha b. ‘Ubaydullah with a number of his friends to them with orders to burn Suwaylim’s house down on them. Talha did so, and al-Dahhak b. Khalifa threw himself from the top of the house and broke his leg, and his friends rushed out and escaped.<sup>176</sup>*

Muhammad’s example of being willing to burn people alive continued.

After Muhammad died, there were many Arab tribes that left Islam. This resulted in the Wars of Apostasy (*Riddah Wars*) under Abu Bakr, the first of the four “Rightly Guided” Caliphs. The commander of each army that Abu Bakr sent out had a letter to be read to the tribe before it was attacked. The letter explained that if the tribe did not return to Islam, the army commander

*...will not spare any one of them he can gain mastery over, [but may] burn them with fire, slaughter them by any means...<sup>177</sup>*

The commander of one of the Muslim armies was Khalid bin al-Walid. Here is a command that Abu Bakr gave to Khalid:

*...kill them by every means, by fire or whatever else.<sup>178</sup>*

And Abu Bakr gave Khalid a specific command when he sent him against the Bani Hanifah in Al-Yamamah:

*Kill their wounded, seek out those of them who flee, put the captives among them to the sword and strike terror among them by killing and burn them by fire. And I warn you against contradicting my orders. Peace (be upon you).<sup>179</sup>*

Khalid took Abu Bakr's admonitions to heart and was known for burning many captives alive. Abu Bakr's response to this was:

*I shall not sheathe a sword that Allah had unsheathed against the 'unbelievers.'<sup>180</sup>*

Abu Bakr had even set the example when a captive who had fought against the Muslims was brought to him. Abu Bakr

*...ordered a fire to be kindled with much firewood in the prayer yard (musalla) of Medina and threw him, with arms and legs bound, into it.<sup>181</sup>*

The burning continued as 'Ali, the fourth "Rightly Guided" Caliph, ordered some people to be burned alive for being hypocrites. A modern commentary explained this decision:

*The people, who were burnt alive, were the followers of a Jew named 'Abdullah bin Sabah. They were hypocrites and they were involved in a heinous crime of preaching 'Ali's divinity, so 'Ali giving a lesson for others, gave them such a severe punishment.<sup>182</sup>*

In 2015, the *jihadist* group ISIS burned alive a captured Jordanian Air Force pilot. Soon afterwards an article appeared in their online magazine *Dabiq* that included Koran verses, teachings of Muhammad, and examples of Muhammad's companions to provide the Islamic Doctrinal support for the burning alive of "the Jordanian crusader pilot."<sup>183</sup>

Muhammad is the example of conduct for Muslims, so we can see that burning people alive is still allowed by Islamic Doctrine.

## Crucifixion

For this we return to Koran 5:33:

*The recompense of those who wage war against Allah and His Messenger and do mischief in the land is only that they shall be killed or crucified...*

As has been previously noted, according to the Muslim scholar Ibn Kathir to *wage war against Allah and Muhammad* meant to

*...oppose and contradict, and it includes disbelief, blocking roads and spreading fear in the fairways.<sup>184</sup>*

So one is waging war simply by not believing in, or opposing and contradicting Allah and Muhammad, and for that, under Islam one can be crucified.

And Muhammad himself said that a Muslim leaving Islam could be crucified:

*It was narrated from 'Aisha that the Messenger of Allah said: "It is not permissible to shed the blood of a Muslim except in three cases...a man who left Islam and waged war against Allah, the Mighty and Sublime, and His Messenger, who should be killed, or crucified, or banished from the land."<sup>185</sup>*

Muhammad apparently did not order anyone to be crucified. Rather the first crucifixion to occur in Medina was done on the orders of 'Umar, the second "Rightly Guided" Caliph, who ordered that a male and a female slave be crucified for killing their owner.<sup>186</sup>

And crucifixion is still a legal punishment for Al-Muharibin (Muslims who rob and kill defenseless Muslims and spread terror). According to the modern Minhaj Al-Muslim, the Muharibin can be "hung up on a tree or wooden stake and left to die."<sup>187</sup>

Crucifixion is also a legal punishment in Saudi Arabia, but it has an interesting twist:

*Pictures emerged on social media appearing to show five decapitated bodies hanging from a horizontal pole with*

*their heads wrapped in bags,” Amnesty International said in a statement at the time. “In Saudi Arabia, the practice of ‘crucifixion’ refers to the court-ordered public display of the body after execution, along with the separated head if beheaded. It takes place in a public square to allegedly act as a deterrent.<sup>188</sup>*

## **Flogging**

There are two Koran verses that specifically command flogging as a punishment. The first is Koran 24:2:

*The fornicatress and the fornicator, flog each of them with a hundred stripes. Let not pity withhold you in their case, in a punishment prescribed by Allah, if you believe in Allah and the Last Day. And let a party of the believers witness their punishment.*

And Koran 24:4 states:

*And those who accuse chaste women, and produce not four witnesses, flog them with eighty stripes...*

Muhammad also commanded flogging:

*‘Ubada b. As-Samit reported: Allah’s Messenger (SAW) saying: Receive (teaching) from me, receive (teaching) from me. Allah has ordained a way for those (women). When an unmarried male commits adultery with an unmarried female (they should receive) one hundred lashes and banishment for one year. And in case of married male committing adultery with a married female, they shall receive one hundred lashes and be stoned to death.<sup>189</sup>*

Muhammad even ordered the flogging of one of his female slaves. When he found out that a black slave-girl of his had given birth to an illegitimate child, he ordered that she be flogged with fifty lashes after she recovered from her postpartum bleeding:

*It was narrated from ‘Ali that he said: The Messenger of Allah sent me to a black slave woman of his who had*

*committed zina [fornication], to carry out the hadd punishment of flogging on her. I found that she was still bleeding (postpartum) so I went to the Prophet and told him about that. He said to me: "When she recovers from her nifas (postpartum bleeding), give her fifty lashes."*<sup>190</sup>

Muhammad said that flogging was to be the standard punishment for a female slave who engaged in illegal sexual intercourse:

*Narrated Abu Hurairah: The Prophet said, "If a lady-slave commits illegal sexual intercourse...then she should be flogged (fifty stripes)...and if she commits illegal sexual intercourse again, then she should be flogged again...and if she commits illegal sexual intercourse for the third time then she should be sold even for a hair rope."*<sup>191</sup>

Siraj Wahhaj, imam of Al-Taqwa mosque in Brooklyn, New York and on the Executive Committee of the Muslim Alliance in North America, repeated the words of his prophet when he pointed out:

*The word in Qu'ran, zina, means either fornication or adultery. If you commit zina and you're single, the punishment in Islam is 100 lashes.*<sup>192</sup>

Flogging is still a legal punishment for:

1. Drinking alcohol;
2. Falsely accusing someone of illegal sexual intercourse;
3. Unmarried persons committing fornication;
4. Male and female slaves committing fornication with each other, whether married or unmarried;<sup>193</sup> and
5. Rape.\*

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\* "What is the difference between the ruling on rape and the ruling on fornication or adultery? Can rape be proven by modern methods?" *Islam Question & Answer*, June 19, 2012, <https://islamqa.info/en/answers/158282/what-is-the-difference-between-the-ruling-on-rape-and-the-ruling-on-fornication-or-adultery-can-rape-be-proven-by-modern-methods>. According to this ruling:

Rape is essentially zina (fornication or adultery) and is proven in the same way as zina is proven, which is with four witnesses. The punishment is one hundred lashes if the man was a virgin and stoning if he was previously married. If rape is committed using the threat of a weapon or if the woman is abducted forcefully from her home, then it becomes a case of haraabah (banditry or terrorising the people), which is proven with two witnesses only... A woman's claim to have been forced

## Stoning to death

It is important to keep in mind that the stoning of adulterers is not mentioned in the Koran. The original punishment for adultery was actually confinement, not stoning. This original punishment was “revealed” in Koran 4:15:

*And those of your women who commit illegal sexual intercourse, take the evidence of four witnesses from amongst you against them; and if they testify, confine them (i.e., women [sic]) to houses until death comes to them or Allah ordains for them some (other) way. [my emphasis]*

The penalty for adultery was later changed to flogging by Koran 24:2:

*The fornicatress and the fornicator, flog each of them with a hundred stripes. Let not pity withhold you in their case, in a punishment prescribed by Allah, if you believe in Allah and the Last Day. And let a party of the believers witness their punishment.*

But as we saw above, the earlier Koran verse (4:15) had included the phrase: ... *or Allah ordains for them some (other) way.* And it was sometime after Koran 24:2 was “revealed” when Muhammad received a message from Allah about that other way.<sup>194</sup> Here is that *hadith*:

*‘Ubada b. As-Samit reported: Allah’s Messenger (SAW) saying: Receive (teaching) from me, receive (teaching) from me. Allah has ordained a way for those (women). When an unmarried male commits adultery with an unmarried female (they should receive) one hundred lashes and banishment for one year. And in case of married*

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into zina can only be accepted on the basis of proof or strong circumstantial evidence. If there is no such evidence, then the hadd punishment is to be carried out on her as it is carried out on the zaani (the man who committed fornication or adultery)...She is not to be punished if it is proven that he forced her and overpowered her. That may be known from her having screamed and shouted for help.



*male committing adultery with a married female, they shall receive one hundred lashes and be stoned to death.*<sup>195</sup>

So Muhammad now clarified that lashing and banishment was the penalty for unmarried persons committing adultery, but lashing and stoning to death was the penalty for married persons committing adultery. In practice, however, stoning to death became the sole penalty.\*

There are those who still claim that the penalty for adultery is only flogging. Here is the chronological approach to countering that claim:

1. Koran 24:2 (flogging) was “revealed.”
2. Muhammad later clarified the new penalty of stoning adulterers (“the other way”).
3. In January 630, Muhammad ordered adulterers to be stoned.<sup>196</sup>
4. In 630-631, Muhammad ordered an adulteress from Ghamid to be stoned (see her story below).<sup>197</sup>
5. In 632, about four months before he died, Muhammad repeated the command that adulterers were to be stoned.<sup>198</sup>

There were numerous authoritative reports that Muhammad had ordered adulterers to be stoned to death; here are two examples:

*Narrated Ibn ‘Abbas: When Ma’iz bin Malik came to the Prophet (in order to confess), the Prophet said to him, “Probably you have only kissed (the lady), or winked, or looked at her?” He said, “No, O Allah's Messenger!” The Prophet said, using no euphemism, “Did you had [sic] sexual intercourse with her?” The narrator added: At that, (i.e., after his confession) the Prophet ordered that he be stoned (to death).<sup>199</sup>*

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\* Although the Hanbali School of Islamic Sacred Law did take the position that the penalty was both flogging and stoning – see *The Mercy in the Difference of the Four Sunni Schools of Islamic Law*, p. 187.

And here is the eye-opening story about the adulteress from Ghamid:

*'Abdullah b. Buraida reported on the authority of his father...There came to the Holy Prophet a woman from Ghamid and said: Allah's Messenger, I have committed adultery, so purify me. He (the Holy Prophet) turned her away. On the following day she said: Allah's Messenger, why do you turn me away...By Allah, I have become pregnant. He said: Well, if you insist upon it, then go away until you give birth to (the child). When she delivered she came with the child (wrapped) in a rag and said: Here is the child whom I have given birth to. He said: Go away and suckle him until you wean him. When she had weaned him, she came to him (the Holy Prophet) with the child who was holding a piece of bread in his hand. She said: Allah's Apostle, here is he as I have weaned him and he eats food. He (the Holy Prophet) entrusted the child to one of the Muslims and then pronounced punishment. And she was put in a ditch up to her chest and he commanded people to stone her. Khalid b. Walid came forward with a stone which he flung at her head, and there spurted blood on the face of Khalid and so he abused her. Allah's Apostle (SAW) heard his (Khalid's) curse that he hurled upon her. Thereupon he (the Holy Prophet) said: Khalid, be gentle. By him in Whose hand is my life, she has repented...he prayed over her and she was buried.<sup>200</sup>*

Even after Muhammad's death stoning continued to be a part of Islam. 'Umar was the second "Rightly Guided" Caliph:

*'Umar bin Al-Khattab said: "The Messenger of Allah stoned, Abu Bakr [the first "Rightly Guided" Caliph] stoned, and I stoned..."<sup>201</sup>*

'Ali was Muhammad's cousin, son-in-law and the fourth "Rightly Guided" Caliph:

*It was narrated from Salimah and Mujalid, from ash-Sha'bi, that they heard him narrate that 'Ali said,*

*concerning a woman from Koofah who he had flogged on Thursday and stoned on Friday: I flogged her in accordance with the Book of Allah and stoned her in accordance with the Sunnah of the Prophet of Allah.<sup>202</sup>*

The 20<sup>th</sup> Century *Tafsir Ahsanul-Bayan* summed up the punishment for adultery this way:

*Now the punishment of adultery has been fixed, which is stoning to death. That punishment also remained in force during the times of the Rightly-Guided caliphs (successors of the Messenger of Allah) and that remained the unanimous opinion of all the jurists and scholars afterwards... A Muslim has, therefore, no choice except to acknowledge and accept it.<sup>203</sup>*

The modern *Tafsir as-Sa'di* stated:

*As for the fornicators who were previously married [or still married]...the hadd punishment in this case is stoning. Allah has forbidden us to let pity for them deter us from obedience to Him and prevent us from carrying out the hadd punishment on them, whether that is natural pity or is because the person is a relative or friend and so on. Faith should lead one not to have that pity which could prevent one from carrying out the command of Allah.<sup>204</sup>*

Siraj Wahhaj, imam of Al-Taqwa mosque in Brooklyn, New York and on the Executive Committee of the Muslim Alliance in North America, said this about stoning:

*The word in Qu'ran, zina, means either fornication or adultery...If you commit zina and you're married, the punishment is death by stoning—capital punishment.<sup>205</sup>*

The modern *Minhaj Al-Muslim* noted:

*If the person who commits Zina is a man or woman who is (or has been legally) married, then they are stoned to death with rocks.<sup>206</sup>*

In fact, the *Minhaj Al-Muslim* even described the procedure:

*A ditch is dug in the ground for the adulterer that reaches up to his chest. Then he is placed in it and stones are thrown at him until he dies in the presence of the Imam or his deputy and a group of the Muslims, who should be no less than four people in number...The woman is like the man in this matter except that her garments are wrapped tightly around her so that she does not become exposed.*<sup>207</sup>

And according to the *Minhaj Al-Muslim*, homosexuals are to be stoned to death whether married or not:

*The Hadd of homosexuality is stoning to death, with there being no difference between the married or unmarried person...The methods of killing them (the two who committed the homosexual act) that have been related from the Companions [of Muhammad] have differed. From among them were those who burned them with fire. Others among them killed them by stoning them with stones. Ibn 'Abbas said about them, "The highest building in the village should be sought, then they should be thrown from it upside down (i.e., on their heads [sic]). Then they should be stoned after that."*<sup>208</sup>

Such treatment of homosexuals comes as no surprise, because here is some of what Muhammad said about homosexuals:

Muhammad said that those committing homosexual acts should be killed:

*Ibn 'Abbas said that the Messenger of Allah said, "Whoever you catch committing the act of the people of Lut (homosexuality), then kill both parties to the act."*<sup>209</sup>

And Muhammad even specified how those homosexuals were to be killed:

*It was narrated from Abu Hurairah that the Prophet said concerning those who do the action of the people of Lut: "Stone the upper and the lower, stone them both."*<sup>210</sup>

In terms of adultery, it is an act of apostasy for a Muslim to claim that stoning a married adulterer “is not appropriate in the modern age.”<sup>211</sup>

And stoning is also a possible punishment for someone who committed a rape.<sup>212</sup>

## **Torture**

Muhammad ordered the torture of at least three individuals. Muhammad asked a Jew, Sa’yah ibn-‘Amr, about a bag of treasure:

*“What has become of the bag which Huyai brought from the banu-an-Nadir?” To this Sa’yah answered, “Wars and expenses have emptied it.” But the Prophet remarked, “It was a short time and a big sum of money. Moreover, Huyai was killed before that.” The Prophet then turned Sa’yah over to az-Zubair and the latter put him to the torture.*

As a result of the torture, Sa’yah revealed where some of the treasure was hidden.<sup>213</sup>

Muhammad then ordered the torture and beheading of Kinana bin al-Rabi. After that, Muhammad

*...commanded that the other Ibn Abi l-Huqayq (the brother of Kinana) also be tortured and then handed over to the care of Bishr b. al-Bara’ to be killed by him. Some say that he cut off his head. After that the Messenger of God felt he had the right to their property and imprisoned their children.<sup>214</sup>*

Muhammad also had no criticism of the torturous murder of an elderly female captive. In January 628, Muhammad’s adopted son Zayd bin Harithah led a Muslim raiding party to Wadi al-Qura. The raiding party fought and took captives from the Banu Fazarah tribe. Among the captives was an old woman named Umm Qirfah. She met a cruel fate:

*Zayd b. Harithah ordered Qays to kill Umm Qirfah, and he killed her cruelly. He tied each of her legs with a rope and tied the ropes to two camels, and they split her in two.<sup>215</sup>*

There was no recorded comment from Muhammad about this intentionally cruel killing of a woman. This should not be surprising when we consider Zayd's background. Muhammad's first wife Khadija had originally given Zayd to Muhammad as a slave. Muhammad subsequently freed Zayd and adopted him as his son. Zayd was beloved and trusted by Muhammad and was often placed in command of Muslim military expeditions. If Zayd knew that Muhammad would not have approved of such an action, he certainly would not have allowed Qays to kill Umm Qirfah in such a fashion. Zayd allowed it because he knew that Muhammad would not disapprove of it.

Muhammad spoke for Allah and set the example for how Muslims should conduct themselves. Islam allows people to be tortured.

Although many examples of cruel and unusual punishment used here are from the 7<sup>th</sup> Century, punishments like these are occurring in Muslim-majority countries today.<sup>216</sup> Cruel and unusual punishments are prohibited by the 8<sup>th</sup> Amendment of the *Constitution*, but allowed under Islam.

## 8.

### **ISLAM AND THE 13<sup>TH</sup> AMENDMENT\***

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The 13<sup>th</sup> Amendment prohibits slavery; but according to the modern *Minhaj Al-Muslim*:

*The ruling of slavery is that it is permissible. This is due to Allah the Almighty's statement: (And those whom your right hands possess.) (4:36)<sup>217</sup>*

The author of that book pointed out various reasons for slavery, and then noted:

*Islam is the True Religion of Allah and it has not allowed any of these reasons for slavery except one, which is taking slaves through war. This is a mercy for humans...Islam allowed its followers to take the women and children as slaves, firstly in order to preserve their lives, and secondly, to facilitate their happiness and their eventual liberation.<sup>218</sup>*

This statement is soon followed by a section titled “Laws Regarding the Slave” showing the current laws under Islam when it comes to dealing with slaves.<sup>219</sup>

So slavery is “a mercy for humans” and still permissible under Islam. But reference was also made to a phrase found in Koran 4:36: *those whom your right hands possess*. So let's start out by looking closer at that phrase.

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\* This chapter is adapted from the following article: Stephen M. Kirby, “Islam in Conflict with the Constitution: Holding Muslim Public Officials Accountable to the 13<sup>th</sup> Amendment,” *PipelineNews.org*, June 10, 2019, <https://www.pipeline.news.org/2019/jun/09/islam-in-conflict-with-the-constitution-ndash-holding.html>.

## Whom Your Right Hands Possess

This is a phrase that designates a special category of slaves under Islam. A non-Muslim woman captured by Muslims during a battle falls under the category of those “whom your right hands possess.” She then becomes a slave to her Muslim captor and it becomes “legal” for him to have intercourse with her. This is authorized by Koran 4:24, which begins by talking about how Muslim men are forbidden from marrying (and having sex with) women who are already married, but then makes an important exception:

*... except those (slaves) whom your right hands possess.  
Thus has Allah ordained for you ...*

Ibn Kathir explained the meaning of this verse:

*The Ayah [verse] means, you are prohibited from marrying women who are already married, (except those whom your right hands possess) except those whom you acquire through war, for you are allowed such women after making sure they are not pregnant. Imam Ahmad recorded that Abu Sa'id Al-Khudri said, "We captured some women from the area of Awtas who were already married, and we disliked having sexual relations with them because they already had husbands. So, we asked the Prophet about this matter, and this Ayah was revealed...Consequently we had sexual relations with these women."<sup>220</sup>*

So, instead of Muhammad prohibiting his Muslim warriors from raping the women they had captured in the area of Awtas, Koran 4:24 was “revealed” to him giving his Muslim warriors Allah’s authorization to not only have slaves from among the captured non-Muslim women, but to also actually go ahead and rape them.

Muhammad’s attitude about how captured non-Muslim women could be treated was shown again in another eye-opening example in which Muhammad condoned the rape of female captives from the non-Muslim Mustaliq tribe.



In this story about the Mustaliq tribe we shall see that the only problem to be resolved was whether or not the ransom the Muslims were expecting for these particular female captives would be affected if those captives were returned pregnant. In response to the question from his Muslim warriors about whether they should therefore engage in *coitus interruptus* with their soon-to-be rape victims, Muhammad, instead of prohibiting the rapes, merely said that *coitus interruptus* would not matter because every soul that was destined to be born would be born:

*Abu Sirma said to Abu Sa'id Al Khudri (Allah he pleased with him): O Abu Sa'id, did you hear Allah's Messenger (SAW) mentioning al-'azl [coitus interruptus]? He said: Yes, and added: We went out with Allah's Messenger (SAW) on the expedition to the Bi'l-Mustaliq. We took captive some excellent Arab women. We desired them, for we were suffering from the absence of our wives, (but at the same time) we also desired ransom for them. So we decided to have sexual intercourse with them but by observing 'azl...But we said: We are doing an act whereas Allah's Messenger is amongst us; why not ask him? So we asked Allah's Messenger (SAW), and he said: It does not matter if you do not do it, for every soul that is to be born up to the Day of Resurrection will be born.<sup>221</sup>*

So Muhammad gave his approval to the rape of these “excellent Arab women.” It is an interesting side note that *coitus interruptus* was one of the “ten characteristics” that Muhammad disliked.<sup>222</sup>

It should therefore come as no surprise that the founders of the four major Sunni schools of Islamic Sacred Law agreed that

*...when a married woman becomes a prisoner of war without her husband, her contract of marriage with her husband ends, and her new master has the right to have sexual relations with her after the birth of a child if she is pregnant, or after waiting a while to confirm the status of her womb if she is not apparently pregnant.<sup>223</sup>*

Has there been any change in the understanding of this verse over the centuries? The answer is a resounding “No.” The 20<sup>th</sup> century *Tafsir Ahsanul-Bayan* explained Koran 4:24 this way:

*The historical background of the verse is that when pagan women were captured by Muslims in battles, they disliked having intercourse with them because they had husbands. The Companions asked the Messenger of Allah about it. Thereupon, this verse was revealed. The verse allowed the Muslims to have intercourse with pagan women if they were captured in battles even if they had husbands, providing their wombs have been cleansed, that is, after one menses or, in case they are pregnant, after the delivery of the child.*<sup>224</sup>

The commentary about this verse in the *Tafsir Ahsanul-Bayan* continued under a section titled *Problem of slave women*. Echoing the remarks about slavery noted above in *Minhaj Al-Muslim*, the commentary in this modern *tafsir* stated that slavery had originated “from two main causes.” The first was “an unending cycle of tribal warfare” which “gave rise to a continual flow of captives.”

*The second source was Islamic wars. Women captured in these wars were distributed among Muslim soldiers who kept them as slave girls. In the absence of any international covenant governing these captives, keeping them as slaves was the only solution possible, since leaving them would result in a great deal of corruption in public life. Married Muslim women are prohibited. And so are unbelieving women, except for those who are captured by Muslims, after their wombs have become clear.*<sup>225</sup>

Our other 20<sup>th</sup> century Koran commentary had a similar, but shorter explanation of Koran 4:24:

*...“except any slave-girls you may own” that is, those who have been captured in war. If a disbelieving woman who is married is captured in war, she becomes permissible for the Muslims after one menstrual cycle has passed (which serves to establish that she is not pregnant).*<sup>226</sup>

And the Muslim man can have as many of these slaves as his “right hand” can possess.<sup>227</sup>

It is interesting to note that Koran 33:50 specifically made female sex slaves legal for Muhammad because Allah had “given” them to him:

*O Prophet (Muhammad)! Verily, We have made lawful to you your wives...and those (slaves) whom your right hand possesses - whom Allah has given to you...*

And Muhammad’s favorite wife ‘Aisha confirmed that he had such sex slaves:

*Narrated ‘Aishah...the hand of Allah’s Messenger did not touch any woman’s hand except the hand of the woman that his right hand possessed (i.e. his captives or his lady-slaves).<sup>228</sup>*

## **The Koran allows slavery**

In the Koran there are numerous verses acknowledging and accepting the Muslim possession of slaves. For example, the following Koran verses explain how Muslims should act around or treat their slaves, with slavery being an accepted condition: 2:221, 16:71, 24:31, 24:58, 30:28, and 33:55. And the following three Koran verses talk about a Muslim freeing a slave, not because slavery was wrong, but rather in atonement for a Muslim’s misdeed: 4:92, 5:89, and 58:3.

## **Muhammad was a slave owner and dealer**

There are numerous authoritative reports in which Muhammad was personally involved in possessing, buying, selling, and giving away slaves. Here are some eye-opening stories about Muhammad and his dealings with slaves:

1. *It was narrated from Anas that the Prophet bought Safiyyah [one of his wives] for seven slaves.<sup>229</sup>*
2. *‘Adda’ bin Khalid bin Hawdhah said to me: ‘Shall I not read to you a letter that the Messenger of Allah wrote to me?’ I said: ‘Yes.’ So he took out a letter. In it was: ‘This is what ‘Adda’ bin*

*Khalid bin Hawdhah bought [from] Muhammad the Messenger of Allah. He bought from him a slave' - or - 'a female slave, having no ailments, nor being a runaway, nor having any malicious behavior. Sold by a Muslim to a Muslim.'"*<sup>230</sup>

3. *They [the Muslims] took several captives from the people of Mina' which is on the shore, a mixed lot among them. They were sold as slaves and families were separated. The apostle arrived as they were weeping and inquired the reason. When he was told he said, 'Sell them only in lots', meaning the mothers with the children.*<sup>231</sup>

4. At times Muhammad personally took that same approach in keeping families together when he was distributing slaves:

*It was narrated that 'Abdullah said: Prisoners would be brought to the Messenger of Allah and he would give an entire family [to someone, as slaves], because he did not want to separate them.*<sup>232</sup>

5. As noted earlier when looking at the 8<sup>th</sup> Amendment to the Constitution, after the defeat of the Jewish Banu Qurayzah tribe, Muhammad supervised the beheading of 600-900 captured Jewish males who had reached puberty. There was a reason why Muhammad spared the women and children:

*...the reason why the children and women of Banu Quraythah were spared, was because there was a benefit [Maslahah] in keeping them alive - meaning enslavement. And killing them would have meant destroying valuable property. But as Az-Zayla'i (ra) clarifies - that if there is indeed a benefit in killing the women and children of the kuffar - a benefit which would have to be greater than the benefit of enslaving them - then it is permissible to kill them.*<sup>233</sup>

Muhammad divided up that tribe's "property, wives, and children" among the Muslims, with the exception of some of the women that he sent to Najd and to Syria to be sold for horses and weapons.<sup>234</sup> Muhammad personally sold some of the other captured women:

*I attended the Messenger of God who was selling the prisoners of the Banu Qurayza. Abu al-Shahm al-*

*Yahudi bought two women, with each one of them three male children, for one hundred and fifty dinars.*

Muhammad also personally sold “a portion” of the women and children to ‘Uthman b. ‘Affan and ‘Abd al-Rahman b. ‘Awf.<sup>235</sup>

6. After the defeat of the Jews at Khaybar, Muhammad had the women of Khaybar “distributed among the Muslims.”<sup>236</sup>
7. After the non-Muslim Hawazin tribe was defeated, Muhammad gave Ali, ‘Umar, and ‘Uthman (all later “Rightly Guided” Caliphs) each a woman from among those captured. ‘Umar then gave his to his son.<sup>237</sup> Muhammad gave other “slave girls” to some of his Muslim warriors, who, along with ‘Uthman, then had “intercourse” with their slaves. It was reported that ‘Uthman’s slave-girl “detested him” after the “intercourse.”<sup>238</sup>
8. Muhammad found out that one of his wives, Maimuna, had freed her slave-girl. Muhammad told Maimuna she would have received “more reward” had she given the slave-girl to one of her uncles (who no doubt would have greatly appreciated that gift):

*Narrated Maimuna, the wife of the Prophet that she manumitted her slave-girl and the Prophet said to her, “You would have got more reward if you had given the slave-girl to one of your maternal uncles.”<sup>239</sup>*

9. Muhammad gave his foster-sister a gift of a male and a female slave.<sup>240</sup>
10. When Muhammad found out that a black slave-girl of his had given birth to an illegitimate child, he ordered that she be flogged with fifty lashes after she recovered from her postpartum bleeding.<sup>241</sup>
11. Muhammad tried to get the Banu Salamah tribe to join him in attacking the Byzantines at Tabuk by promising them that they would get sex slaves and servants. He told their leader,  
*O Abu Wahb, would you not like to have scores of Byzantine women and men as concubines and servants?<sup>242</sup>*

According to a prize-winning 20<sup>th</sup> Century biography of Muhammad, he did not free his own slaves until the day before he died.<sup>243</sup>

Although the examples used here are from the 7<sup>th</sup> Century,<sup>244</sup> slavery still exists today in some Muslim-majority countries.<sup>245</sup> Seemingly as an explanation for this, the modern scholar Al-Jaza'iri wrote:

*If someone says, "Why does Islam not obligate the manumission of slaves, making it something mandatory that the Muslim must do"? We say, "Islam came while slaves were (already) possessed by people. It is not befitting the just Law (Shari'ah) of Allah...to obligate people to abandon all of their possessions. Likewise, it is not in the best interest of many of the slaves to be set free, as there are among them women, children and even men who are not able to be self-sufficient. This is because they may lack the ability to earn (wages) and they may be ignorant of the ways to acquire it. Therefore, remaining a slave with his Muslim master...is thousands of times better than expelling him from the house that was kind and merciful to him, to the nightmare of being without and being deprived."<sup>246</sup>*

A similar explanation was given in the modern *Fatawa Islamiyah; Islamic Verdicts*:

*By this it is known that the basis of slavery is only through prisoners-of-war or captives obtained when fighting Jihad against the disbelievers. Its purpose is to reform those enslaved by removing them from an evil environment and allowing them to live in a Muslim society, who will guide them to the path of goodness, save them from the clutches of evil, purify them from the filth of disbelief and misguidance...So the ruling on slavery in Islam is that it is like a washroom or a public bath, which those who have been enslaved enter from one door in order to wash the dirt from themselves, then they leave by another door in a state of purity and deliverance from disease.<sup>247</sup>*

The explanation continued by saying that if any “lawful Islamic war took place today between the Muslims and the disbelievers,” it would be for the “the leader of the Muslims” to decide the fate of any disbelievers taken prisoner: “either forgiveness, ransom, death or slavery.” But what about those who had already been enslaved as a result of a previous lawful Islamic war? The verdict was that they would remain slaves until they were given the opportunity to obtain freedom.<sup>248</sup>

Slavery is prohibited by the 13<sup>th</sup> Amendment, but it is still allowed under Islam and considered to be a blessing for those so enslaved.





## 9.

### **ISLAM AND THE 14<sup>TH</sup> AMENDMENT**

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Section 1, the “Equal Protection Clause,” of the 14<sup>th</sup> Amendment states:

*...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...nor deny to any person within its jurisdiction the equal protection of the laws.*

The “Equal Protection Clause” is quite clear that all persons are to be treated equally in the eyes of the law. Does Islamic Doctrine teach such equality?

Let’s start off with these considerations:

1. According to Koran 9:28, non-Muslims are forbidden from entering the city of Mecca and the sacred area in the city of Medina because they are impure (*Najasun*).
2. A non-Muslim is prohibited from having custody of a Muslim child.<sup>249</sup>
3. The Drought Prayer is prayed when “the land is parched or the water supply is cut off or diminished.” The people fast for three days, and on the fourth day

*...they come out to an empty expanse in their work clothes, accompanied by those of the women who do not have attractive figures...Non-Muslim subjects of the Islamic state [dhimmis] who attend are not hindered from doing so, but may not mix with us.<sup>250</sup>*

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\* The impurity of non-Muslims is explained in the footnote for Koran 9:28: Their impurity is spiritual and physical: spiritual, because they don’t believe in Allah’s Oneness and in His Prophet Muhammad; and physical, because they lack personal hygiene (filthy as regards urine, stools and blood, etc.).

The Noble Qur’an, n. 1, p. 260

This is not a good start in terms of equality between Muslims and non-Muslims. Let's examine some specific issues.

## **Sanctity of Life**

According to the teachings of Muhammad, as long as a Muslim remained a believer and did not violate any of the doctrines of Islam, he was not to be harmed by another Muslim:

*Abu Huraira reported that Allah's Messenger (may peace be upon him) had said...A Muslim is the brother of a Muslim. He neither oppresses him nor humiliates him nor looks down upon him...All things of a Muslim are inviolable for his brother in faith; his blood, his wealth and his honour.<sup>251</sup>*

This was also commanded by Allah in Koran 4:92-93:

*It is not for a believer to kill a believer except (that it be) by mistake...And whoever kills a believer intentionally, his recompense is Hell to abide therein; and the Wrath and the Curse of Allah are upon him, and a great punishment is prepared for him.*

Muhammad stated, however, that there was to be no penalty for a Muslim who killed a non-Muslim (disbeliever):

*It was narrated from 'Amr bin Shu'aib, from his father, from his grandfather that the Messenger of Allah said: "A Muslim should not be killed in retaliation for the murder of a disbeliever."<sup>252</sup>*

This was repeated in The Reliance of the Traveller:

*The following are not subject to retaliation...a Muslim for killing a non-Muslim.<sup>253</sup>*

And in *Sahih Al-Bukhari*, in the section titled *The Book of Ad-Diyat (Blood-Money)*, there is a chapter titled "A Muslim should not be killed for killing a *Kafir* (disbeliever)." Here we find that 'Ali, Muhammad's

cousin and son-in-law, said that he had a sheet of paper upon was written

*...the judgement that no Muslim should be killed in Al-Qisas (equality in punishment) for killing a Kafir (disbeliever).<sup>254</sup>*

And how could there be such a penalty when even before the Muslims emigrated from Mecca to Medina in 622, Islamic Doctrine was already providing a basis for making war against and slaughtering non-Muslims?

In the Middle Meccan time period (615-619), Allah had already stated in Koran 21:109\* that the Muslims were at war with non-Muslims:

*But if they (disbelievers, idolaters, Jews, Christians, polytheists) turn away (from Islamic Monotheism) say (to them O Muhammad): "I give you notice (of war as) to be known to us all alike. And I know not whether that which you are promised (i.e., the torment [sic] or the Day of Resurrection) is near or far."*

Ibn Kathir pointed out the hostility toward non-Muslims found in this verse:

*(But if they turn away) means, if they ignore that to which you call them. (say: "I give you a notice to be known to us all alike...") meaning, 'I declare that I am in a state of war with you as you are in a state of war with me. I have nothing to do with you just as you have nothing to do with me.'<sup>255</sup>*

This meaning was reiterated in two other *tafsirs*:  
The modern Tafsir Ahsanul-Bayan:

*That is, just as I know that you are my enemy because you have turned away from the worship of One God, so should*

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\* Pickthall stated that Chapter 21 belonged to the Middle Meccan Period - see *The Meaning of the Glorious Koran*, p. 328.

*you also know that I am your enemy. We are at war with each other.*<sup>256</sup>

The *Tafsir Al-Jalalayn*:

***If they turn their backs on that, then say: 'I have informed all of you equally – of a war which will be waged against you...'***<sup>257</sup>

In September 622, shortly before Muhammad left Mecca for Medina, he was telling non-Muslims that if they refused to convert to Islam they would “meet with slaughter from him.” In the following narration, a group of non-Muslim Meccans were gathered outside Muhammad’s front door:

*...among them was Abu Jahl b. Hisham, who said...“Muhammad claims that if you follow him in his religion, you shall be the kings of the Arabs and the non-Arabs...He also claims that if you do not do this, you shall meet with slaughter from him...Then the Messenger of God came out, took a handful of dust and said, “Yes, I do say that; and you are one of them.”*<sup>258</sup>

So even before the Muslims emigrated to Medina Muhammad was talking about killing non-Muslims. And after the Muslims had established their power base in Medina, the killing of non-Muslims became a reality.

As we saw in Chapter 6, starting in March 624, Muhammad was ordering the killing of individual non-Muslims. Soon he was sending his Muslim warriors against non-Muslim communities where entire “households” were killed. And as we saw in Chapter 7, Muhammad supervised the beheading of 600-900 captured male Jews; those beheaded included non-combatants.

In December 627, Muhammad sent a Muslim force of 700 men under the command of ‘Abd al-Rahman bin ‘Awf to Dumat al-Jandal to “invite them to Islam.” Muhammad also commanded ‘Abd al-Rahman to kill anyone who did not believe in Allah:

*Take it [the standard], Ibn ‘Auf; fight everyone in the way of God [Allah] and kill those who disbelieve in God...This is*

*God's ordinance and the practice of his prophet among you.*<sup>259</sup>

It is striking that in this command Muhammad said that the killing of non-Muslims was Allah's "ordinance" and a "practice" of Muhammad, the man who set the timeless model of conduct for Muslims (Koran 33:21).

In March 629, Koran 2:193 was "revealed."\* This verse commanded Muslims to fight non-Muslims until they accepted Islam. Whether they were hostile toward the Muslims or not was irrelevant; the mere fact that they were non-Muslims was enough to allow the Muslims to initiate the fighting. Here is that verse:

*And fight them until there is no more Fitnah (disbelief and worshipping of others along with Allah) and (all and every kind of) [sic] worship is for Allah (Alone). But if they cease, let there be no transgression except against Az-Zalimun (the polytheists and wrongdoers).*

Al-Qurtubi explained this verse:

*It is an unqualified command to fight without any precondition of hostilities being initiated by the unbelievers. The evidence for that is in the words of Allah, "and the din [religion] belongs to Allah alone." The Prophet said, "I was commanded to fight people until they say, 'There is no god but Allah.' The ayat [verse] and hadith both indicate that the reason for fighting is disbelief...**If they cease, there should be no enmity towards any but wrongdoers.** If they stop and become Muslim or submit by paying jizya in the case of the people of the Book. Otherwise they should be fought and they are wrongdoers....The wrongdoers are either those who*

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\* There were two reports that this verse was among those "revealed" around the time of Muhammad's "Fulfilled Pilgrimage" to Mecca in March 629; see *Al-Wahidi's Asbab al-Nuzul*, p. 23; and *Tafsir Ahsanul-Bayan*, Vol. 1, pp. 171-172. In addition, al-Qurtubi wrote that 2:190 was "revealed" concerning the "Fulfilled Pilgrimage" and agreed with those who said 2:193 had subsequently abrogated those "previous" verses - see *Tafsir Al-Qurtubi*, pp. 490 and 496. Consequently, I am using the date of March 629 for the "revelation" of this verse.

*initiate fighting or those who remain entrenched in disbelief and fitna.*<sup>260</sup>

Immediately after the conquest of Mecca in January 630, Muhammad began sending out Muslim forces to attack those who were not following Islam. Muhammad had even given a command to kill anyone who was not a Muslim:

*... 'Abd al-Malik Ibn Nawfal Ibn Musahiq al-Qurashi related to me on the authority of his father; he said: The Apostle of Allah, may Allah bless him, sent us on the day of Nakhlah (when al-'Uzza was demolished), and said: Slay the people as long as you do not hear a mu'adhdhin [one who calls Muslims to prayer] or see a mosque.*<sup>261</sup>

Koran 9:5 was “revealed” in March 631 and openly proclaimed that non-Muslims were to be fought against until they converted to Islam; this verse is referred to as the *Verse of the Sword*<sup>262</sup> and was specifically mentioned in Al-Qaeda’s 1998 declaration of war against the United States.<sup>263</sup> Here is Koran 9:5:

*Then when the Sacred Months have passed, then kill the Mushrikun [non-Muslims] wherever you find them, and capture them and besiege them, and lie in wait for them in every ambush. But if they repent [by rejecting Shirk (polytheism) and accept Islamic Monotheism] and perform As-Salat (the prayers), and give Zakat (obligatory charity), then leave their way free. Verily, Allah is Oft-Forgiving, Most Merciful.*

Ibn Kathir pointed out that with this verse, the non-Muslims would “have no choice, but to die or embrace Islam.”<sup>264</sup> He also noted that the command *kill the Mushrikun wherever you find them* was a “general statement” and meant Muslims could slay them “anywhere on earth you meet them.”<sup>265</sup>

The *Tafsir Al-Jalalayn* stated that there were no restrictions to the command *wherever you find them*; this command meant “whether they be in the Haram or outside it.”<sup>266</sup>

The *Tafsir Ibn 'Abbas* went one step further, explaining that *wherever you find them* meant

*...whether in the Sacred Precinct or outside it, during the sacred months or at any other time...*<sup>267</sup>

And what about *capture them*? Ibn Kathir explained that this meant “executing some and keeping some as prisoners.”<sup>268</sup> The modern *Tafsir Ahsanul-Bayan* noted that *capture them* meant one of two options: “take them as prisoners or kill them.”<sup>269</sup>

Then we come to the command to *besiege them, and lie in wait for them in every ambush*. The *Tafsir Ibn ‘Abbas* said that this meant to besiege them “in their homes.”<sup>270</sup>

The *Tafsir Ibn Kathir* explained that this meant

*...do not wait until you find them. Rather, seek and besiege them in their areas and forts, gather intelligence about them in the various roads and fairways so that what is made wide looks ever smaller to them. This way, they will have no choice, but to die or embrace Islam.*<sup>271</sup>

The *Tafsir Al-Jalalayn* said this meant

*...besiege them in citadels and fortresses until they either fight or become Muslim...*<sup>272</sup>

The modern *Tafsir Ahsanul-Bayan* had a similar explanation:

*That is, do not wait until you get a chance to take action against them, but besiege them wherever they are, in their forts and in their places of refuge, and lie in wait for them everywhere until they find it impossible to move without your permission.*<sup>273</sup>

The other modern *tafsir*, *Tafsir as-Sa’di*, had this to say:

*... put pressure on them and do not let them expand their territory in the land of Allah that He has ordained as a place of worship for His slaves, for these people are not qualified to dwell there and they do not deserve even a hand span of that land, for it is the land of Allah and they are His enemies...they are in a state of war, as they want to rid the earth of His religion...*<sup>274</sup>

The modern Muslim scholar Yasir Qadhi made this sobering comment about Koran 9:5:

*This was one of the last verses to be revealed, and perhaps the last verse that dealt with the treatment of the disbelievers.*<sup>275</sup>

And Muhammad had stated a number of times that the only way non-Muslims would be protected from him and his Muslim warriors would be if they converted to Islam, *e.g.*:

*Indeed I was commanded to fight people until they say there is but one God, and when they say it, their blood and their property is protected and they are answerable to God.*<sup>276</sup>

With this historical overview, we can see that Islamic Doctrine has allowed the killing of non-Muslims without penalty. And based on the timeless commands of Allah and timeless example of Muhammad, Islamic Doctrine allows the killing of non-Muslims today.

There would be a penalty, however, if a Muslim killed a disbeliever who belonged to a people who had a protection treaty with the Muslims; in that case “blood money” (indemnity) was required to be paid to the disbeliever’s family.\* But the indemnity for a Jew or a Christian would be only one-half of that for a Muslim:

*It was narrated from ‘Amr bin Shu’aib, from his father, from his grandfather, that the Messenger of Allah ruled*

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\* Three ways by which a non-Muslim could be protected are: 1) Being a *Dhimmi*; 2) Having a peace treaty with the Muslims; and 3) One who has entered Muslim lands and been guaranteed safety (e.g. those coming on business or to do work) – see “Blood-money and expiation must be paid if one kills a kaafir who is protected by sharee’ah,” *Islam Question and Answer*, March 4, 2003, <https://islamqa.info/en/answers/33683/blood-money-and-expiation-must-be-paid-if-one-kills-a-kaafir-who-is-protected-by-shareeah>.

For a more in-depth look at the ways by which disbelievers can be protected from Muslims, see “Essay Regarding the Basic Rule of the Blood, Wealth and Honour of the Disbelievers,” *At-Tibyan Publications*, August 22, 2004, pp. 10-17; <https://islamseries.files.wordpress.com/2019/08/essay-regarding-the-basic-rule-of-the-blood-wealth-and-honour-of-the-disbelievers-rajab-1425-h.pdf>.



*that the blood money for the People of the Book is half of that of the blood money for the Muslims, and they are the Jews and Christians.*<sup>277</sup>

And it is significant to note that Ibn Kathir had this to say about that statement by Muhammad:

*No opinion that opposes this ruling could stand correct, nor is there an authentic Hadith to contradict it.*<sup>278</sup>

In this same situation the indemnity for a female Christian or Jew would be only one-quarter of that of a Muslim,<sup>279</sup> the indemnity for a “Magian” would be only three-tenths,<sup>280</sup> and that for a Zoroastrian would be only one-fifteenth of a Muslim.<sup>281</sup>

A modern commentary pointed out, however, that a disbeliever could be killed without penalty if he broke his protection treaty with the Muslims:

*A non-Muslim living in a Muslim state under a treaty should not be killed, until and unless he commits a crime which breaks the treaty, like dishonoring the Noble Qur'an or disgracing the Noble Prophet.*<sup>282</sup>

When it comes to the sanctity of life, there is no equality between a Muslim and a non-Muslim.

## **Dhimmitude**

Dhimmitude is “the comprehensive legal system established by the Muslim conquerors to rule the native non-Muslim populations subdued by *jihad* wars.”<sup>283</sup>

As Islam expanded after Muhammad's death, many of the conquered lands were inhabited by Jews and Christians who, instead of converting to Islam, accepted second-class status as *dhimmis*. As was pointed out earlier, Majid Khadduri wrote this about the *dhimmi*:

*His rights were fully protected within his own community, but, as a subject of the Muslim state, he suffered certain disabilities which reduced him to the status of a second-class citizen.*<sup>284</sup>

This status was the result of restrictive agreements or treaties made between the conquering Muslims and the conquered people.\* Here is how Khadurri described them:

*The treaties with the dhimmis were treated differently. Not only were they regarded as perpetual but also as instruments between two unequal parties; for in almost all of them the terms were in the nature of pledges or guarantees given by the Muslims to the dhimmis rather than between equals.*<sup>285</sup>

A classic example of such treaties is found in the previously-mentioned *Pact of 'Umar*, which was reportedly a treaty between 'Umar, the second Muslim Caliph, and the conquered Christians of Syria, circa 637. The *Pact* demanded that the Christians meet conditions "that ensured their continued humiliation, degradation and disgrace."<sup>286</sup> And although Jews were not specifically mentioned in the *Pact*, it was nevertheless generally considered a model for how Muslims were to deal with both Jewish and Christian populations.

One can find various versions of this *Pact*. The version used here is found in the *Tafsir Ibn Kathir*. Ibn Kathir wrote:

*This is why the Leader of the faithful 'Umar bin Al-Khattab, may Allah be pleased with him, demanded his well-known conditions be met by the Christians, these conditions that ensured their continued humiliation, degradation and disgrace.*

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\* For examples of such restrictive agreements or treaties made by the early Muslims with non-Muslims, see:

1. Agreements with Najran and with the Christians of Ayla: *War and Peace in the Law of Islam*, pp. 179-181.
2. Muhammad's letter to the people of Hajar: *Al-Wahidi's Asbab al-Nuzul*, p. 102; and *Kitab al-Tabaqat al-Kabir*, Vol. 1, pp. 310-311.
3. Muhammad's letter to the King of Oman: *The Sealed Nectar*, p. 424.
4. Muhammad's letter to the Banu Lakhm: *Kitab al-Tabaqat al-Kabir*, Vol. 1, p. 315.
5. Treaty between Khalid ibn al-Walid and the people of Hira: *War and Peace in the Law of Islam*, pp. 183-184.

*The scholars of Hadith narrated from 'Abdur-Rahman bin Ghanm Al-Ash'ari that he said, "I recorded for 'Umar bin Al-Khattab, may Allah be pleased with him, the terms of the treaty of peace he conducted with the Christians of Ash-Sham [Syria]:*

*'In the Name of Allah, Most Gracious, Most Merciful. This is a document to the servant of Allah 'Umar, the Leader of the faithful, from the Christians of such and such city. When you (Muslims) came to us we requested safety for ourselves, children, property and followers of our religion. We made a condition on ourselves that we will neither erect in our areas a monastery, church, or a sanctuary for a monk, nor restore any place of worship that needs restoration nor use any of them for the purpose of enmity against Muslims. We will not prevent any Muslim from resting in our churches whether they come by day or night, and we will open the doors [of our houses of worship] for the wayfarer and passerby. Those Muslims who come as guests, will enjoy boarding and food for three days. We will not allow a spy against Muslims into our churches and homes or hide deceit [or betrayal] against Muslims. We will not teach our children the Qur'an, publicize practices of Shirk, invite anyone to Shirk or prevent any of our fellows from embracing Islam, if they choose to do so. We will respect Muslims, move from the places we sit in if they choose to sit in them. We will not imitate their clothing, caps, turbans, sandals, hairstyles, speech, nicknames and title names, or ride on saddles, hang swords on the shoulders, collect weapons of any kind or carry these weapons. We will not encrypt our stamps in Arabic, or sell liquor. We will have the front of our hair cut, wear our customary clothes wherever we are, wear belts around our waist, refrain from erecting crosses on the outside of our churches and demonstrating them and our books in public in Muslim fairways and markets. We will not sound the bells in our churches, except discretely, or raise our voices while reciting our holy books inside our churches in the presence of Muslims, nor raise our voices [with prayer] at our funerals, or light torches in funeral processions in the*

*fairways of Muslims, or their markets. We will not bury our dead next to Muslim dead, or buy servants who were captured by Muslims. We will be guides for Muslims and refrain from breaching their privacy in their homes.'*

*When I gave this document to 'Umar, he added to it, "We will not beat any Muslim. These are the conditions that we set against ourselves and followers of our religion in return for safety and protection. If we break any of these promises that we set for your benefit against ourselves, then our Dhimmah (promise of protection) is broken and you are allowed to do with us what you are allowed of people of defiance and rebellion."'"<sup>287</sup>*

Ibn Kathir summed up the status of the *dhimmis* with the following words:

*Muslims are not allowed to honor the people of Dhimmah or elevate them above Muslims, for they are miserable, disgraced and humiliated.*<sup>288</sup>

Is this 7<sup>th</sup> Century *Pact* still relevant? Consider the following:

1. In 2002, Osama bin Laden used the *Pact of 'Umar* to support his claim that "it is, in fact, part of our religion to impose our particular beliefs upon others."<sup>289</sup>
2. In 2013, ISIS captured the city of Raqqa and allowed the Christians in that city to remain only if they agreed to a pact that resembled the *Pact of 'Umar*.<sup>290</sup>
3. In 2014, it was reported that the *Pact of 'Umar* was involved in a debate between ISIS and the Al-Nusra Front over how to deal with conquered Christian communities in Syria.<sup>291</sup>
4. In 2015, a branch of ISIS threatened Christians in Jerusalem for violating the *Pact of 'Umar*.<sup>292</sup>
5. In 2015, ISIS forced Christians from Al-Qaryaten city to sign a "contract" with provisions similar to that of the *Pact of 'Umar*.<sup>293</sup>

The modern *Minhaj Al-Muslim* even used excerpts from the *Pact of 'Umar* in making this statement about non-Muslims:

*It is obligatory for the non-Muslims to distinguish themselves from Muslims in the matter of clothing and other things, so that they will be recognized (as non-Muslim).<sup>[1]</sup> It is not permissible to bury them in the Muslims' cemetery. Similarly, it is not permissible to stand for them, nor is it permissible to precede them with the greetings of peace. Also, they should not be given seats of honor at gatherings. This is due to the Prophet's statement:*

*"Do not initiate the greetings of peace with the Jews and the Christians. If you meet any one of them on the road, force him to go to the narrowest part of it." (Muslim).<sup>294</sup>*

It is interesting that the modern *Minhaj Al-Muslim* not only considered these portions of the *Pact of 'Umar* to still be relevant, but it also relied on an authoritative *hadith* for support. The *hadith* referred to above is from the *hadith* collection *Sahih Muslim*;<sup>295</sup> it is also found in another authoritative *hadith* collection, *Jami' At-Tirmidhi*.

The 9<sup>th</sup> Century Muslim scholar who put together *Jami' At-Tirmidhi*, at-Tirmidhi (Abu 'Eisa), provided the following explanation for the above *hadith*:

*"Do not precede the Jews and the Christians [in greeting]": Some of the people of knowledge said that it only means that it is disliked because it would be honoring them, and the Muslims were only ordered to humiliate them. For this reason, when one of them is met on the path, then the path*

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\* Muhammad had this to say about Muslims dressing like non-Muslims: 'Abdullah b. 'Amr b. Al-'As reported: Allah's Messenger (may peace be upon him) saw me wearing two clothes dyed in saffron, whereupon he said: These are the clothes (usually worn by) the non-believers, so do not wear them.

*Sahih Muslim*, Vol. 6, No. 2077, p. 392.

*is not yielded for him, because doing so would amount to honoring them.*<sup>296</sup>

So, according to at-Tirmidhi, the message of Muhammad in this *hadith* was that the Jews and Christians were to be humiliated instead of honored. Is there this same understanding today?

As we saw above, that *hadith* was relied on in the modern *Minhaj Al-Muslim*. And here is an interesting, modern commentary about this *hadith*:

*In normal conditions when Muslims are in power and they are not living as a minority, and they are not under any compulsion or subjugation, it is an order for Muslims that they should not give such leeway to the non-Muslims and they should not greet them first nor yield the way for them...In a country where Muslims are living as a minority, they are allowed to give such leeway to non-Muslim rulers for the greater interest of the Muslim community.*<sup>297</sup>

And here is a modern comment about a similar *hadith* in which Muhammad said that the Muslims must not be the first to greet Jews and Christians (non-believers):

*Saying Salam [greeting] is a means to express honor and respect to others and paying respect and honor to the non-believers, thus, is not correct; if a disbeliever comes across a path, he should not be given the right of way rather he should be forced to walk on the side of the road so that he does not regard himself honorable and respectable.\**

We find similar commentary in a 2003 ruling at *Islam Question & Answer*:

*Greeting a non-Muslim first is haraam and is not permitted, because the Prophet (peace and blessings of Allaah be upon him) said: "Do not initiate the greeting with the Jews and Christians, and if you meet them in the street push them towards the narrowest part of it" ... it is*

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\* Ibid., Vol. 5, Comments to *Hadith* No. 2700, p. 93.

*not permissible for us to greet non-Muslims first, because the Prophet (peace and blessings of Allaah be upon him) forbade that, and because this is a humiliation for the Muslim when he starts to honour a non-Muslim. The Muslim is higher in status before Allaah, so he should not humiliate himself in this manner.*<sup>298</sup>

So, commentary in the modern *Minhaj Al-Muslim* and the modern comments mentioned above all show us that treating non-Muslims with disrespect and humiliating them is relevant today in terms of relations between Muslims and non-Muslims. The idea of *dhimmitude* still lurks in the background of those relations.

## **Jizyah**

The *Jizyah* is a, "Head tax imposed by Islam on all non-Muslims [*Dhimmis*] living under the protection of an Islamic government,"<sup>299</sup> and it is taken from them "as a mark of their subjugation and humiliation."<sup>300</sup> It is based on the command of Allah in Koran 9:29:

*Fight against those who believe not in Allah, nor in the Last Day, nor forbid that which has been forbidden by Allah and His Messenger (Muhammad), and those who acknowledge not the religion of truth (i.e. Islam) among the people of the Scripture (Jews and Christians), until they pay the Jizyah with willing submission, and feel themselves subdued.*

In this verse Allah commands the Muslims to fight the Jews and Christians until they pay the *Jizyah*. But what about having to pay it *with willing submission* and with a sense of feeling *subdued*?

In a paragraph titled *Paying Jizyah is a Sign of Kufr* [disbelief] and *Disgrace*, Ibn Kathir explained that if the Jews and Christians chose not to embrace Islam, they would have to pay the *Jizyah* "in defeat and subservience," and feel "disgraced, humiliated, and belittled." Ibn Kathir continued

*Therefore, Muslims are not allowed to honor the people of Dhimmah or elevate them above Muslims, for they are miserable, disgraced and humiliated.*<sup>301</sup>

It is interesting to note that Ibn Kathir then quoted the following *hadith* (which had been noted in the previous section by the modern *Minhaj Al-Muslim*):

*Muslim recorded from Abu Hurayrah that the Prophet said, "Do not initiate the Salam to the Jews and Christians, and if you meet any of them in a road, force them to its narrowest alley."<sup>302</sup>*

The denigration of the *dhimmi* while the *Jizyah* is being paid was affirmed in the *Tafsir Al-Jalalayn* when the *Jizyah* section of Koran 9:29 was being discussed:

*...until they pay the jizya with their own hands - meaning the Jews and the Christians who must pay it in submission or directly with their actual hands - in a state of complete abasement - humble and subject to the judgements [sic] of Islam.<sup>303</sup>*

The *Tafsir Ibn 'Abbas* reiterated that the people to be fought were the Jews and Christians, until they paid "the tribute" and were "abased."<sup>304</sup>

This was also noted in the modern *Tafsir Ahsanul-Bayan*:

*The command to fight the pagans was already given. Now Allah commands the believers to fight the Jews and Christians (if they do not accept Islam) until they pay the jizya and live under the rule of the Muslims.<sup>305</sup>*

The modern *Tafsir as-Sa'di* noted this about payment of the *Jizyah*:

*...until they give it when they are subdued and have no power to resist, and they give it themselves, not sending it with a servant or anyone else; rather it can only be accepted from their own hands "and feel themselves subdued."<sup>306</sup>*



Is *Jizyah* still expected today from non-Muslims? Consider these facts:

1. For the jihadist group Al-Qaeda, imposing the *Jizyah* on non-Muslims was to be expected because it was required by Islam.<sup>307</sup> And ISIS imposed the *Jizyah* in its conquered territories.<sup>308</sup>
2. In Egypt in 2013, the Muslim Brotherhood began forcing the roughly 15,000 Christian Copts of Dalga village to start paying a *Jizyah* tax.<sup>309</sup>
3. In Nigeria in 2014, a few weeks before Boko Haram kidnapped the Chibok schoolgirls,  
*...Boko Haram told the Chibok schoolgirls they were “infidels” for attending schools where western education, including English, is taught. They were warned they would have to pay jizyah, a form of tax from non-Muslims, or be raped as compensation.*<sup>310</sup>
4. In 2018, the Kurdish Regional Government imposed “a form of *jizya* tax” on business owners in the largely Christian town of Ankawa, Iraq.<sup>311</sup>
5. And in 2019, Palestinian gunmen attacked a Christian village in the West Bank demanding the Christians pay the *Jizyah*.<sup>312</sup>

We can see that the requirement that non-Muslims pay the *Jizyah* to Muslims is still applicable in many parts of the Muslim world.\*

## **Prepubescent Marriage**

When one thinks about juvenile law and juvenile courts in the United States, the focus is generally on addressing juvenile delinquency. Such laws and courts, however, can also serve another purpose:

*State statutes creating juvenile courts and providing methods for dealing with juvenile delinquency have generally been upheld by courts as an acceptable*

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\* For additional modern examples of the *jizyah* being required, see Raymond Ibrahim, “Islamic *Jizya*: Fact and Fiction,” *Middle East Forum*, May 28, 2015, <https://www.meforum.org/5275/jizya-fact-fiction>.

*extension of state police power to ensure the safety and welfare of children. The doctrine of parens patriae authorizes the state to legislate for the protection, care, custody, and maintenance of children within its jurisdiction.*<sup>313</sup>

Juvenile laws and courts in the United States can play an important role in caring for and protecting young boys and girls, often from the adults around them. But under Islam, when it comes to prepubescent marriage, there is no protection from adults for young boys and girls.

Islamic Doctrine allows prepubescent marriage. This is acknowledged in Koran 65:4 which deals with the 'iddah, the prescribed waiting period for a woman before she can marry again after a divorce:

*And those of your women as have passed the age of monthly courses, for them the 'iddah (prescribed period), if you have doubt (about their periods), is three months; and for those who have no courses (i.e., they are still immature [sic]) their 'iddah (prescribed period) is three months likewise...*

The 9<sup>th</sup> Century Muslim scholar al-Bukhari was referring to this Koran verse when he wrote this in a chapter titled "Giving one's young children in marriage (is permissible)":

*And the 'Idda for the girl before puberty is three months.*<sup>314</sup>

According to Ibn Kathir, the phrase "those who have no courses" means "the young, who have not reached the years of menstruation."<sup>315</sup>

With regard to Koran 65:4 the *Tafsir Al-Jalalayn* noted:

*...their 'idda should be three months, and that also applies to those who have not yet menstruated because of their youth.*<sup>316</sup>

The modern *Tafsir Ahsanul-Bayan* explained the 'iddah this way:

*That is the prescribed legal period (iddat) of those who have stopped menstruating due to their old age as well as those who have not yet begun menstruating. It should be noted that only very rarely does a woman fail to menstruate when she has already reached the age of puberty.*<sup>317</sup>

Allah approved of prepubescent marriage, and Muhammad set the example.

### **Muhammad and his child bride**

Although you might still find Muslims who deny this, at about age 50 Muhammad married 'Aisha when she was only six years old, and he consummated that marriage when she was nine.\* 'Aisha talked about the day her marriage was consummated in Medina:

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\* It is important to note that these ages have been confirmed by authoritative Muslim scholars over many centuries, e.g.:

*Sahih Al-Bukhari*, Vol. 5, Book 63, No. 3896, p. 140 (statement by "Hisham's father"); Vol. 7, Book 67, No. 5133, p. 57 (statement by 'Aisha herself); and Vol. 7, Book 67, No. 5158, p. 69 (statement by 'Urwa). Also see *Sunan Ibn Majah*, Vol. 3, No. 1877, p. 77 (statement by 'Abdullah that 'Aisha was seven when she married Muhammad and nine when she consummated the marriage).

A 1979 award-winning biography of Muhammad stated that he married 'Aisha when she was six and he consummated the marriage when she was nine - see *The Sealed Nectar*, pp. 176-177, and 562. These ages for 'Aisha were also stated in the 2002 *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, p. 169; and in a 2004 book about Muhammad's wives: *The Honorable Wives of the Prophet*, ed. Abdul Ahad (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2004), p. 42. In *The Life of Muhammad (Sirat Rasul Allah)*, 'Aisha's ages were given as seven, and "nine or ten" - see n. 918, p. 792.

There are additional statements about this from 'Aisha in *Sahih Muslim*, Vol. 4, Nos. 1422-1422R3, pp. 353-355; *Sunan Abu Dawud*, Vol. 2, No. 2121, p. 540; *Sunan An-Nasa'i*, Vol. 4, Nos. 3257-3260, pp. 118-119, and Nos. 3380-3381, pp. 181-182; Abu Ja'far Muhammad b. Jarir al-Tabari, *The History of al-Tabari: The Foundation of the Community*, Vol. VII, trans. M. V. McDonald and annotated W. Montgomery Watt (Albany, New York: State University of New York Press, 1987), pp. 6-7.

The comment for *Hadith* No. 3380 in *Sunan An-Nasa'i* (in the preceding paragraph) pointed out that, "Due to climatic conditions and her own physical wholesomeness," 'Aisha "had reached puberty at the age of nine years." - see *Sunan An-Nasa'i*, Vol. 4, comment to *Hadith* No. 3380, p. 181. With regard to *Hadiths* 3257-3260 in this same

*The Messenger of God came to our house and men and women of the Ansar gathered around him. My mother came to me while I was being swung on a swing between two branches and got me down. Jumaymah, my nurse, took over and wiped my face with some water and started leading me. When I was at the door, she stopped so I could catch my breath. I was then brought [in] while the Messenger of God was sitting on a bed in our house. [My mother] made me sit on his lap and said, "These are your relatives. May God bless you with them and bless them with you!" Then the men and women got up and left. The Messenger of God consummated his marriage with me in my house when I was nine years old.<sup>318</sup>*

'Aisha said that she took her dolls with her when she went to Muhammad's house as a nine-year-old bride, and her playmates would come to the house and play.<sup>319</sup>

Muhammad is considered the timeless standard of good conduct for Muslims, and Muhammad's example was followed. Here we have a Muslim talking about a very young grandmother:

*Al-Hasan bin Salih said, "I saw a neighbouress of mine who became a grandmother at the age of twenty-one."<sup>320</sup>*

The footnote for this *hadith* explained:

*This woman attained puberty at the age of nine and married to give birth to a daughter at ten; the daughter had the same experience.<sup>321</sup>*

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volume reporting that 'Aisha said her marriage was consummated when she was nine, the comments noted:

*Some individuals, who ostensibly claim to be researchers, deny the aforementioned narrations concerning the age of 'Aishah. These narrations are, however, authentic. It is the statement of 'Aishah herself, which her various pupils have transmitted from her. A great majority of her pupils cannot make the same mistake.*

— *Sunan An-Nasa'i*, Vol. 4, Comments, p. 119.

Prepubescent marriage also includes young boys. Consider the following:

*A guardian may not marry his prepubescent daughter to someone for less than the amount typically received as marriage payment by similar brides, nor marry his prepubescent son to a female who is given more than the amount typically received.*<sup>322</sup>

In terms of establishing paternity, one of the conditions is that “the husband is at least nine and a half years old.”<sup>323</sup> He is not legally considered the child’s father if he is under that age.<sup>324</sup> The Hanbali School, however, states that the minimum age to establish paternity is ten years of age.<sup>325</sup>

And prepubescent boys and girls can even be married to each other:

*A waiting period [before marrying again] is obligatory for a woman divorced after intercourse, whether the husband and wife are prepubescent, have reached puberty, or one has and the other has not.*<sup>326</sup>

In 2012, a question was submitted to the *Islam Question & Answer* website about prepubescent marriage; the ruling started out:

*It is permissible for a man to arrange a marriage for his young son even if he has not reached puberty; it is also permissible for him to arrange a marriage for his young daughter even if she had not reached the age of puberty.*<sup>327</sup>

Islamic Doctrine does not actually specify a minimum age of marriage for either the husband or the wife.<sup>328</sup> And there is no minimum age for the girl in order for the marriage to be consummated:

*...the marriage may be consummated when the girl is able for intercourse, which varies from one girl to another, so no age limit can be set... There is nothing...to forbid that in the case of a girl who is able for it before the age of nine...*<sup>329</sup>

Since Allah and Muhammad approved of prepubescent marriage, it should come as no surprise that there are today numerous Muslim-majority countries in which prepubescent marriage is allowed, whether officially or unofficially.

In 2016, the Pew Research Center released a report titled “Many countries allow child marriage.”<sup>330</sup> An appendix to that report titled “Marriage Laws around the World” provided this interesting information about approaches to child marriage in a number of Muslim-majority countries:<sup>331</sup>

### **Afghanistan**

*Despite a law setting the legal minimum age for marriage at 16 (15 with the consent of a parent or guardian and the court) for girls and 18 for boys, international and local observers continued to report widespread early marriage... By law a marriage contract requires verification that the bride is 16 years of age, but only a small fraction of the population had birth certificates...some girls as young as six or seven were promised in marriage, with the understanding the actual marriage would be delayed until the child reached puberty. Reports indicated, however, that this delay was rarely observed and young girls were sexually violated by the groom or by older men in the family, particularly if the groom was also a child.*

### **Bahrain**

*According to law the minimum age of marriage is 15 years for girls and 18 for boys, but special circumstances allow marriages below these ages with approval from a sharia court.*

### **The Gambia**

*Carnal knowledge with a girl under the age of 16 is a felony except within marriage, which can occur as early as age 12. The constitution states, “marriage shall be based on the free and full consent of the intended parties,” although in many villages, girls reportedly were forced to marry at a young age.*

## **Iran**

*The legal minimum age of marriage for girls is 13, but girls as young as nine may be married with permission from the court and their father. The law requires court approval for the marriage of boys younger than 15. According to the newspaper Shahrvand, there were more than 40,000 registered marriages for girls under the age of 15 in 2014. The number may be higher because NGOs reported that many families did not register underage marriages.*

## **Iraq**

*By law the minimum age of marriage is 15 with parental permission and 18 without. The government made few efforts to enforce the law. Traditional forced marriages of girls as young as age 11 continued, particularly in rural areas...Local and international NGOs reported that forced divorce--the practice of husbands or their families threatening to divorce wives they married when the girls were very young (ages 12 to 16) to pressure the girl's family to provide additional money to the girl's husband and his family—also occurred, particularly in the south.*

## **Kuwait**

*The legal marriage age is 17 for men and 15 for women, but girls continued to marry at a younger age in some tribal groups. The Ministry of Justice estimated underage marriages constituted 2 to 3 percent of all marriages in 2013.*

## **Mali**

*The minimum age to marry without parental consent is 16 for girls and 18 for boys. A 15-year-old girl may marry with parental consent if a civil judge approves. Authorities did not effectively enforce the law, particularly in rural areas, and underage marriage was a problem throughout the country...It was common practice in the country for a 14-year-old girl to marry a man twice her age. According to local human rights organizations, judicial officials*

*frequently accepted false birth certificates or other documents claiming that girls under age 15 were old enough to marry.*

## **Niger**

*The law allows a girl deemed to be “sufficiently mature” to marry at 15. Some families entered into marriage agreements under which rural girls 12 or even younger were sent to their husband’s families to be under the “supervision” of their mothers-in-law ... [According to a 2012 study] 8.7 percent of girls had given birth before they were 15 years old.*

## **Pakistan**

*The law sets the legal age of marriage at 18 for men and 16 for women...In March 2014, the Council of Islamic Ideology [sic] declared the marriage laws to be un-Islamic and noted they were “unfair and there cannot be any legal age of marriage.” The council stated that Islam does not prohibit underage marriage since it allows the consummation of marriage after both partners reach puberty.*

## **Saudi Arabia**

*The law does not specify a minimum age for marriage, but sharia suggests girls may marry after reaching puberty. According to some senior religious leaders, girls as young as 10 may marry. Families sometimes arranged such marriages to settle family debts, without the consent of the child.*

## **Senegal**

*By law women have the right to choose when and whom they marry, but traditional practices restricted a woman’s choice. The law prohibits the marriage of girls younger than age 16, but this law generally was not enforced in most communities where marriages were arranged. Under certain conditions a judge may grant a special*



*dispensation for marriage to a person below the age of consent...*

## **Somalia**

*The provisional federal constitution does not specify a minimum legal age for marriage. It notes marriage requires the free consent of both the man and woman to be legal. Early marriages frequently occurred; 45 percent of women between the ages of 20 and 24 were married by age 18, and 8 percent were married by age 15. In rural areas parents often compelled daughters as young as 12 to marry...There were no known efforts by the government or regional authorities to prevent early and forced marriage.*

## **Sudan**

*The law establishes the legal age of marriage at 10 for girls and 15 or puberty for boys...According to UNICEF estimates, 12 percent of women ages 20 to 24 were first married or in a union before they were 15...*

## **Turkey**

*The law defines 18 years as the minimum age for marriage, although children may marry at 17 with parental permission and at 16 with court approval. Children as young as 12 were at times married in unofficial religious ceremonies, particularly in poor, rural regions. Some families applied to courts to change the birthdate of their daughters so that they could "legally" marry.*

## **Yemen**

*Early and forced marriage was a significant, widespread problem. There was no minimum age for marriage, and girls married as young as eight years of age, which traditionalists claimed served to assure they were virgins at the time of marriage. The law forbids sex with underage brides until they are "suitable for sexual intercourse," an age that is undefined.*

And in these non-Muslim majority countries there were special laws for Muslims:

### **Philippines**

*Under Muslim personal law, Muslim boys may marry at 15, and girls may marry when they reach puberty.*

### **Tanzania**

*...the law allows Muslim and Hindu girls to marry as young as 12 as long as the marriage is not consummated until the girl reaches age 15. To circumvent these laws, individuals reportedly bribed police or paid a bride price to the family of the girl to avoid prosecution.*

### **Trinidad and Tobago**

*Under the Muslim Marriage and Divorce Act, the minimum legal age for marriage is 16 for men and 12 for women.*

In Koran 65:4, Allah allowed prepubescent marriages. Muhammad is the timeless, perfect example for Muslims to follow (Koran 33:21). He married 'Aisha when she was six years old and consummated that marriage when she nine years old. As we can see from this survey of Muslim laws regarding marriage, Allah's permission and Muhammad's example are largely being followed as pre-teen and early-teen girls are still considered eligible for marriage.

One can only wonder how many such young girls would welcome the protection of the juvenile laws and courts that exist in the United States.

### **Equality in Judicial Proceedings?**

How much equality do we find in what Islamic Doctrine teaches about judicial proceedings?

The judge has to be a male Muslim;\* the 11<sup>th</sup> Century Muslim scholar al-Mawardi explained that this was because in Koran 4:140 it

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\* *Reliance of the Traveller*, o22.1, p. 625, and comments by Sheikh 'Umar Barakat at the end of section o22.1, on p. 630. Also see *The Mainstay Concerning*

was stated that Allah would never allow non-Muslims a way to triumph over Muslims.\* Even the court secretary has to be a male Muslim.<sup>332</sup> The judge treats two litigants impartially and seats both in places of equal honor, “unless one is a non-Muslim, in which case he gives the Muslim a better seat.”<sup>333</sup>

In a judicial proceeding, the witnesses have to be Muslims.<sup>334</sup> In general, having two male Muslims as witnesses is a “principle,” e.g., when it comes to proof of mental maturity:

*As per consensus, mental maturity in both the sexes is proved by the testimony of two male witnesses because the testimony of two male witnesses is a principle. The Jafari say that it is also proved in the case of women by the testimony of a man and two women, or that of four women. But in the case of men, it is only proved by the testimony of men.*<sup>335</sup>

The major Sunni schools of Islamic Sacred Law agree that when witnesses are needed concerning property matters, it is preferable to find two men; but if you cannot find two men, then find one man and two women.<sup>336</sup> This is based on Koran 2:282:

*...And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her...*

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*Jurisprudence*, p. 325; *Al-Ahkam As-Sultaniyya: the Laws of Islamic Governance*, pp. 98-99; and *Minhaj Al-Muslim*, Vol. 2, p. 534. Abu Hanifa, the founder of the Hanafi School, however, stated that a woman could be a judge in any matter in which women could testify, with the exception of matters involving *hudud* and retaliation – see *The Mercy in the Difference of the Four Sunni Schools of Islamic Law*, p. 215. *Hudud* is used to designate the Islamic laws ordained by Allah and the punishments for serious crimes.

\* *Al-Ahkam As-Sultaniyya: the Laws of Islamic Governance*, p. 99. Although al-Mawardi wrote that this was in Koran 4:140, I have consulted numerous modern Koran translations and actually found this statement in 4:141:

... And never will Allah grant to the disbelievers a way (to triumph) over the believers.

So, Allah states that two women are needed so they can help each other remember. Adding insult to injury, Muhammad told a group of Muslim women

*"...I have not seen anyone more deficient in intelligence and religion than you. A cautious sensible man could be led astray by some of you." The women asked, "O Allah's Messenger! What is deficient in our intelligence and religion?" He said, "Is not the witness (evidence) of two women equal to the witness of one man?" They replied in the affirmative. He said, "This is the deficiency in her intelligence."<sup>337</sup>*

So, according to Muhammad, Allah's determination that it requires the testimony of two women to equal that of one man is an indication of a deficiency in female intelligence.

This idea was echoed in a 2009 ruling by Sheikh Muhammed Salih Al-Munajjid:

*With regard to the witness of two women being equal to the testimony of one man. Allaah has mentioned the wisdom behind specifying the number of two as being that a woman may forget or get confused, so the other woman can remind her...Allaah has commanded the testimony of two women so as to be sure that they remember, because the mind and memory of two women takes the place of the mind and memory of one man...This does not mean that a woman does not understand or that she cannot remember things, but she is weaker than man in these aspects – usually. Scientific and specialized studies have shown that men's minds are more perfect than those of women, and reality and experience bear witness to that...Nevertheless, there are some women who are far superior to men in their reason and insight, but they are few, and the ruling is based on the majority and the usual cases.<sup>338</sup>*

In discussing Koran 2:282, the 20<sup>th</sup> Century Muslim scholar as-Sa'di pointed out:

*The testimony of women on their own concerning financial transaction and the like is not to be accepted, because Allah did not accept women's testimony unless it is accompanied by that of a man...This verse indicates that men are superior to women, and that the testimony of one man is equal to that of two women, because men have good memories and women do not.*<sup>339</sup>

As-Sa'di also noted that:

*The testimony of the disbelievers, whether they are male or female, is not acceptable, because they are not of us and because testimony should be based on good character, and they are not of good character.*<sup>340</sup>

There are some other interesting items when it comes to what Islamic Sacred Law teaches about witnesses:

1. According to the Shafi'i School, when testimony "concerns things which men do not typically see," if two men cannot be found, then one man and two women, or four women can provide testimony.<sup>341</sup>
2. According to the Hanbali School, in cases involving a challenge to the credibility of a witness, only the testimony of two men will do.<sup>342</sup>
3. If a man claims to be married to a woman and she denies the claim, or vice versa, the major schools agree that acceptable proof of marriage requires the testimony of "two just men." Evidence from women in this matter is acceptable only to the Hanafi School; however, the Hanafi require the evidence to be from "two just women" in conjunction with that from a "just man."<sup>343</sup>

### **Equality in Inheritance?**

According to the Hanbali School, if a Muslim and a non-Muslim both claim the inheritance of a deceased person and the religion of the descendant is not known, the inheritance belongs to the Muslim.<sup>344</sup>

A Muslim can only appoint another Muslim to be the executor of his estate;<sup>345</sup> however, the Muslim can bequeath some of his property to non-Muslims, especially if they are *dhimmis*.<sup>346</sup>

But after the Muslim dies, non-Muslims are not allowed to inherit any of his property (and vice-versa).<sup>347</sup> This was because Muhammad specifically prohibited such an action:

*Narrated Usama bin Zaid: The Prophet said, "A Muslim cannot be the heir of a disbeliever, nor can a disbeliever be the heir of a Muslim."*<sup>348</sup>

## **Overview of Women under Islam**

It is common to hear the claim about how well women are treated under Islam. So let's delve into that and see how women are to be treated according to the teachings of the major schools of Islamic Sacred Law.

1. According to the four major Sunni schools, the indemnity for the death or injury of a Muslim woman is one-half of that paid for a Muslim man.<sup>349</sup>
2. The Shafi'i and Hanbali Schools consider it offensive and objectionable for a woman to visit a grave.<sup>350</sup>
3. The major schools agree that when a woman is in the presence of a man who is not an immediate family member, it is obligatory for her to cover her whole body except for her face and hands.<sup>351</sup>
4. The major schools also agree that while it is permissible for a man to look at the face and hands of an unrelated female, it is impermissible for him to touch her, except in an emergency. The Hanafi School, however, states that shaking hands with "an old woman who has no sex appeal" is permissible "with the assurance of absence of a sexual motive."<sup>352</sup>
5. Imam Malik, founder of the Maliki School, was asked if a man should greet a woman. He replied:

*As for an old woman, I do not disapprove of it. As for a young woman, I do not like it.*<sup>353</sup>

6. The liberal Hanafi School has an interesting approach to *shubhat*, a “mistake of act” in which a man has intercourse with a woman who is, unbeknownst to him, actually unlawful for him:

*...where a man hires a woman for some work and then fornicates with her, or hires her for fornication and does so, the two will not be penalized for fornication, because of his ignorance that his hiring her does not include this act. Accordingly, if she is working in a business establishment or a factory and the proprietor of such establishment copulates with her believing this to be one of the benefits which accrue to him as a result of his hiring her, this act will not be termed fornication, but will be considered ‘a mistake’ and shall be a valid excuse for the proprietor in Imam Abu Hanifah’s opinion.<sup>354</sup>*

7. According to the four major Sunni schools, a menstruating woman is not allowed to do many things, including not being able to keep the fast or participate in the ritual prayers, not touching, reading, or reciting from the Koran, or even remaining in a mosque.<sup>355</sup> This physical condition of women was considered by Muhammad to be a “deficiency” in their religion, as he stated to a group of Muslim women:

*“...Isn’t it true that a woman can neither offer Salat (prayers) nor observe Saum (fasting) during her menses?” The women replied in the affirmative. He said, “This is the deficiency in her religion.”\**

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\* *Sahih Al-Bukhari*, Vol. 1, Book 6, No. 304, p. 210. Muhammad said that Islam consisted of five things (The Five Pillars of Islam):

1. Proclamation of Faith (Shahadah): There is no God but Allah and Muhammad is his Messenger.
2. Five scheduled prayers daily
3. Alms/Charitable giving (Zakat)
4. Fasting
5. Pilgrimage to Mecca for those who are able (Hajj)

As we see, two of these Pillars are prayers and fasting. Consequently, through no fault of her own, a woman is excluded from 40% of Islam on a regular basis for most of her life, thus making her “deficient” in her religion.

There can be an advantage to being a woman, however, if one is charged with apostasy. Instead of facing a death sentence for apostasy, as she would with the Shafi'i, Hanbali, and Maliki Schools,<sup>356</sup> the relatively more "liberal" Hanafi School believes "that women should be forced to return to Islam by such punishment as beating or imprisonment."<sup>357</sup> Her imprisonment would last until she returned to Islam or died.<sup>358</sup> Under the Jafari School "she will be imprisoned and beaten at the times of the prescribed prayer until she repents or dies,"<sup>359</sup> or she will be "condemned to perpetual imprisonment, and is to be beaten with rods at the hours of prayer."<sup>360</sup>

In terms of travel, women are generally prevented from travelling without being accompanied by a *Mahram*, a closely related male such as her husband, brother, father, or uncle.<sup>361</sup> This also applies to Muslim women who want to make the required *Hajj* pilgrimage or the optional *Umrah* pilgrimage to Mecca. Women over the age of forty-five may make either pilgrimage without a *Mahram* only if they are with an organized group; however, the woman must first submit a notarized "no objection" letter from her husband, son or brother authorizing her to travel with that group.<sup>362</sup>

Muhammad even said that it required the freeing of two female slaves to equal the virtue of freeing one male slave:

*Abu Umamah, and other than him from the Companions of the Prophet, narrated that the Prophet said: "Any Muslim man who frees a Muslim man, then it is his salvation from the Fire [of Hell] - each of his limbs suffices for a limb of himself. And any Muslim man that frees two Muslim women, they are his salvation from the Fire - each of their limbs suffices for a limb of himself."\**

This overview shows us that in Islam there is no equality between a Muslim man and a Muslim woman. But let's delve deeper.

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\* *Jami' At-Tirmidhi*, Vol. 3, No. 1547, pp. 318-319. At-Tirmidhi stated: In this Hadith is the proof that freeing males is more virtuous for a man than freeing females...

*Jami' At-Tirmidhi*, Vol. 3, p. 319.



## Women and Marriage in General

What should a Muslim man look for in a woman to marry? Muhammad said:

*The best women [sic] is she who when you look at her, she pleases you, when you command her she obeys you, and when you are absent, she protects her honor and your property.<sup>363</sup>*

Koran 2:221 states that a Muslim woman can only marry a man who is a Muslim. Here is the modern explanation for that:

*...the woman is weak and quick to submit to her husband. So, if it was made permissible for the Muslim woman to marry men from among the People of the Book [Christians and Jews], it would, in most cases, lead her to the religion of her husband.<sup>364</sup>*

On the other hand, Koran 4:3 allows a Muslim man to have up to four wives, and Koran 5:5 allows him to even marry Jewish and Christian women.

Once the Muslim woman is married, her husband gains a tremendous amount of control over her. As Muhammad said:

*If I were to command anyone to prostrate before anyone, I would have commanded the wife to prostrate before her husband, because of the enormity of his right upon her.<sup>365</sup>*

The wife, however, does have certain “rights” over her husband. A man asked Muhamad:

*“O Messenger of Allah! What are the rights that our wives have over us?” He replied: “That you feed her when you eat, and clothe her when you wear clothes, and that you avoid hitting her in the face, or disgracing her, and that you avoid abandoning her except at home.”<sup>366</sup>*

The 20<sup>th</sup> Century Muslim scholar as-Sa’di had this to say about the relationship between husband and wife:

*...a man is like a guardian and a master to his wife, and she is like a prisoner and servant to him...The woman's role is to obey her Lord and obey her husband.<sup>367</sup>*

## **Maintenance of the Wife**

Islamic Sacred Law does require the husband to support his wife. The major schools agree that a wife's "maintenance" is obligatory with regard to food, clothing, and housing.<sup>368</sup>

The Shafi'i School, however, does qualify this in terms of clothing: a wife is "entitled to the kind of clothing that is customary in town for dressing oneself."<sup>369</sup> But the Shafi'i believe that if the husband

*...gives her clothing for a season, and it wears out before the end of the season, he is not obliged to furnish new clothing, though if it lasts beyond the season, he is nevertheless obliged to provide new clothing for each new season.<sup>370</sup>*

If there is a dispute between the husband and wife over whether or not the husband has been paying his wife's maintenance, the Hanafi, Shafi'i, and Hanbali Schools say that the wife's word is to be accepted with the burden of proof being on the husband; however, the Jafari and Maliki Schools state that if the husband is living with the wife, then his word will be accepted.<sup>371</sup>

It is interesting to note that if the husband states that he has not paid maintenance to her because she is not entitled to it "due to her not surrendering herself to him [for sex]," all of the schools agree that the husband's word will be accepted because maintenance is not required until after she so surrenders herself.<sup>372</sup> As the Shafi'i School succinctly explains:

*The husband is only obliged to support his wife when she gives herself to him or offers to, meaning she allows him full enjoyment of her person and does not refuse him sex at any time of the night or day.<sup>373</sup>*

The Shafi'i state that it "is obligatory for a woman to let her husband have sex with her immediately" when he asks her, they are

at home, and “she can physically endure it”; and a “husband possesses full rights to enjoy his wife’s person in what does not physically harm her.”<sup>374</sup>

The Shafi’i School also notes what a wife is not “obliged” to do:

*A woman is not obliged to serve her husband by baking, grinding flour, cooking, washing, or any other kind of service, because the marriage contract entails, for her part, only that she let him enjoy her sexually, and she is not obligated to do other than that.*<sup>375</sup>

The Hanbali School simply states:

*The husband's rightful claim on his wife is her submission and obedience to him in lovemaking, whenever he wishes, so long as she has no valid excuse.*<sup>376</sup>

The modern *Minhaj Al-Muslim* pointed out:

*Providing living expenses for the wife will not be required if she behaves disobediently (towards the husband) or she does not allow him to have sexual relations with her. This is because providing living expenses for her is based on the husband having sexual enjoyment with her. Whenever she refuses him this enjoyment, her right to maintenance will be lost.*<sup>377</sup>

As Muhammad himself said,

*When a man calls his wife to fulfill his need, then let her come, even if she is at the oven.*<sup>378</sup>

What about maintenance if the wife is a minor and the husband is an adult? Except for the Hanafi, all of the major schools state that if the wife is a minor she is not entitled to maintenance.<sup>379</sup> For the Hanafi there are three different categories of female minors in terms of determining whether or not she should receive maintenance:

1. A minor wife who is not of any use for service or sociability shall not be entitled to maintenance.

2. A minor wife who is of use for service or for sociability alone, but not for intercourse, shall not be entitled to maintenance.
3. A minor wife with whom intercourse is possible enjoys the rights to maintenance of an adult wife.<sup>380</sup>

So, for the “liberal” Hanafi School, a female minor is only guaranteed food, clothing, and housing if she is capable of engaging in intercourse.

If the wife is an adult capable of intercourse, and the husband is a minor, incapable of intercourse, the Hanafi, Shafi'i, and Hanbali Schools state that her maintenance is still obligatory. For the Maliki and some of the Jafari, her maintenance is not obligatory because a minor husband is free of such obligations.<sup>381</sup>

There is another way by which a wife can lose her maintenance: all of the schools agree that a wife is considered disobedient if she leaves her husband's home without his permission.<sup>382</sup> And according to the Shafi'i and Hanbali schools, if the wife goes out with her husband's permission, but for her own needs, her husband is not obligated to provide any support for that particular venture.<sup>383</sup>

When it comes to the husband's obligations for the medical expenses of his wife, there “is no mention of medicine and medical treatment in the Quran and the Traditions.”<sup>384</sup> Consequently, the schools are of mixed minds in addressing this issue. The Shafi'i School states that the husband “is not obliged to pay for his wife's cosmetics, doctor's fees, the purchase of medicine for her, and similar expenses.”<sup>385</sup> The Jafari School states that if she is ill, the wife is not entitled to claim medicine from her husband. Sayyid Abu al-Hasan, a Jafari scholar, however, qualified that by stating that if the medicine was “of common use and needed for common ailments,” then such medicine was considered as maintenance; but he further stated that medicine which was for “difficult cures and uncommon ailments, which require expensive treatment,” was not considered as maintenance, and it was not the husband's “duty” to provide them to his wife.<sup>386</sup> And the Hanafi say that it is not obligatory for the husband to provide medicine for his wife if they are going through a “period of dispute.”<sup>387</sup>

In terms of general maintenance, Muhammad had this advice:

*Treat women well, for they are [like] domestic animals with you and do not possess anything for themselves.*<sup>388</sup>

But there is another price the wife pays for “maintenance.”

## **Husbands can beat their Wives**

The husband is allowed to beat his wife or wives. This is stated in Koran 4:34:

*Men are the protectors and maintainers of women, because Allah has made one of them to excel the other...As to those women on whose part you see ill conduct, admonish them (first), (next) refuse to share their beds, (and last) beat them (lightly, if it is useful)...\**

Ibn Kathir explained that such a beating was to be neither “violent” nor “severe.”<sup>389</sup> He also pointed out that:

*Scholars said...The husband should beat his wife lightly, in a way that does not result in breaking one of her limbs or affecting her badly.*<sup>390</sup>

The *Tafsir Al-Jalalayn* explained that the husband could beat his wife, “but not hard if the other courses of action do not work.”<sup>391</sup>

The modern *Tafsir Ahsanul-Bayan* explained the verse this way:

*In case a woman is disobedient, she should be counseled first to reform and mend her ways. If she does not reform,*

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\* Al-Wahidi provided the context for the “revelation” of this verse:

*...It happened Sa’d hit his wife on the face because she rebelled against him. Then her father went with her to see the Prophet, Allah bless him and give him peace. He said to him: ‘I gave him my daughter in marriage and he slapped her.’ The Prophet, Allah bless him and give him peace, said: ‘Let her have retaliation against her husband.’ As she was leaving with her father to execute retaliation, the Prophet, Allah bless him and give him peace, called them and said: ‘Come back; Gabriel has come to me,’ and Allah, exalted is He, revealed this verse. The Messenger of Allah, Allah bless him and give him peace, said: ‘We wanted something while Allah wanted something else, and that which Allah wants is good.’ Retaliation was then suspended.*

*Al-Wahidi’s Asbab al-Nuzul*, p. 72.

*beds should be separated. This is the second step, enough for a woman of sound understanding. In case this fails to have any effect on her, then the man may thrash her providing this thrashing is not cruel or wild, which is the wont of the ignorant and the rustic.*<sup>392</sup>

And Muhammad himself said “to beat them [wives] but not with severity.”<sup>393</sup> And why not “with severity”? Perhaps because on another occasion, while giving a sermon, Muhammad said this about the treatment of women:

*It is not wise for anyone of you to lash his wife like a slave, for he might sleep with her the same evening.*<sup>394</sup>

The authority to beat wives appeared to have been widely exercised in the early Muslim community. In the following *hadith* we find that Muhammad ordered some Muslim women to be beaten because they were acting “bold” toward their husbands:

*“The Prophet said: ‘Do not beat the female slaves of Allah.’ Then ‘Umar came to the Prophet and said: ‘O Messenger of Allah, the woman [sic] have become bold towards their husbands. So order the beating of them,’ and they were beaten. Then many women went around to the family of Muhammad. The next day he said: “Last night seventy women came to the family of Muhammad, each woman complaining about her husband. You will not find that those are the best of you.”*<sup>395</sup>

Muhammad's young wife ‘Aisha even commented to Muhammad about the extent to which Muslim women were being beaten:

*‘Aishah said that the lady (came), wearing a green veil (and complained to her (‘Aishah) of her husband and showed her a green spot on her skin caused by beating)...so when Allah's Messenger came, ‘Aishah said, “I have not seen the women suffering as the believing [Muslim] women. Look! Her skin is greener than her clothes!”*<sup>396</sup>

And 'Aisha herself was also a recipient. One time, when it was her turn among the wives to have Muhammad spend the night with her, she secretly followed Muhammad when he left her bed. 'Aisha said that when she later confessed to Muhammad that she had followed him, "He struck me on the chest which caused me pain..."<sup>397</sup>

The modern *Minhaj Al-Muslim* explained the idea of "beating" this way:

*If she still does not obey him, he should take disciplinary action by spanking her in a place other than her face and in a way which does not cause injury.*<sup>398</sup>

There was no mention about not causing pain.

Muhammad provided an apt conclusion to this section:

*A man should not be asked why he beats his wife...*<sup>399</sup>

## **Divorce**

Islamic Sacred Law puts the husband in control when it comes to divorce. The major schools are in agreement that the husband is the divorcer and the wife is the recipient of the divorce.<sup>400</sup>

In the Maliki School, if there is a dispute about whether or not a divorce has taken place, the wife can bring a witness who states that a divorce had taken place. But if the husband swears an oath that it did not happen, there is no divorce; as Imam Malik said, "The right to make an oath only belongs to the husband..."<sup>401</sup>

In the Hanafi School, if the husband writes a letter to his wife intending that they be divorced, "she is divorced from the moment he writes it"; if he notes in the letter that she is not divorced until the letter reaches her, she is then divorced upon receipt of the letter.<sup>402</sup>

According to the Jafari School, a divorce requires the husband to say in Arabic, when possible, "you are divorced" or "so and so is divorced" or "she is divorced"; this must be properly recited, without conditions, in front of two male witnesses. Female witnesses do not suffice.<sup>403</sup>

The four major Sunni schools "allow divorce in any manner in which there is an indication of it," allow conditions to be placed (such

as, “If you speak to your father you are divorced”), and do not require witnesses.<sup>404</sup>

In the Shafi'i School divorcing one's wife can even be conditionally whimsical, with no involvement at all required of the wife:

*When the husband makes a divorce conditional on another person's act, such as by saying, “If So-and-so enters the house, you are divorced,” and the person enters before or after he knows it is a condition, whether remembering it or not, then if the person named is not someone who would mind if they were divorced, then the wife is divorced. But if the person knows it is a condition and enters forgetfully, then if he is someone who would mind if they were divorced, the wife is not divorced.*<sup>405</sup>

According to the Jafari School, the husband cannot give the wife the option of initiating the divorce.<sup>406</sup> According to the four major Sunni schools, however, the husband can authorize the wife or someone else to initiate the divorce.<sup>407</sup>

The Hanafi School has an interesting approach to the wife being allowed to initiate the divorce. When the wife is offered that option by her husband, she is allowed that option

*...as long as she is still sitting [with her husband] and does not take up some other activity. If she takes up some other activity or stands up from sitting with him, her choice is obviated.*<sup>408</sup>

Along this line, the Shafi'i School states that

*... when a husband tells his wife, “Divorce yourself,” then if she immediately says, “I divorce myself,” she is divorced, but if she delays, she is not divorced unless the husband has said, “Divorce yourself whenever you wish.”*<sup>409</sup>

The four major Sunni schools also allow a wife to request a “divorce for consideration” (*al-khul*) in which she pays her husband to divorce her; if both parties agree, it is a valid divorce.<sup>410</sup> These four schools also agree that the husband can arrange a “divorce for



consideration” with a stranger, without his wife even having to be aware of it:

*Therefore, if a stranger asks the husband to divorce his wife for a sum which he undertakes to pay, and the husband divorces her, the divorce is valid even if the wife is unaware of it and on coming to know does not consent.<sup>411</sup>*

The Jafari do not consider such a divorce involving a stranger to be valid; however, they believe that with the wife’s permission, a stranger can act as an agent to ask the husband for a “divorce for consideration” and then act as guarantor for that consideration.<sup>412</sup>

The four major Sunni schools state that if a divorced woman has custody of a child from the previous marriage, she loses her right to that custody if she then marries a man who is unrelated to that child; however, if the man is related to the child, the woman retains custody.<sup>413</sup> The Jafari believe that when a woman remarries, she automatically loses custody of a child from the previous marriage.<sup>414</sup>

### **What a Woman inherits**

The major schools are in agreement that when it comes to inheritance, a wife will generally receive only half of that which her husband receives.<sup>415</sup> And the major schools also acknowledge the Koran’s injunction that if there is more than one wife involved, all of the wives will divide the one portion for the woman between themselves.<sup>416</sup>

Koran 4:11 also applied this idea to the inheritance of children:

*Allah commands you as regards your children's (inheritance): to the male, a portion equal to that of two females...*

### **Women and Death**

Even in death, Islamic Sacred Law relegates Muslim women to a subordinate status. For example, according to the Hanafi School, the body of a man is to be placed closer to the *imam* [prayer leader] than the body of a woman.<sup>417</sup> In the Shafi'i School, if there are several

bodies to be buried, the closest body to the *imam* should be an adult male, then a boy, then a woman; and if bodies are brought successively, the first one brought is placed closest to the *imam*, although a woman's body "should be placed further from the *imam*, than that of a male brought subsequently."<sup>418</sup>

In terms of an after-life, women seemed to have one sure way of getting into paradise:

*It was narrated from Musawir Al-Himyari from his mother that she heard Umm Salamah say: "I heard the Messenger of Allah say: 'Any woman who dies when her husband is pleased with her, will enter Paradise.'"*<sup>\*</sup>

On another occasion, however, Muhammad said that after death, women had a greater chance of going to Hell:

*Narrated 'Imran bin Husain: The Prophet said, "I looked at Paradise and found poor people forming the majority of its inhabitants; and I looked at Hell and saw that the majority of its inhabitants were women."*<sup>419</sup>

And overall women have less of a chance of getting into Paradise:

*Imran b. Husain reported that Allah's Messenger (may peace be upon him) said: Amongst the inmates of Paradise the women would form a minority.*<sup>420</sup>

## **Equality in Cemeteries?**

The modern *Fatawa Islamiyah: Islamic Verdicts* pointed out that "the graves of the dead are their abodes," and "the sanctity of the deceased Muslim is the same as his sanctity while he was alive."<sup>421</sup> In other words, the sanctity of Muslim cemeteries is not to be disturbed.

This is in stark contrast to the actions of Muhammad when dealing with a non-Muslim cemetery. When Muhammad emigrated to Medina, his first mosque was built on land that had been used as a cemetery for non-Muslims. Muhammad ordered that their graves be dug up:

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\* *Sunan Ibn Majah*, Vol. 3, No. 1854, p. 64.

*Narrated Anas: The Prophet came to Al-Madina and ordered a mosque to be built and said, "O Bani Najjar! Suggest to me the price (of your land)." They said, "We do not want its price except from Allah" (i.e., they wished for a reward from Allah for giving up their land free). So, the Prophet ordered the graves of the Mushrikun to be dug out and the land to be levelled, and the date-palm trees to be cut down. The cut date-palms were fixed in the direction of the Qiblah of the mosque.\**

Here is how this mosque (the "Prophet's Masjid") was described in a modern biography of Muhammad:

*The location was that of the graves of the polytheists. The ground was cleared of weeds, shrubs, palm trees and rubbish. The graves of the polytheists dug up and then levelled and the trees planted around.<sup>422</sup>*

One can only wonder what happened to the remains of the "polytheists" after they were dug up.

This desecration of non-Muslim graves was done in the 7<sup>th</sup> Century. Unfortunately, this example of Muhammad is still being followed in some Muslim-majority countries.<sup>423</sup>

The "Equal Protection Clause" of the 14<sup>th</sup> Amendment is quite clear that all persons are to be treated equally in the eyes of the law. As we have seen, under Islam there is no equality between Muslims and non-Muslims, or even between Muslim males and Muslim females.

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\* *Sahih Al-Bukhari*, Vol. 3, Book 29, No. 1868, p. 68. For a longer narration of the same *hadith*, see *Sahih Al-Bukhari*, Vol. 5, Book 63, No. 3932, pp. 167-168. This *hadith* was also reported in *Sunan Ibn Majah*, Vol. 1, No. 742, pp. 486-487 (where it was designated *the Prophet's Mosque*); and *Sunan An-Nasa'i*, Vol. 1, No. 703, pp. 415-416.

The *qiblah* is the direction in which the Muslims turn their faces in prayer. The Muslims originally faced Jerusalem when they prayed. After emigrating to Medina, however, the *qiblah* was changed to Mecca around February 624.



# 10.

## **PREPARATION AND QUESTIONS**

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**S**o what can you do with the information you have learned? Take it with you to town hall meetings and political events where you can ask Muslim candidates questions about the conflict between the *United States Constitution* and Islamic Doctrine. Here are some considerations and possible questions.

### **Preparation**

Here are some things to consider:

1. Try to go to the event with a few friends so multiple questions can be asked, but don't sit together. Each of you can have your own question to ask the Muslim public official. Once you ask your question, the public official will not come back to you, so this then provides an opportunity for one of your other friends.
2. Write out your question or questions ahead of time, so all you have to do is read the question when the time comes. Don't try to memorize or summarize the question. Review the chapter in this book from which the particular question came and have the Koran chapter and verse, and/or the source for Muhammad's teaching available in case you are asked for that information.
3. Be polite and calm.
4. Read your question verbatim and push for a definitive answer.
5. Be ready to handle evasive responses (see the next chapter).
6. Even if the Muslim candidate is evasive or refuses to respond, you are still educating those around you about Islam.
7. Have the event recorded and post it to social media.

## Questions

### **Islam and the 1<sup>st</sup> Amendment**

**No. 1:** Will you go on record now and state that our 1<sup>st</sup> Amendment right to freedom of speech gives the right to anyone in the United States to criticize or disagree with your prophet Muhammad, and will you also go on record now and state that you support and defend anyone's right to criticize or disagree with your prophet Muhammad, and that you condemn anyone who threatens death or physical harm to another person who is exercising that right?

**No. 2:** Our 1<sup>st</sup> Amendment guarantees freedom of religion in the United States. As part of that freedom, anyone in the United States has the right to join or leave any religion, or have no religion at all. Will you go on record now and state that you support and defend the idea that in the United States a Muslim has not only the freedom to leave Islam, but to do so without fear of physical harm, and will you also go on record now and state that you condemn anyone who threatens physical harm to a Muslim who is exercising that freedom?

**No. 3:** Molly Norris used to be the editorial cartoonist for the *Seattle Weekly* in Seattle, Washington. In 2010 she came up with the idea of having an "Everybody Draw Muhammad Day." Because of death threats Molly Norris changed her name and went into hiding. She is still in hiding today.

Will you go on record now and state that you support and defend the right of anyone in the United States to draw a picture of your prophet Muhammad, and will you also go on record now to condemn anyone who threatens death or physical harm to another person who is exercising that right?

### **Islam and the 8<sup>th</sup> Amendment**

As we have seen, there are many cruel and unusual punishments allowed, and even commanded under Islam. The punishments mentioned in these questions provide a model if you want to use other punishments in the questions.

**No. 1:** According to Koran 33:21 your prophet Muhammad is the timeless example and standard of conduct for Muslims, and Koran 59:7 commands Muslims to obey him. Your prophet Muhammad said that beheading and crucifixion are acceptable punishments for Muslims who leave Islam. But our U.S. Constitution, which consists of man-made laws, has the 8<sup>th</sup> Amendment that prohibits cruel and unusual punishments such as these. Do you agree with your prophet Muhammad that beheading and crucifixion are acceptable punishments for Muslims in the United States who leave Islam, or do you believe that our man-made laws prohibiting such punishments are true laws and are to be followed instead of this 7<sup>th</sup> Century teaching of Muhammad?

*Follow-up Question*

*Here is a follow-up question that if appropriate can be asked by you if there is time or by one of your friends later. This follow-up question is a model that can be used after any of the similar questions below have been asked.*

You stated that our man-made laws regarding [...] should be followed instead of the teachings/example of Muhammad (command of Allah in the Koran). Are you thereby stating that Muslims in the United States should follow the man-made laws of the United States if there is a conflict between those man-made laws and the teachings/examples of Muhammad (commands of Allah in the Koran)?

**No. 2:** According to the words of Allah found in Koran 5:38 and the teachings of your prophet Muhammad, amputation of a hand is an acceptable punishment for theft. But our U.S. Constitution, which consists of man-made laws, has the 8<sup>th</sup> Amendment that prohibits cruel and unusual punishment such as this. Do you agree with Allah and your prophet Muhammad that amputation of a hand is an acceptable punishment for theft in the United States, or do you believe that our man-made laws prohibiting such punishments are true laws and are to be followed instead of this 7<sup>th</sup> Century command of Allah and teaching of Muhammad?

*Follow-up question*

**No. 3:** According to Koran 33:21 your prophet Muhammad is the timeless example and standard of conduct for Muslims, and Koran 59:7 commands Muslims to obey him. Your prophet Muhammad said that adulterers were to be stoned to death, and he had many an adulterer stoned to death. But our U.S. Constitution, which consists of man-made laws, has the 8<sup>th</sup> Amendment that prohibits cruel and unusual punishment such as this. Do you agree with your prophet Muhammad that stoning adulterers to death is an acceptable punishment for adulterers in the United States, or do you believe that our man-made laws prohibiting such punishments are true laws and are to be followed instead of this 7<sup>th</sup> Century teaching of Muhammad?

*Follow-up question*

### **Islam and the 13<sup>th</sup> Amendment**

According to Koran 33:21 your prophet Muhammad is the timeless example and standard of conduct for Muslims, and Koran 59:7 commands Muslims to obey him. Your prophet Muhammad bought, sold, and possessed slaves, and allowed the Muslims around him to do the same. But our U.S. Constitution, which consists of man-made laws, has the 13<sup>th</sup> Amendment, which prohibits slavery. Do you agree with your



prophet Muhammad that Muslims in the United States are allowed to buy, sell, and possess slaves, or do you believe that our man-made laws prohibiting slavery are true laws and are to be followed instead of this 7<sup>th</sup> Century teaching of Muhammad?

*Follow-up question*

### **Islam and the 14th Amendment**

**No. 1:** According to Koran 33:21 your prophet Muhammad is the timeless example and standard of conduct for Muslims. At age 50 Muhammad signed a marriage contract with 'Aisha when she was only six years old; when 'Aisha was nine Muhammad consummated their marriage. Do you agree that American Muslim men today can follow the example of your prophet Muhammad and consummate a marriage with a nine year old girl, or do you think this example of conduct by your prophet was only appropriate for 7<sup>th</sup> Century Arabia?

**No. 2:** According to the words of Allah found in Koran 4:3, Muslim men are allowed, but not required, to be married to up to four wives. Being married to more than one wife in the United States is illegal according to our man-made bigamy laws. Do you agree with Allah that it is legal for a Muslim man in the United States to be married to more than one woman, or do you believe that our man-made laws prohibiting bigamy are true laws and are to be followed instead of this 7<sup>th</sup> Century command of Allah?

*Follow-up question*



# 11.

## HANDLING EVASIVE RESPONSES

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Here are some responses that might be used to try to avoid having to answer your question:

1. If the Muslim public official says that he does not believe your information, you can respond by stating:

Muhammad said that anyone who told a lie about him would go to Hell.\* The Koran commentaries and stories about Muhammad I am relying on have been written by Muslim scholars who have been considered authoritative and have been relied on by other Muslim scholars for centuries.† Would these authoritative Muslim scholars really want to go to Hell just so they could tell a lie about Muhammad?

Then ask your question again.

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\* ... Ibn 'Abbas who said: "Allah's Messenger, Allah bless him and give him peace, said: 'Avoid reporting anything from me other than what you know, for whoever lies about me shall be in hell fire; and whoever lies about the Qur'an shall enter hell fire.'"

Al-Wahidi's *Asbab al-Nuzul*, p. 2.

† For example, works of the following scholars we have used are considered to be among "the traditional Sunni Islamic Canon":

1. Commentaries by Jalalayn, ibn Kathir, and al-Wahidi's *Asbab al Nuzul*;
2. The *hadith* collections of al-Bukhari, Muslim, an-Nasa'i, at-Tirmidhi, Abu Dawud (al-Sijistani), and ibn Majah; and ibn Hanbal's *Musnad*;
3. The traditional biographical and historical works of *Sira* by ibn Ishaq, al-Waqidi, and al-Tabari, and the *Muwatta'* of Imam Malik.

*The Muslim 500 - The World's 500 Most Influential Muslims 2019*, The Royal Islamic Strategic Studies Centre (Amman, Jordan), p. 34. This report and the reports from previous years are available at <http://themuslim500.com/>.

2. If the Muslim public official says that you are basing your question on a bad translation of the Koran or teaching/example of Muhammad, this allows you to respond:

The vast majority of the sources I am relying on are the writings of authoritative Muslim scholars which have been translated into English by other Muslim scholars and published by Muslim publishing houses. Are you willing to go on record now as stating that Muslim publishing companies such as Darussalam in Saudi Arabia and Mas Printers\* in Pakistan are misrepresenting what your prophet Muhammad taught and/or what Allah commanded in the Koran?

After his response, ask your question again.

3. If the Muslim public official responds by claiming not to follow or believe in a particular teaching of Islam, this allows you to quickly respond:

Since you don't follow/believe in what the Koran/your prophet Muhammad teaches about the legitimacy of [...], then it will be easy for you to go on record now as stating that the man-made laws in our U. S. Constitution prohibiting [...] are true laws and are to be followed instead of this 7<sup>th</sup> Century command of Allah/teaching of Muhammad.

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\* One of the books we have used is *The Life of Muhammad (Sirat Rasul Allah)*. This book was published by Oxford University Press, and printed in 2007 by Mas Printers, both located in Karachi, Pakistan. In Pakistan there are blasphemy laws that make it a crime to criticize Islam. In 1986, Clause 295-C was added to the law to specifically punish blasphemy against Muhammad; the penalty was death or life in prison. In 1991, the option of life in prison was removed and death was the only penalty (<https://pakistanblasphemylaw.com/abuse-of-blasphemy-law/>). Taking this into consideration, you could specifically ask the Muslim public official if they want to go on record right now as stating that authorities in Pakistan have allowed the Oxford University Press and Mas Printers to produce a book that reported false information about the prophet Muhammad.

Follow-up Question:

*Here is a follow-up question that if appropriate can be asked by you if there is time or by one of your friends later. This question is a model that can also be used after the question below has been asked:*

You stated that our man-made laws regarding [...] should be followed instead of the teachings/example of Muhammad (command of Allah in the Koran). Are you thereby stating that Muslims in the United States should follow the man-made laws of the United States if there is a conflict between those man-made laws and the teachings/examples of Muhammad (commands of Allah in the Koran)?

4. If the Muslim public official responds with a general statement that Islam commands them to follow the laws of the land in which they reside, this allows you to respond:

So you are saying that Islam commands you to follow the man-made laws of the United States. Does this mean that when there is a conflict between the man-made laws of the United States and the commands of Allah and/or the teachings and example of your prophet Muhammad, our man-made laws will come first and you will choose to follow them?



# 12.

## CONCLUSION

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*... the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all.*

— George Washington's Farewell Address - September 19, 1796<sup>424</sup>

The issue at hand is whether a Muslim public official can swear a valid oath to support the *United States Constitution* and still remain faithful to Islam. Let's begin by considering Islamic Doctrine.

Islamic Doctrine states that for an oath to be valid it must be sworn in the name of Allah or one of his attributes. The "God" referred to in the federal oath of office is not Allah, the god of Islam. Therefore, according to Islamic Doctrine this oath would be neither valid nor binding on the Muslim making it.

Islamic Doctrine teaches that the laws of Allah are always superior to man-made laws if there is a conflict between the two. As we have seen in the chapters of this book, there is extensive conflict between the man-made laws in the *Constitution* and the laws of Allah, which include the teachings and example of Allah's prophet Muhammad. So according to Islamic Doctrine, a Muslim is not allowed make an oath swearing to support the *Constitution*.

Assuming for the sake of argument that the oath was valid, according to Islamic Doctrine an oath can be broken if something better comes along or if the oath creates a hardship. The expiation for breaking an oath under Islam is not particularly onerous, especially if one chooses to fast. And all of this can be done away from the public eye.

Federal law requires the federal oath of office to be made "without any mental reservation or purpose of evasion," and that idea is inherent in the swearing of oaths of office at all levels of government.

Islamic Doctrine, however, shows how “evasion” can occur in those oaths of office:

1. Islamic Doctrine teaches that the silent intention of the oath-maker determines the true meaning of the oath. This allows a Muslim to state one thing in the verbal oath while his silent intentions can be completely different from what was intended by that oath. The Muslim is also allowed to mentally play with the words of the oath to “escape their intended point.”
2. Islamic Doctrine teaches that an oath can be invalidated even as it is being made by inconspicuously including the phrase *Inshah’ Allah* in that oath.
3. According to the teachings of Muhammad, when a Muslim swears an oath without mentioning the word “Allah,” he is at best simply giving his own personal guarantee, and this is a personal guarantee that Muhammad said could be broken with minimal consequences. And it could be broken and expiation made away from the public eye.
4. Holding one’s hand on the Koran when taking an oath appears to give validity to that oath. According to Islamic Doctrine, however, it is neither required nor prohibited and has nothing to do with determining the validity of an oath.

So according to Islamic Doctrine, a Muslim is not allowed to take a valid oath to support the *Constitution*. That Doctrine, however, also provides ways in which a Muslim can appear to be taking such an oath.

Can an individual Muslim claim he is sincerely swearing an oath to support the *United States Constitution*? An individual Muslim certainly can, but here are some considerations:

1. The Muslim might claim that when he is saying the words “so help me God” he is personally referring to his god Allah. But as was pointed out before, how can one swear to Allah that one will support a *Constitution* that in large part is in direct conflict with many of the tenets of Islamic Doctrine?
2. The Muslim can personally decide to renounce certain aspects of Islamic Doctrine that prohibit making such an oath. But that means the Muslim would be ignoring commands of Allah and



teachings of Muhammad for the sake of supporting conflicting man-made laws. That is the focus of the questions in Chapters 10 and 11.

3. Koran 16:106, however, allows a Muslim to pretend to renounce Islam, or certain aspects of Islamic Doctrine, as long as the Muslim stays true to Islam in his heart.
4. And Koran 3:28 and 16:106 both allow Muslims to deceive non-Muslims. So is the Muslim being truthful about his claim?

Muslims are those who believe in and follow the religion of Islam. Islamic Doctrine prohibits Muslims from swearing an oath to support the *United States Constitution* due to its man-made laws that are in conflict with that Doctrine. But Islamic Doctrine also provides Muslims ways of *appearing* to do so and allows Muslims to deceive non-Muslims in general.

Islamic Doctrine undermines the idea that taking an oath to support the *Constitution* is a way of unifying people and holding them equally accountable to the supreme law of the United States.

These are issues of concern that need to be resolved, and it is incumbent on Muslims to be willing to help achieve that resolution.



## APPENDIX

### QUESTIONS FOR CANADIANS

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**M**uslims have run for and been elected to public office in Canada. Here are questions that Canadians can ask of a Muslim candidate or public official:

**No. 1:** The *Canadian Charter of Rights and Freedoms*<sup>425</sup> consists of man-made laws. Section 2(a) of that Charter states: Everyone has the following fundamental freedoms: freedom of conscience and religion. In the 1986 court case *Edwards Books and Art Ltd.* the Canadian Supreme Court noted that freedom of conscience included the right not to have a religious basis for one's conduct. The Canadian Supreme Court also has ruled that Section 2(a) protects atheists, agnostics, and skeptics.<sup>426</sup> Will you go on record now to support and defend the idea that under the man-made laws of Canada a Muslim in Canada has the freedom to leave Islam without fear of physical harm, and to also condemn anyone who threatens physical harm to a Muslim who is exercising that freedom?

**No. 2:** According to Koran 33:21 your prophet Muhammad is the timeless example and standard of conduct for Muslims and Koran 59:7 commands Muslims to obey him. Your prophet Muhammad said that beheading and crucifixion are acceptable punishments for Muslims who leave Islam. The *Canadian Charter of Rights and Freedom* consists of man-made laws, and Section 12 of that Charter prohibits cruel and unusual punishment. Do you agree with your prophet Muhammad that beheading and crucifixion are acceptable punishments for Canadian Muslims who leave Islam, or do you believe that our man-made laws prohibiting such punishments are true laws and are to be followed instead of this 7<sup>th</sup> Century teaching of Muhammad?

**No. 3:** According to the words of Allah found in Koran 5:38 and the teachings of your prophet Muhammad, amputation of a hand is an acceptable punishment for theft. But Section 12 of our *Canadian Charter of Rights and Freedom*, which consists of man-made laws, prohibits cruel and unusual punishment such as this. Do you agree with Allah and your prophet Muhammad that amputation of a hand is an acceptable punishment for theft in Canada, or do you believe that our man-made laws prohibiting such punishments are true laws and are to be followed instead of this 7<sup>th</sup> Century command of Allah and teaching of Muhammad?

**No. 4:** According to Koran 33:21 your prophet Muhammad is the timeless example and standard of conduct for Muslims and Koran 59:7 commands Muslims to obey him. Your prophet Muhammad bought, sold, and possessed slaves, and allowed the Muslims around him to do the same. But in 1833, the *Act for the Abolition of Slavery throughout the British Colonies*, a man-made law, received royal assent and became law throughout the British Empire. Do you agree with your prophet Muhammad that Canadian Muslims are allowed to buy, sell, and possess slaves, or do you believe that our man-made law prohibiting slavery is a true law and is to be followed instead of this 7<sup>th</sup> Century teaching of Muhammad?

Follow-up Question:

Here is a follow-up question that if appropriate can be asked by you if there is time or by one of your friends after any of the questions above have been asked:

You stated that our man-made laws regarding [...] should be followed instead of the teachings/example of Muhammad (command of Allah in the Koran). Are you thereby stating that Muslims in Canada should follow the man-made laws of Canada if there is a conflict between those man-made laws and the teachings/examples of Muhammad (commands of Allah in the Koran)?

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## **YouTube**

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## ABOUT THE AUTHOR

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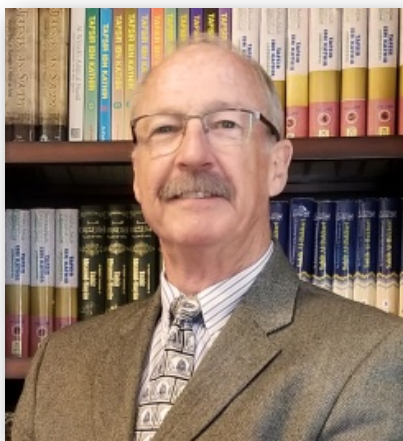
**D**r. Stephen M. Kirby is retired after spending over 31 years in law enforcement, most of that time with the Los Angeles Police Department. During the latter half of his law enforcement career he specialized in the investigation of white collar crimes and public corruption. While investigating crimes was his main responsibility, Steve was also an instructor in LAPD's Detective School and later taught courses on public corruption investigation to new district attorney investigators.

He attended the University of Virginia where he earned a PhD in Foreign Affairs, with an emphasis in Soviet Foreign Policy.

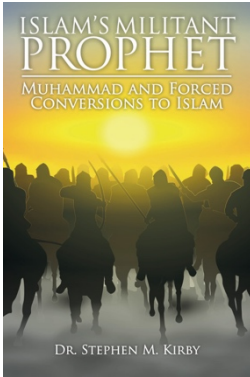
Steve is the author of five other books, and numerous articles and brochures, about Islam.

Steve is a contributor to *FrontPage Magazine*, *Arutz Sheva* 7 - *Israel National News*, *Jihad Watch*, *Militant Islam Monitor*, *PipeLineNews.org*, and *American Thinker*.

His website is *IslamSeries.org*.



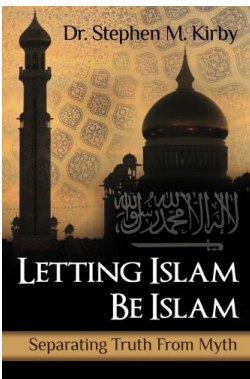
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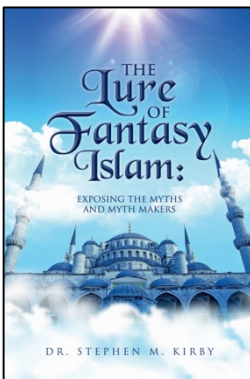
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- 31 Salahuddin Yusuf, *Tafsir Ahsanul-Bayan*, trans. Mohammad Kamal Myshkat, (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2013), Vol. 5, p. 478.
- 32 *Interpretation of the Meanings of The Noble Quran, Part 8 (From Surah 51 to 69)*, Trans. Muhammad Muhsin Kahn and Muhammad Taqi-ud-Din Al-Hilali (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2000), pp. 358-359. This *hadith* is found in *Sahih Al-Bukhari*, Vol. 8, Book 84, No. 6709, p. 371.
- 33 Abu Dawud Sulaiman bin al-Ash'ath bin Ishaq, *Sunan Abu Dawud*, trans. Yaser Qadhi (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2008), Vol. 4, No. 3275, p. 31.
- 34 *Sunan Abu Dawud*, Vol. 4, No. 3262, p. 26. This statement by Muhammad was also reported in, for example, *Sunan An-Nasa'i*, Vol 4, No. 3824, p. 433; *Sunan Ibn Majah*, Vol. 3, Nos. 2104-2106, pp. 206-207; and Ahmad bin Muhammad bin Hanbal ash-Shaibani, *Musnad Imam Ahmad Bin Hanbal*, trans. Nasiruddin Al-Khattab, ed. Huda Al-Khattab (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2016), Vol. 4, No. 5093, p. 247.
- 35 *The Kitab al-Athar of Imam Abu Hanifah*, 230.716, p. 422.
- 36 Abu'l Hussain 'Asakir-ud-Din Muslim bin Hajjaj al-Qushayri al-Naisaburi, *Sahih Muslim*, trans. 'Abdul Hamid Siddiqi (New Delhi, India: Adam Publishers and Distributors, 2008), Vol. 5, No. 1653, p. 97.
- 37 *Sahih Muslim*, Vol. 5, No. 1653R1, p. 97.
- 38 *Sunan Ibn Majah*, Vol. 3, No. 2121, p. 216. For the flexibility in the meaning of an oath, also see *The Mainstay Concerning Jurisprudence*, p. 270; and *The Kitab al-Athar of Imam Abu Hanifah*, 235.727, p. 428.
- 39 *Minhaj Al-Muslim*, Vol. 2, pp. 455-456.
- 40 "Becoming a citizen of Australia," *Islamweb.net*, January 23, 2001, <https://www.islamweb.net/womane/nindex.php?page=showfatwa&Option=FatwaId&lang=E&FatwaId=82552>.
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- 44 *Sahih Muslim*, Vol. 5, No. 1731R1, p. 163.
- 45 John Nichols, "Keith Ellison and the Jefferson Koran," *The Nation – Blog*, January 3, 2007, <https://www.thenation.com/article/keith-ellison-and-jefferson-koran/>. Also see my article "Congressman Ellison and Jefferson's Koran," *FrontPage Mag*, April 19, 2015, <https://archives.frontpagemag.com/fpm/congressman-ellison-and-jeffersons-koran-dr-stephen-m-kirby/>.
- 46 Talib I. Karim, "Second Muslim Takes His Seat in the House of Representatives," *The Muslim Link*, April 1, 2008, <http://www.muslimlinkpaper.com/community-news/community-news/1368-Second%20Muslim%20Takes%20His%20Seat%20in%20the%20House%20of%20Representatives.html>.
- 47 Remarks by the President at Cairo University, June 4, 2009, <https://obamawhitehouse.archives.gov/video/President-Obama-Speaks-to-the-Muslim-World-from-Cairo-Egypt#transcript>.
- 48 Preya Samsundar, "Omar Gives Her Oath Twice in One Day," *Alphanews*, January 5, 2017, <https://alphanewsmn.com/omar-gives-her-oath-twice-in-one-day/>. It is interesting to note that the *Constitution of Minnesota* guarantees freedom of speech and religion, and prohibits the use of cruel and unusual punishment.
- 49 <https://www.youtube.com/watch?v=hJeNACXpO6M>. Also see Dave Herndon, "Fadwa Hammoud swearing-in ceremony held at Fordson High School," *Press & Guide*, February 14, 2019, [http://www.pressandguide.com/news/fadwa-hammoud-swearing-in-ceremony-held-at-fordson-high-school/article\\_36aa9226-3087-11e9-bbbb-07d732f56f38.html](http://www.pressandguide.com/news/fadwa-hammoud-swearing-in-ceremony-held-at-fordson-high-school/article_36aa9226-3087-11e9-bbbb-07d732f56f38.html). For an article about this ceremony with a picture of Hammoud with her right hand raised and her left hand on the Koran, see Nick Meyer, "Fadwa Hammoud sworn in as country's first Arab American, Muslim solicitor general," *The Arab American News*, February 14, 2019, <https://www.arabamericannews.com/2019/02/11/fadwa-hammoud-sworn-in-as-countrys-first-arab-american-muslim-solicitor-general/>. The *Constitution of Michigan* guarantees freedom of speech and religion, and the right to bear arms, and bans slavery and cruel and unusual punishment.
- 50 Abu Ammaar Yasir Qadhi, *An Introduction to the Sciences of the Qur'aan* (Birmingham, UK: Al-Hidaayah Publishing, 1999), p. 118.
- 51 "He is asking about reinterpreting the Qur'an and Sunnah to suit the age," *Islam Question & Answer*, January 15, 2017,

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<https://islamqa.info/en/answers/238616/he-is-asking-about-reinterpreting-the-quran-and-sunnah-to-suit-the-age>.

- 52 Abu ‘Abdullah Muhammad ibn Ahmad al-Ansari al-Qurtubi, *Tafsir Al-Qurtubi: Classical Commentary of the Holy Qur’an*, Vol. 1, trans. Aisha Bewley (London: Dar Al Taqwa Ltd., 2003), p. 321. The *halal* is that which is permitted, and the *haram* is that which is forbidden.
- 53 *An Introduction to the Sciences of the Qur’aan*, pp. 238-240. This list of the four ways in which abrogation can occur was also noted in Ahmad Von Denffer, *‘Ulum al-Qur’an: An Introduction to the Sciences of the Qur’an* (Leicestershire, UK: The Islamic Foundation, 1994), p. 82.
- 54 Mahmoud Ismail Saleh, *Dictionary of Islamic Words & Expressions*, 3<sup>rd</sup> ed. (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2011), p. 71.
- 55 Jalal-al-Din ‘Abd al-Rahman al-Suyuti, *The Perfect Guide to the Sciences of the Qur’an*, trans. Hamid Algar, et al. (Reading, UK: Garnet Publishing, 2011), p. 185.
- 56 *An Introduction to the Sciences of the Qur’aan*, p. 233.
- 57 *Ibid.*, p. 250.
- 58 *Ibid.*, p. 249.
- 59 *Sahih Al-Bukhari*, Vol. 1, Book 4, No. 233, pp. 178-179.
- 60 *Sunan Abu Dawud*, Vol. 5, No. 4370, p. 26.
- 61 *An Introduction to the Sciences of the Qur’aan*, p. 118.
- 62 Qadi ‘Iyad ibn Musa al-Yahsubi, *Muhammad, Messenger of Allah: Ash-Shifa of Qadi ‘Iyad*, trans. Aisha Abdarrahman Bewley (Norwich, UK: Diwan Press, 2011), p. 218.
- 63 Abu ‘Eisa Mohammad ibn ‘Eisa at-Tirmidhi, *Jami’ At-Tirmidhi*, trans. Abu Khaliyl (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2007), Vol. 4, Comments to *Hadith* No. 2013, p. 102.
- 64 *Tafsir Ahsanul-Bayan*, Vol. 4, pp. 374-375.
- 65 Sheikh Muhammed Salih Al-Munajjid, “Justification for following the Sunnah,” *Islam Question & Answer*, August 2, 1998, <https://islamqa.info/en/answers/604/justification-for-following-the-sunnah>.
- 66 *Muhammad, Messenger of Allah: Ash-Shifa of Qadi ‘Iyad*, p. 216.
- 67 For example, works of the following scholars we have used are considered to be among “the traditional Sunni Islamic Canon”:
1. Commentaries by Jalalayn, ibn Kathir, and al-Wahidi’s *Asbab al Nuzul*;
  2. The *hadith* collections of al-Bukhari, Muslim, an-Nasa’i, at-Tirmidhi, Abu Dawud (al-Sijistani), and ibn Majah; and ibn Hanbal’s *Musnad*;
  3. The traditional biographical and historical works of *Sira* by ibn Ishaq, al-Waqidi, and al-Tabari, and the *Muwatta’* of Imam Malik.

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*The Muslim 500 – The World’s 500 Most Influential Muslims 2019*, The Royal Islamic Strategic Studies Centre (Amman, Jordan), p. 34. This report and the reports from previous years are available at <http://themuslim500.com/>.

- 68 Abu al-Fida’ ‘Imad Ad-Din Isma’il bin ‘Umar bin Kathir al-Qurashi Al-Busrawi, *Tafsir Ibn Kathir* (Abridged), abr. Shaykh Safiur-Rahman al-Mubarakpuri, trans. Jalal Abualrub, et al. (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2000), Vol. 3, p. 204.
- 69 Jalalu’d-Din al-Mahalli and Jalalu’d-Din as-Suyuti, *Tafsir Al-Jalalayn*, trans. Aisha Bewley (London: Dar Al Taqwa Ltd., 2007), p. 256.
- 70 *Tafsir Ahsanul-Bayan*, Vol. 1, p. 616.
- 71 Abdur-Rahman Nasir as-Sa’di, *Tafsir as-Sa’di*, trans. Nasiruddin al-Khattab (Riyadh, Kingdom of Saudi Arabia: International Islamic Publishing House, 2018), Vol. 2, p. 418.
- 72 David M. Swindle, “Siraj Wahhaj on non-Muslims, Adultery and Theft,” *Islamist Watch*, February 11, 2017, <https://www.meforum.org/islamist-watch/51766/siraj-wahhaj-on-non-muslims-and-the-punishment>.
- 73 *Tafsir Ibn Kathir*, Vol. 2, pp. 141-142; n. 2 on p. 142 defines *Tuqyah* (*Taqiyya*) as “To shield what is in one’s heart.” *Taqiyya* is also defined as “Concealing identity”; see *Dictionary of Islamic Words & Expressions*, p. 237. For an informative article discussing the significance of *Taqiyya* to Islam, see Raymond Ibrahim, “How *Taqiyya* Alters Islam’s Rules of War, Defeating Jihadist Terrorism,” *The Middle East Quarterly*, Volume 17, No. 1 (Winter 2010), <http://www.meforum.org/2538/taqiyya-islam-rules-of-war>.
- 74 *Tafsir Al-Jalalayn*, pp. 122-124.
- 75 *Tafsir Ahsanul-Bayan*, Vol. 1, p. 290.
- 76 Ibid.
- 77 *Tafsir as-Sa’di*, Vol. 1, pp. 400-401.
- 78 Ibid., p. 401
- 79 *Tafsir Ibn Kathir*, Vol. 5, p. 529.
- 80 *Tafsir Ibn Kathir*, Vol. 5, p. 530.
- 81 *Tafsir Al-Jalalayn*, p. 583.
- 82 *Tafsir Ahsanul-Bayan*, Vol. 3, p. 247.
- 83 Ibid.
- 84 *Tafsir as-Sa’di*, Vol. 5, p. 248.
- 85 Ibid.
- 86 “Is it permissible to speak words of disbelief in order to save one’s life? Which is preferable, to be patient or to utter such words?” *Islam Question & Answer*, March 5, 2015, <https://islamqa.info/en/answers/150748/is-it-permissible-to->

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speaking words of disbelief in order to save one's life which is preferable to be patient or to utter such words.

- <sup>87</sup> Muhammad b. 'Umar al-Waqidi, *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, trans. Rizwi Faizer, Amal Ismail, and AbdulKader Tayob, ed. Rizwi Faizer (London and New York: Routledge, 2013), p. 96.
- <sup>88</sup> Safiur-Rahman al-Mubarakpuri, *The Sealed Nectar* (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2008), p. 521. In 1979 this biography was awarded first prize by the Muslim World League in the worldwide competition for a new biography of Muhammad. The Muslim World League is headquartered in Mecca (<https://en.themwl.org/>).
- <sup>89</sup> *Sunan Abu Dawud*, Vol. 5, No. 4361, pp. 20-21. This narration was also reported in *Sunan An-Nasa'i*, Vol. 5, No. 4075, pp. 66-67; in this *hadith* Muhammad said, "I bear witness that her blood is permissible."
- <sup>90</sup> *Sunan Abu Dawud*, Vol. 5, No. 4362, p. 21.
- <sup>91</sup> Patricia Cohen, "Yale Press Bans Images of Muhammad in New Book," *The New York Times*, August 12, 2009, <https://www.nytimes.com/2009/08/13/books/13book.html>.
- <sup>92</sup> Emmanuelle Saliba, "Paris Killer Cherif Kouachi Gave Interview to TV Channel before He Died," *NBC News*, January 9, 2015, <http://www.nbcnews.com/storyline/paris-magazine-attack/paris-killer-cherif-kouachi-gave-interview-tv-channel-he-died-n283206>.
- <sup>93</sup> *Muhammad, Messenger of Allah: Ash-Shifa of Qadi 'Iyad*, p. 373.
- <sup>94</sup> *Ibid.*, p. 402.
- <sup>95</sup> *Al-Wahidi's Asbab al-Nuzul*, p. 80.
- <sup>96</sup> *Sahih Al-Bukhari*, Vol. 9, Book 87, No. 6878, p. 20.
- <sup>97</sup> *Al-Muwatta of Imam Malik ibn Anas*, 36.18.15, p. 303, in the section titled "Judgement on Abandonment of Islam."
- <sup>98</sup> *Sunan An-Nasa'i*, Vol. 5, No. 4053, pp. 56-57. This *hadith* from 'Aisha was similarly reported in *Sunan Abu Dawud*, Vol. 5, No. 4353, p. 16.
- <sup>99</sup> Abu'l-Hasan 'Ali ibn Muhammad ibn Habib al-Basri al-Baghdadi al-Mawardi, *Al-Ahkam As-Sultaniyya: the Laws of Islamic Governance*, trans. Asadullah Yate (London: Ta-Ha Publishers Ltd., 2005), p. 84.
- <sup>100</sup> *Reliance of the Traveller*, o8.1, p. 595.
- <sup>101</sup> *Minhaj Al-Muslim*, Vol. 2, pp. 522-524. Here is the explanation for the meaning of *Hadd*:  
Al-Hadd is the prevention by means of beating or killing (i.e. execution) against doing that which Allah the Most Gracious and Most Merciful has forbidden. The Hudood [Hudud] of Allah the Almighty are the prohibitions that He commanded to be avoided and not approached.  
*Minhaj Al-Muslim*, Vol. 2, p. 501.

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- <sup>102</sup> Muhammad bin ‘Abdul-‘Aziz Al-Musnad, *Fatawa Islamiyah: Islamic Verdicts* (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2002), Vol. 5, p. 81.  
This multi-volume set is a  
...collection of Islamic rulings issued by the most renowned scholars of the world... There are many moments and occasions in one's life when there arises a need to know about a certain Islamic ruling in accordance with a situation with respect to certain conditions and circumstances. The legal Islamic rulings required should be from those who have knowledge of Qur'anic Verses and Ahadith, and be able to understand them and to use them as evidence as required on the questions... It is not easy for the Muslims to contact such learned scholars of Islam at all times for legal judgements they are in need of at any particular time. To overcome this difficulty of the Muslims, Darussalam is presenting this collection of legal rulings issued from the most renowned scholars of the world.  
<https://dar-us-salam.com/english/fiqh-islamic-law/148-fatawa-islamiyah-islamic-verdicts-8-volumes.html>
- <sup>103</sup> Ibid., p. 400.
- <sup>104</sup> Sheikh Muhammed Salih Al-Munajjid, "Why is the apostate to be executed in Islam?" *Islam Question & Answer*, January 2, 2010,  
<https://islamqa.info/en/answers/20327/why-is-the-apostate-to-be-executed-in-islam>.
- <sup>105</sup> "Is it not useless and impossible to kill an apostate (murtad)?" *Questions on Islam*, October 30, 2018, <https://questionsonislam.com/question/it-not-useless-and-impossible-kill-apostate-murtad>.
- <sup>106</sup> "Topic: If they had gotten rid of the apostasy punishment Islam wouldn't exist today," *CEMB forum*, April 1, 2013,  
<https://www.councilofexmuslims.com/index.php?topic=23759.0>.
- <sup>107</sup> Ahmed el-Beheiri, "Sharia Professor: Selling weapons, metals and oil to enemies is forbidden at any time," *almasryonline.com*, March 8, 2008,  
<https://today.almasryalyoum.com/article2.aspx?ArticleID=115873>.
- <sup>108</sup> "Ruling on helping the kuffaar against the Muslims," *Islamway*, December 21, 2012, <https://en.islamway.net/article/13855/ruling-on-helping-the-kuffaar-against-the-muslims>.
- <sup>109</sup> *Tafsir Ibn Kathir*, Vol. 4, pp. 406-407. For a similar version, see Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore, MD: The John Hopkins Press, 2008), pp. 193-194.
- <sup>110</sup> *Reliance of the Traveller*, k1.2 (f), p. 380.
- <sup>111</sup> *War and Peace in the Law of Islam*, pp. 52-53. For additional information about *dar al-Islam*, see pp. 155-161. For additional information about *dar al-harb*, see pp. 170-174.
- <sup>112</sup> Ibid, p. 202.
- <sup>113</sup> *Sunan Abu Dawud*, Vol. 5, "Glossary" listing for "Darul-Harb," p. 508. See the same comment about hostility toward Muslims living in *dar al-harb* in the same



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glossary listing in: *Sunan An-Nasa'i*, Vol. 6, p. 400; *Sunan Ibn Majah*, Vol. 5, p. 445; and *Jami' At-Tirmidhi*, Vol. 6, p. 560.

<sup>114</sup> *Tafsir Ibn Kathir*, Vol. 3, p. 161.

<sup>115</sup> *War and Peace in the Law of Islam*, p. 167.

<sup>116</sup> *Ibid.*, p. 228.

<sup>117</sup> *Ibid.*, p. 225.

<sup>118</sup> David B. Kopel, "Dhimmitude and Disarmament," *George Mason University Civil Rights Law Journal*, Vol. 18, Issue No. 2 (2008), [http://works.bepress.com/david\\_kopel/19/](http://works.bepress.com/david_kopel/19/).

<sup>119</sup> "Syria crisis: ISIS imposes rules on Christians in Raqqa," *BBC News*, February 27, 2014, <https://www.bbc.com/news/world-middle-east-26366197>.

<sup>120</sup> "ISIS Issues Dhimma Contract For Christians To Sign, Orders Them To Pay Jizyah," *New English Review*, September 3, 2015, [https://www.newenglishreview.org/blog\\_direct\\_link.cfm/blog\\_id/62244/ISIS-Issues-Dhimma-Contract-For-Christians-To-Sign-Orders-Them-To-Pay-Jizyah](https://www.newenglishreview.org/blog_direct_link.cfm/blog_id/62244/ISIS-Issues-Dhimma-Contract-For-Christians-To-Sign-Orders-Them-To-Pay-Jizyah).

<sup>121</sup> "Boycotting the products of kuffaar who are hostile towards Islam," *Islam Question & Answer*, May 3, 2004, <https://islamqa.info/en/answers/20732/boycotting-the-products-of-kuffaar-who-are-hostile-towards-islam>.

<sup>122</sup> "Ruling on helping the kuffaar against the Muslims," *Islamway*, December 21, 2012, <https://en.islamway.net/article/13855/ruling-on-helping-the-kuffaar-against-the-muslims>.

<sup>123</sup> Muhammad ibn Ishaq, *The Life of Muhammad (Sirat Rasul Allah)*, trans. Alfred Guillaume (Karachi, Pakistan: Oxford University Press, 2007), p. 676.

<sup>124</sup> *Ibid.*

<sup>125</sup> Ibn Ishaq wrote:

Now there was a great commotion among the B. Khatma that day about the affair of Bint Marwan. She had five sons, and when 'Umayr went to them from the apostle he said, 'I have killed Bint Marwan, O sons of Khatma. Withstand me if you can; don't keep me waiting.' That was the first day that Islam became powerful among B. Khatma; before that those who were Muslims concealed the fact. The first of them to accept Islam was 'Umayr b. 'Adiy who was called 'the Reader', and 'Abdullah b. Aus and Khuzayma b. Thabit. The day after Bint Marwan was killed the men of B. Khatma became Muslims because they saw the power of Islam.

*The Life of Muhammad (Sirat Rasul Allah)*, p. 676.

<sup>126</sup> *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, pp. 86-87.

<sup>127</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 675.

<sup>128</sup> *Ibid.*, pp. 482-483.

<sup>129</sup> *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, pp. 261-262.

<sup>130</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 511.

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- <sup>131</sup> Ibid., n. 760, p. 770.
- <sup>132</sup> *Sunan Abu Dawud*, Vol. 3, No. 2638, pp. 275-276; *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 355; and Abu 'Abd Allah Muhammad ibn Sa'd ibn Mani' al-Zuhri al-Basri, *Kitab al-Tabaqat al-Kabir*, trans. S. Moinul Haq (New Delhi, India: Kitab Bhavan, 2009), Vol. 2, p. 146.
- <sup>133</sup> *Sunan Ibn Majah*, Vol. 4, No. 2840, pp. 88-89.
- <sup>134</sup> *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 146. For additional statements from Salamah claiming that he had personally killed a total of seven people, see *Sunan Abu Dawud*, Vol. 3, No. 2638, pp. 275-276 (*I killed seven idolators in their homes*); and *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 355 (*I killed seven of the people*).
- <sup>135</sup> Abu Ja'far Muhammad b. Jarir al-Tabari, *The History of al-Tabari: The Victory of Islam*, Vol. VIII, trans. and annotated Michael Fishbein (Albany, New York: State University of New York Press, 1997), p. 141. Also see *The Life of Muhammad (Sirat Rasul Allah)*, pp. 660-661.
- <sup>136</sup> *The History of al-Tabari: The Victory of Islam*, p. 142.
- <sup>137</sup> *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 156.
- <sup>138</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 661.
- <sup>139</sup> *Kitab al-Tabaqat al-Kabir*, Vol. 2, pp. 200-201; and *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 371.
- <sup>140</sup> *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 235.
- <sup>141</sup> *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 549.
- <sup>142</sup> *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 237. Al-Waqidi provided a similar description:  
When Usama reached Ubna and could see it with his eyes, he mobilized his companions and said, "Go and raid...draw your sword and place it in whoever confronts you." Then he pushed them into the raid. A dog did not bark, and no one moved. The enemy did not know except when the army attacked them calling out their slogan, "O Mansur, Kill!" He killed those who confronted him and took prisoner those he defeated. He set the borders on fire and their houses and fields and date palm on fire.  
*The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 549.
- <sup>143</sup> E.g., *The History of al-Tabari: The Victory of Islam*, p. 142; *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 355; *Sunan Abu Dawud*, Vol. 3, No. 2638, pp. 275-276; and *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 146.
- <sup>144</sup> E.g., *The Life of Muhammad (Sirat Rasul Allah)*, n. 738, p. 768, and n. 760, p. 770; *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 549; and *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 237.
- <sup>145</sup> *War and Peace in the Law of Islam*, p. 198.

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- 146 *Muslim Persecution of Christians*,  
<https://www.raymondibrahim.com/category/muslim-persecution-of-christians/>
- 147 *Musnad Imam Ahmad Bin Hanbal*, Vol. 3, No. 3556, p. 267.
- 148 *Sahih Al-Bukhari*, Vol. 8, Book 86, No. 6789, p. 410.
- 149 *Ibid.*, No. 6799, p. 413.
- 150 *Ibid.*, Vol. 5, Book 64, No. 4304, pp. 361-362.
- 151 *Sunan An-Nasa'i*, Vol. 5, No. 4981, pp. 499-500.
- 152 *Encyclopedia of Islamic Law: A Compendium of the Views of the Major Schools*, adapted by Laleh Bakhtiar (Chicago: Kazi Publications, Inc., 1996), p. 381.
- 153 *Minhaj Al-Muslim*, Vol. 2, p. 516.
- 154 *Sunan Ibn Majah*, Vol. 3, No. 2587, p. 483. This *hadith* was also reported in *Sunan Abu Dawud*, Vol. 5, No. 4411, p. 49; *Sunan An-Nasa'i*, Vol. 5, Nos. 4985-4986, p. 502; and *Jami' At-Tirmidhi*, Vol. 3, No. 1447, p. 233.
- 155 David M. Swindle, "Siraj Wahhaj on non-Muslims, Adultery and Theft," *Islamist Watch*, February 11, 2017, <https://www.meforum.org/islamist-watch/51766/siraj-wahhaj-on-non-muslims-and-the-punishment>.
- 156 "Actions that put a person beyond the pale of Islam," *Islam Question & Answer*, April 25, 2010, <https://islamqa.info/en/answers/31807/actions-that-put-a-person-beyond-the-pale-of-islam>.
- 157 *Tafsir Ibn Kathir*, Vol. 3, p. 161.
- 158 *Minhaj Al-Muslim*, Vol. 2, p. 519.
- 159 *Tafsir Ibn Kathir*, Vol. 4, p. 274.
- 160 *Tafsir Ahsanul-Bayan*, Vol. 2, Commentary No. 2, p. 276.
- 161 *Al-Muwatta of Imam Malik ibn Anas*, 36.18.15, p. 303, in a section titled "Judgement on Abandonment of Islam."
- 162 *Sunan Ibn Majah*, Vol. 3, No. 2539, p. 455.
- 163 *Ibid.*, No. 2608, pp. 494-495.
- 164 *The Life of Muhammad (Sirat Rasul Allah)*, p. 464; *The History of al-Tabari: The Victory of Islam*, p. 35.
- 165 *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 252.
- 166 *The Life of Muhammad (Sirat Rasul Allah)*, pp. 465-466; *The History of al-Tabari: The Victory of Islam*, p. 38.
- 167 *Sunan Abu Dawud*, Vol. 5, No. 4404, p. 45.
- 168 *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 252.
- 169 *Ibid.*, p. 422.

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- <sup>170</sup> Abu Ja'far Muhammad b. Jarir al-Tabari, *The History of al-Tabari: The Last Years of the Prophet*, Vol. IX, trans. and annotated Ismail K. Poonawala (Albany, New York: State University of New York Press, 1990), n. 979, p. 148. Similarly, there was a Christian convert to Islam that used to write down the "revelations" for Muhammad. Later on he returned to Christianity and used to say, "Muhammad knows nothing but what I have written for him." He later died, but it was reported that the earth refused to accept his body. See *Sahih Al-Bukhari*, Vol. 4, Book 61, No. 3617, p. 492.
- <sup>171</sup> *The History of al-Tabari: The Victory of Islam*, pp. 178-179. This story is also mentioned in *The Life of Muhammad (Sirat Rasul Allah)*, p. 550; *Sunan Abu Dawud*, Vol. 5, No. 4359, pp. 19-20; and *Sunan An-Nasa'i*, Vol. 5, No. 4072, p. 64.
- <sup>172</sup> *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, p. 400.
- <sup>173</sup> "Saudi Arabia criticised for 48 beheadings in four months of 2018," *The Guardian*, April 26, 2018, <https://www.theguardian.com/world/2018/apr/26/saudi-arabia-criticised-over-executions-for-drug-offences>; and "Saudi Arabia: Mass Execution of 37 Men," *Human Rights Watch*, April 24, 2019, <https://www.hrw.org/news/2019/04/24/saudi-arabia-mass-execution-37-men>.  
For an historical overview of the history of beheading under Islam, see Timothy R. Furnish, "Beheading in the Name of Islam," *Middle East Forum*, Spring 2005, <https://www.meforum.org/713/beheading-in-the-name-of-islam>.
- <sup>174</sup> *Sunan Ibn Majah*, Vol. 1, No. 791, pp. 513-514. Similar hadiths were reported in *Sahih Al-Bukhari*, Vol. 1, Book No. 10, No. 644, pp. 371-372 (*burn the houses of men who did not present themselves*); No. 657, p. 376 (*to burn all those men (along with their houses)*); *Sunan An-Nasa'i*, Vol. 1, No. 849, p. 502 (*to those men and burned their houses down over them*); *Al-Muwatta' of Imam Malik ibn Anas*, 8.1.3, p. 49 (*burn their houses down about them*); and *Sahih Muslim*, Vol. 2, No. 651R2 (*burn the houses with their inmates (who have not joined the congregation)*), and No. 652 (*burn those men who do not attain the Friday prayer in their houses*), p. 367.
- <sup>175</sup> *The Al Qaeda Reader*, trans. and ed. Raymond Ibrahim, (New York: Broadway Books, 2007), p. 167.
- <sup>176</sup> *The Life of Muhammad (Sirat Rasul Allah)*, n. 858, p. 782.
- <sup>177</sup> Abu Ja'far Muhammad b. Jarir al-Tabari, *The History of al-Tabari: The Conquest of Arabia*, Vol. X, trans. and annotated Fred M. Donner (Albany, New York: State University of New York Press, 1993), p. 57.
- <sup>178</sup> *Ibid.*, p. 100.
- <sup>179</sup> Muhammad ibn 'Abdul Wahhab at-Tamimi, *Abridged Biography of Prophet Muhammad*, ed. 'Abdur-Rahman bin Nasir Al-Barrak, 'Abdul 'Azeez bin 'Abdullah Ar-Rajih, and Muhammad Al-'Ali Al-Barrak (Riyadh, Kingdom of Saudi Arabia: Darussalam, 2003), p. 345.
- <sup>180</sup> Ahmad ibn Yahya ibn Jabir al-Baladhuri, *The Origins of the Islamic State, Being a Translation from the Arabic, Accompanied with Annotations, Geographic and*

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- <sup>181</sup> *The History of al-Tabari: The Conquest of Arabia*, p. 80.
- <sup>182</sup> *Jami' At-Tirmidhi*, Vol. 3, Comments to *Hadith* No. 1458, p. 244.
- <sup>183</sup> See "The Burning of the Murtadd Pilot," *Dabiq*, Issue 7, February 2015, p. 5, <https://islamseries.files.wordpress.com/2019/08/dabiq-issue-7-february-2015.pdf>.
- <sup>184</sup> *Tafsir Ibn Kathir*, Vol. 3, p. 161.
- <sup>185</sup> *Sunan An-Nasa'i*, Vol. 5, No. 4053, pp. 56-57; this *hadith* from 'Aisha was similarly reported in *Sunan Abu Dawud*, Vol. 5, No. 4353, p. 16.
- <sup>186</sup> *Sunan Abu Dawud*, Vol. 1, No. 591, pp. 362-363.
- <sup>187</sup> *Minhaj Al-Muslim*, Vol 2, p. 519.
- <sup>188</sup> Krishnadev Calamur, "Saudi Arabia Rejects Human-Rights Criticism, Then Crucifies Someone," *The Atlantic*, August 9, 2018, <https://www.theatlantic.com/international/archive/2018/08/saudi-crucifixion/567128/>.
- <sup>189</sup> *Sahih Muslim*, Vol. 5, No. 1690, p. 131.
- <sup>190</sup> *Musnad Imam Ahmad Bin Hanbal*, Vol. 1, No. 1142, p. 530.
- <sup>191</sup> *Sahih Al-Bukhari*, Vol. 8, Book 86, No. 6839, p. 438.
- <sup>192</sup> David M. Swindle, "Siraj Wahhaj on non-Muslims, Adultery and Theft," *Islamist Watch*, February 11, 2017, <https://www.meforum.org/islamist-watch/51766/siraj-wahhaj-on-non-muslims-and-the-punishment>.
- <sup>193</sup> *Minhaj Al-Muslim*, Vol 2: drinking alcohol, pp. 501-503; false accusation of sexual intercourse, pp. 503-504; unmarried persons committing fornication, pp. 506-507; and slaves committing fornication with each other, p. 512.
- <sup>194</sup> *Tafsir Al-Jalalayn*, p. 180. Also see *Tafsir Ahsanul-Bayan*, Vol. 1, p. 430.
- <sup>195</sup> *Sahih Muslim*, Vol. 5, No. 1690, p. 131.
- <sup>196</sup> *Sahih Al-Bukhari*, Vol. 5, Book 64, No. 4303, pp. 360-361.
- <sup>197</sup> *The Sealed Nectar*, p. 509.
- <sup>198</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 652.
- <sup>199</sup> *Sahih Al-Bukhari*, Vol. 8, Book 86, No. 6824, p. 426.
- <sup>200</sup> *Sahih Muslim*, Vol. 5, No. 1695R1, p. 137.
- <sup>201</sup> *Jami' At-Tirmidhi*, Vol. 3, No. 1431, p. 215.
- <sup>202</sup> *Musnad Imam Ahmad Bin Hanbal*, Vol. 1, No. 716, p. 368.
- <sup>203</sup> *Tafsir Ahsanul-Bayan*, Vol. 3, p. 665.
- <sup>204</sup> *Tafsir as-Sa'di*, Vol. 6, p. 379.

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- <sup>205</sup> David M. Swindle, "Siraj Wahhaj on non-Muslims, Adultery and Theft," *Islamist Watch*, February 11, 2017, <https://www.meforum.org/islamist-watch/51766/siraj-wahhaj-on-non-muslims-and-the-punishment>.
- <sup>206</sup> *Minhaj Al-Muslim*, Vol. 2, p. 507.
- <sup>207</sup> *Ibid.*, pp. 510-511.
- <sup>208</sup> *Ibid.*, p. 511.
- <sup>209</sup> *Tafsir Ibn Kathir*, Vol. 2, p. 402.
- <sup>210</sup> *Sunan Ibn Majah*, Vol. 3, No. 2562, p. 469.
- <sup>211</sup> "Actions that put a person beyond the pale of Islam," *Islam Question & Answer*, April 25, 2010, <https://islamqa.info/en/answers/31807/actions-that-put-a-person-beyond-the-pale-of-islam>.
- <sup>212</sup> "What is the difference between the ruling on rape and the ruling on fornication or adultery? Can rape be proven by modern methods?" *Islam Question & Answer*, June 19, 2012, <https://islamqa.info/en/answers/158282/what-is-the-difference-between-the-ruling-on-rape-and-the-ruling-on-fornication-or-adultery-can-rape-be-proven-by-modern-methods>.
- <sup>213</sup> *The Origins of the Islamic State*, p. 43.
- <sup>214</sup> *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 331.
- <sup>215</sup> *The History of al-Tabari: The Victory of Islam*, p. 96. The same story is related in *The Life of Muhammad (Sirat Rasul Allah)*, p. 665. That Umm Qirfah was killed in this manner is also mentioned in *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 278; and *Kitab al-Tabaqat al-Kabir*, Vol. 2, p. 112.
- <sup>216</sup> *E.g.*, 1) Richard Spencer, "How do you survive 1,000 lashes?" *The Telegraph*, January 16, 2015, <https://www.telegraph.co.uk/news/worldnews/middleeast/saudi-arabia/11349501/How-do-you-survive-1000-lashes.html>; 2) David Lee, "Cruel and Unusual Punishment in the Middle East," *The Jerusalem Post*, August 28, 2018, <https://www.jpost.com/International/Cruel-and-Unusual-Punishment-In-The-Middle-East-565947>; 3) "Saudi Arabia criticised for 48 beheadings in four months of 2018," *The Guardian*, April 26, 2018, <https://www.theguardian.com/world/2018/apr/26/saudi-arabia-criticised-over-executions-for-drug-offences>; and 4) Francesca Paris, "Death By Stoning Among Punishments In New Brunei Anti-LGBT, Criminal Laws," *NPR*, April 3, 2019, <https://www.npr.org/2019/04/03/709359137/death-by-stoning-among-punishments-in-new-brunei-anti-lgbt-criminal-laws>.
- <sup>217</sup> *Minhaj Al-Muslim*, Vol. 2, p. 548.
- <sup>218</sup> *Ibid.*, p. 549.
- <sup>219</sup> *Ibid.*, pp. 554-566.
- <sup>220</sup> *Tafsir Ibn Kathir*, Vol. 2, p. 422.
- <sup>221</sup> *Sahih Muslim*, Vol. 4, No. 1438, p. 373.

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- 222 *Sunan Abu Dawud*, Vol. 4, No. 4222, p. 474.
- 223 *Jami' At-Tirmidhi*, Vol. 2, Comments to *Hadith* No. 1132, p. 503.
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- 225 *Ibid.*, p. 442.
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- 227 *Tafsir Ibn Kathir*, Vol. 7, p. 724; *Tafsir Ahsanul-Bayan*, Vol. 4, p. 402; and *Tafsir Al-Jalalayn*, p. 907.  
 The lack of limits on the number of slave girls is also noted by the Hanafi School, which states that "one may collect as many slave women as one wishes," without "reckoning the number even if it exceeds a thousand." See *The Kitab al-Athar of Imam Abu Hanifah*, 134.457 and n. 1347, p. 263.
- 228 *Sahih Al-Bukhari*, Vol. 9, Book 93, No. 7214, p. 203.
- 229 *Sunan Ibn Majah*, Vol. 3, No. 2272, p. 298. This purchase price was also mentioned in *Sahih Muslim*, Vol. 4, No. 1365R4, p. 360.  
 Safiyyah had been among the captives taken when the Jewish community of Khaybar was defeated. The Muslims also captured two female cousins of Safiyyah, who Muhammad gave to Dihya b. Khalifa al-Kalbi, one of his Muslim warriors – see *The Life of Muhammad (Sirat Rasul Allah)*, p. 511.
- 230 *Sunan Ibn Majah*, Vol. 3, No. 2251, p. 285. For a report about Muhammad buying a slave from bin Khalid, see *Sahih Al-Bukhari*, Vol. 3, Book 34, Chapter 19, p. 171.
- 231 *The Life of Muhammad (Sirat Rasul Allah)*, n. 914, p. 791. There was a similar incident in which Muhammad ordered the selling of two slaves who were brothers; he said they should only be sold together – see *Musnad Imam Ahmad Bin Hanbal*, Vol. 1, No. 760, p. 385.
- 232 *Musnad Imam Ahmad Bin Hanbal*, Vol. 3, No. 3690, p. 324.
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- 235 *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, pp. 256-257.
- 236 *The Life of Muhammad (Sirat Rasul Allah)*, p. 511.
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- 238 *The Life of Muhammad: Al-Waqidi's Kitab al-Maghazi*, p. 462.
- 239 *Sahih Al-Bukhari*, Vol. 3, Book 51, No. 2594, p. 442. Muslim women also had slaves. According to the four major Sunni schools of Islamic Sacred Law it is not permissible for a man to have intercourse with his wife's slave girl, even if the wife gave her permission – see *The Mercy in the Difference of the Four Sunni Schools of Islamic Law*, p. 190.

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- <sup>240</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 576.
- <sup>241</sup> *Musnad Imam Ahmad Bin Hanbal*, Vol. 1, No. 1142, p. 530.
- <sup>242</sup> *Al-Wahidi's Asbab al-Nuzul*, p. 122.
- <sup>243</sup> *The Sealed Nectar*, p. 555.
- <sup>244</sup> For additional examples of Muhammad's involvement with slavery go to *The Perfect Man Truth* at <http://perfectmantruth.com/slaves.php>.
- <sup>245</sup> For example: 1) Elliot Friedland, "Islamists Still Perpetuating Slavery Today," *Clarion Project*, March 14, 2017, <https://clarionproject.org/islamists-still-perpetuating-slavery-today/>; 2) Nima Elbagir, Raja Razek, et al., "People for Sale," *CNN*, November 14, 2017, <https://www.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html>; 3) Daniel Pipes, "Slavery in Muslim-Majority Countries: A Survey," *Daniel Pipes Blog*, July 21, 2010, <http://www.danielpipes.org/blog/2010/07/slavery-in-muslim-majority-countries>; and 4) Charles Jacobs, "How Al Sharpton Abandoned Africa's Slaves," *American Thinker*, August 17, 2019, [https://www.americanthinker.com/articles/2019/08/how\\_al\\_sharpton\\_abandoned\\_africas\\_slaves\\_.html](https://www.americanthinker.com/articles/2019/08/how_al_sharpton_abandoned_africas_slaves_.html).
- <sup>246</sup> *Minhaj Al-Muslim*, Vol. 2, pp. 553-554.
- <sup>247</sup> *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, pp. 97-98.
- <sup>248</sup> *Ibid.*, pp. 98-99. The four options the Muslim leader has vis-a-vis captured disbelievers are also mentioned in *Minhaj Al-Muslim*, Vol. 2, pp. 190-191.
- <sup>249</sup> *Reliance of the Traveller*, m13.2 (c), p. 552.
- <sup>250</sup> *Ibid.*, f21.2, p. 217.
- <sup>251</sup> *Sahih Muslim*, Vol. 7, No. 2564, p. 173.
- <sup>252</sup> *Sunan Ibn Majah*, Vol. 3, No. 2659, p. 528.
- <sup>253</sup> *Reliance of the Traveller*, o1.2 (2), p. 584. The Hanbali and Hanafi Schools of Islamic Sacred Law also state that there is no penalty for a Muslim who kills a non-Muslim; see, respectively, *The Mainstay Concerning Jurisprudence*, p. 279, and *The Kitab Al-Athar of Imam Abu Hanifah*, n. 1647, p. 345 (where there is an exception if the *kafir* has a covenant with the Muslims).
- <sup>254</sup> *Sahih Al-Bukhari*, Vol. 9, Book 87, No. 6915, p. 40.
- <sup>255</sup> *Tafsir Ibn Kathir*, Vol. 6, p. 513.
- <sup>256</sup> *Tafsir Ahsanul-Bayan*, Vol. 3, p. 554.
- <sup>257</sup> *Tafsir Al-Jalalayn*, p. 707.
- <sup>258</sup> Abu Ja'far Muhammad b. Jarir al-Tabari, *The History of al-Tabari: Muhammad at Mecca*, Vol. VI, trans. and annotated W. Montgomery Watt and M. V. McDonald (Albany, New York: State University of New York Press, 1988), p. 143.
- <sup>259</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 672.
- <sup>260</sup> *Tafsir Al-Qurtubi*, p. 496.



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- 262 *Tafsir Ibn Kathir*, Vol. 4, pp. 375 and 377; and “There is no compulsion to accept Islam,” *Islam Question & Answer*, December 12, 2002, <https://islamqa.info/en/answers/34770/there-is-no-compulsion-to-accept-islam>.
- 263 *The Al-Qaeda Reader*, p. 11.
- 264 *Tafsir Ibn Kathir*, Vol. 4, p. 376.
- 265 Abu al-Fida’ ‘Imad Ad-Din Isma’il bin ‘Umar bin Kathir al-Qurashi Al-Busrawi, *Tafsir Ibn Kathir* (Abridged), abr. Sheikh Muhammad Nasib Ar-Rafa’i, trans. Chafik Abdelghani ibn Rahal (London: Al-Firdous Ltd., 1998), Part 10, p. 90.
- 266 *Tafsir Al-Jalalayn*, p. 398.
- 267 *Tafsir Ibn ‘Abbas*, trans. Mokrane Guezzou (Louisville, KY: Fons Vitae, 2008), p. 229. This *tafsir* translation is the second volume in *The Great Tafsirs of the Holy Qur’an* series, sponsored by the Royal Aal al-Bayt Institute for Islamic Thought.
- 268 *Tafsir Ibn Kathir*, Vol. 4, p. 376.
- 269 *Tafsir Ahsanul-Bayan*, Vol. 2, p. 326.
- 270 *Tafsir Ibn ‘Abbas*, p. 229.
- 271 *Tafsir Ibn Kathir*, Vol. 4, p. 376.
- 272 *Tafsir Al-Jalalayn*, p. 398.
- 273 *Tafsir Ahsanul-Bayan*, Vol. 2, p. 326.
- 274 *Tafsir as-Sa’di*, Vol. 4, p. 54.
- 275 *An Introduction to the Sciences of the Qur’aan*, p. 252.
- 276 *The Life of Muhammad: Al-Waqidi’s Kitab al-Maghazi*, p. 544.
- 277 *Sunan Ibn Majah*, Vol. 3, No. 2644, p. 521. This was also noted in *The Mainstay Concerning Jurisprudence*, p. 287; *Tafsir Ibn Kathir*, Part 5, p. 139; and *Minhaj Al-Muslim*, Vol. 2, pp. 492-493.
- It was also reported, however, that the indemnity was to be only one-third of that of a Muslim - see *Reliance of the Traveller*, o4.9, p. 590; *Tafsir Ibn Kathir*, Part 5, p. 140; and *Tafsir Al-Jalalayn*, p. 208. On the other hand, the founder of the Hanafi School of Islamic Sacred Law stated that if a Muslim killed a protected non-Muslim, that Muslim may be killed – see *The Kitab al-Athar of Imam Abu Hanifah*, 185.590, p. 345.
- 278 *Tafsir Ibn Kathir*, Vol. 1, p. 485.
- 279 *The Mainstay Concerning Jurisprudence*, p. 287; and *Minhaj Al-Muslim*, Vol. 2, p. 493.
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- 281 *Reliance of the Traveller*, o4.9, p. 590.
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- 294 *Minhaj Al-Muslim*, Vol. 2, p. 183.
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- 296 *Jami' At-Tirmidhi*, Vol. 3, No. 1602, p. 365.
- 297 *Ibid.*, Comments to *Hadith* No. 1602, p. 366.
- 298 "Greeting a kaafir first," *Islam Question & Answer*, October 1, 2003, <https://islamqa.info/en/answers/48966/greeting-a-kaafir-first>.
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- 300 *Al-Ahkam As-Sultaniyya: the Laws of Islamic Governance*, p. 207.
- 301 *Tafsir Ibn Kathir*, Vol. 4, pp. 405-406.
- 302 *Ibid.*, p. 406.
- 303 *Tafsir Al-Jalalayn*, pp. 404-406.

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- 306 *Tafsir as-Sa'di*, Vol. 4, p. 75.
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- 314 *Sahih Al-Bukhari*, Vol. 7, Book 67, Chapter 39, p. 57.
- 315 *Tafsir Ibn Kathir*, Vol. 10, p. 43.
- 316 *Tafsir Al-Jalalayn*, p. 1216.

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- 317 *Tafsir Ahsanul-Bayan*, Vol, 5, p. 469.
- 318 *The History of al-Tabari: The Last Years of the Prophet*, pp. 130-131. For similar narrations from 'Aisha, see *Sahih Al-Bukhari*, Vol. 5, Book 63, No. 3894, pp. 139-140; *Sunan Abu Dawud*, Vol. 5, Nos. 4933-4937, pp. 327-328; *Sunan Ibn Majah*, Vol. 3, No. 1876, p. 76, where at the time 'Aisha was "with some of my friends"; and *Sahih Muslim*, Vol. 4, No. 1422, p. 354, where 'Aisha said she was playing on the swing "along with my playmates."
- 319 *Sahih Muslim*, Vol. 4, No. 1422R2, p. 355, and Vol. 7, No. 2440, p. 101; *Sahih Al-Bukhari*, Vol. 8, Book 78, No. 6130, pp. 88-89; *Sunan Abu Dawud*, Vol. 5, No. 4931, p. 326; and *Sunan Ibn Majah*, Vol. 3, No. 1982, p. 133. One of 'Aisha's dolls was a horse with two wings made of cloth - see *Sunan Abu Dawud*, Vol. 5, No. 4932, p. 326.
- 320 *Sahih Al-Bukhari*, Vol. 3, Book 52, Chapter 18, p. 487.
- 321 Ibid.
- 322 *Reliance of the Traveller*, m8.2, p. 533.
- 323 Ibid., n10.2 (c), p. 572.
- 324 Ibid., n10.3 (3), p. 572.
- 325 *The Mainstay Concerning Jurisprudence*, p. 248.
- 326 *Reliance of the Traveller*, n9.2, p. 567.
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- 331 "Marriage Laws around the World," *Pew Research Center*, [https://assets.pewresearch.org/wp-content/uploads/sites/12/2016/09/FT\\_Marriage\\_Age\\_Appendix\\_2016\\_09\\_08.pdf](https://assets.pewresearch.org/wp-content/uploads/sites/12/2016/09/FT_Marriage_Age_Appendix_2016_09_08.pdf).
- 332 *Reliance of the Traveller*, o22.4, p. 630.
- 333 Ibid., o22.12, p. 632.

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- 334 *Minhaj Al-Muslim*, Vol. 2, p. 543; *The Kitab al-Athar of Imam Abu Hanifah*, 204.639, p. 375; *Reliance of the Traveller*, o24.2, p. 635; *Al-Muwatta of Imam Malik ibn Anas*, 36.2.4, p. 296; and *The Mainstay Concerning Jurisprudence*, p. 337.
- 335 *Encyclopedia of Islam Law*, p. 383.
- 336 *Encyclopedia of Islamic Law*, pp. 373-374; *Reliance of the Traveller*, o24.7, p. 637; and *The Mainstay Concerning Jurisprudence*, p. 335.
- 337 *Sahih Al-Bukhari*, Vol. 1, Book 6, No. 304, p. 210. For other versions of this *hadith* where Muhammad tells women they are deficient in intelligence, see: *Sahih Al-Bukhari*, Vol. 2, Book 24, No. 1462, pp. 314-315; and Vol. 3, Book 52, No. 2658, p. 477; and *Sunan Abu Dawud*, Vol. 5, No. 4679, p. 200.
- 338 Sheikh Muhammed Salih Al-Munajjid, "Why is the witness of one man considered to be equal to the witness of two women?" *Islam Question & Answer*, March 22, 2009, <https://islamqa.info/en/answers/20051/why-is-the-witness-of-one-man-considered-to-be-equal-to-the-witness-of-two-women>.
- 339 *Tafsir as-Sa'di*, Vol. 1, p. 362.
- 340 *Ibid.*
- 341 *Reliance of the Traveller*, o24.10, p. 638.
- 342 *The Mainstay Concerning Jurisprudence*, p. 338.
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- 345 *Reliance of the Traveller*, L2.1, p. 463; *The Mainstay Concerning Jurisprudence*, p. 171; *Minhaj Al-Muslim*, Vol. 2, p. 303; and *Encyclopedia of Islam Law*, p. 369.
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- 347 *Reliance of the Traveller*, L5.2, p. 476; *Al-Muwatta of Imam Malik ibn Anas*, 27.12.10, 12, and 14, pp. 207-208; *The Kitab al-Athar of Imam Abu Hanifah*, 220.686, pp. 401-402; *The Mainstay Concerning Jurisprudence*, p. 186; *Minhaj Al-Muslim*, Vol. 2, p. 399; and *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, pp. 80-82.
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- 349 *Reliance of the Traveller*, o4.9, p. 590; *The Mainstay Concerning Jurisprudence*, p. 287; *Al-Muwatta of Imam Malik ibn Anas*, 43.6, p. 360; *The Kitab al-Athar of Imam Abu Hanifah*, 182.579, pp. 338-339, and 209.650, p. 382; and *The Mercy in the Differences of the Four Sunni Schools of Islamic Law*, pp. 178-179.
- 350 *Reliance of the Traveller*, g5.9, pp. 241-242; and *The Mainstay Concerning Jurisprudence*, p. 72.
- 351 *Encyclopedia of Islamic Law*, p. 71.
- 352 *Ibid.*, p. 74. The admonition against men shaking the hands of unrelated women is also found in the modern *Fatwa Islamiyah: Islamic Verdicts*, Vol. 5, pp. 104 and 111-119.
- 353 *Al-Muwatta of Imam Malik ibn Anas*, 53.1.2, p. 404.

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- <sup>354</sup> *Encyclopedia of Islamic Law*, pp. 458-459. A similar approach is taken by the Hanafis in terms of intercourse with a slave woman that would otherwise be forbidden - see *The Kitab al-Athar of Imam Abu Hanifah*, 199.619-620, p. 364.
- <sup>355</sup> *Encyclopedia of Islamic Law*, p. 39; *Reliance of the Traveller*, e10.7, p. 81; and *The Mainstay Concerning Jurisprudence*, p. 31.
- <sup>356</sup> *Reliance of the Traveller*, o8.1, p. 595; *The Mainstay Concerning Jurisprudence*, p. 309; and *Al-Muwatta of Imam Malik ibn Anas*, 36.18., p. 303.
- <sup>357</sup> *War and Peace in the Law of Islam*, p. 151.
- <sup>358</sup> *The Kitab al-Athar of Imam Abu Hanifah*, 186.591, p. 346.
- <sup>359</sup> *Encyclopedia of Islamic Law*, p. 291.
- <sup>360</sup> Samuel M. Zwemer, *The Law of Apostasy in Islam* (1924; rpt. Cornwall, United Kingdom: Diggory Press Ltd., 2006), p. 45.
- <sup>361</sup> *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, pp. 123-127.
- <sup>362</sup> See "Hajj Requirements" *The Embassy of the Kingdom of Saudi Arabia, Washington, DC*, <https://www.saudiembassy.net/hajj-requirements>; and "Umrah Visas," *The Embassy of the Kingdom of Saudi Arabia, Washington, DC*, <https://www.saudiembassy.net/umrah-visas>.
- <sup>363</sup> *Tafsir Ibn Kathir*, Vol. 2, p. 443.
- <sup>364</sup> *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, p. 293.
- <sup>365</sup> *Tafsir Ibn Kathir*, Vol. 2, p. 444.
- <sup>366</sup> *Sunan Abu Dawud*, Vol. 2, No. 2142, p. 550.
- <sup>367</sup> *Tafsir as-Sa'di*, Vol. 2, p. 174.
- <sup>368</sup> *Encyclopedia of Islamic Law*, p. 483.
- <sup>369</sup> *Reliance of the Traveller*, m11.5, p. 544.
- <sup>370</sup> *Ibid.*, m11.7, p. 544.
- <sup>371</sup> *Encyclopedia of Islamic Law*, p. 488.
- <sup>372</sup> *Ibid.*, pp. 488-489.
- <sup>373</sup> *Reliance of the Traveller*, m11.9, p. 545.
- <sup>374</sup> *Ibid.*, m5.1, p. 525, and m5.4, p. 526.
- <sup>375</sup> *Ibid.*, w45.1, p. 948, under the heading "A Wife's Marital Obligations in the Shafi'i School."
- <sup>376</sup> *The Mainstay Concerning Jurisprudence*, p. 220.
- <sup>377</sup> *Minhaj Al-Muslim*, Vol. 2, p. 390.
- <sup>378</sup> *Jami' At-Tirmidhi*, Vol. 2, No. 1160, p. 529. A variation of this was reported in *Sunan Ibn Majah*, Vol. 3, No. 1853, p. 63: "...The Messenger of Allah said: '...No woman can fulfill her duty towards Allah

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until she fulfills her duty towards her husband. If he asks her (for intimacy) even if she is on her camel saddle, she should not refuse.”

<sup>379</sup> *Encyclopedia of Islamic Law*, p. 478.

<sup>380</sup> *Ibid.*

<sup>381</sup> *Ibid.*, and *The Kitab al-Athar of Imam Abu Hanifah*, 167.519, p. 301.

<sup>382</sup> *Encyclopedia of Islamic Law*, p. 479.

<sup>383</sup> *Reliance of the Traveller*, m11.9 (2), p. 545; and *The Mainstay Concerning Jurisprudence*, p. 220.

<sup>384</sup> *Encyclopedia of Islamic Law*, p. 484.

<sup>385</sup> *Reliance of the Traveller*, m11.4, p. 544.

<sup>386</sup> *Encyclopedia of Islamic Law*, pp. 484-485.

<sup>387</sup> *Ibid.*, p. 484.

<sup>388</sup> *The History of al-Tabari: The Last Years of the Prophet*, p. 113. This statement was made by Muhammad during his Farewell Pilgrimage to Mecca about three months before he died.

<sup>389</sup> *Tafsir Ibn Kathir*, Vol. 2, p. 446.

<sup>390</sup> *Tafsir Ibn Kathir*, Part 5, p. 53.

<sup>391</sup> *Tafsir Al-Jalalayn*, p. 188.

<sup>392</sup> *Tafsir Ahsanul-Bayan*, Vol. 1, p. 452.

<sup>393</sup> *The Life of Muhammad (Sirat Rasul Allah)*, p. 651. For additional reports about Muhammad stating that wives could be beaten, see *The History of al-Tabari: The Last Years of the Prophet*, p. 113; and *Jami' At-Tirmidhi*, Vol. 2, No. 1163, p. 531.

<sup>394</sup> *Sahih Al-Bukhari*, Vol. 6, Book 65, No. 4942, p. 392. A similar statement by Muhammad is reported in *Jami' At-Tirmidhi*, Vol. 6, No. 3343, p. 78:

One of you should not lash his wife as a slave is lashed, for perhaps he will lay with her at the end of the day.

<sup>395</sup> *Sunan Ibn Majah*, Vol. 3, No. 1985, p. 134. This *hadith* was similarly reported in *Sunan Abu Dawud*, Vol. 2, No. 2146, p. 552.

<sup>396</sup> *Sahih Al-Bukhari*, Vol. 7, Book 77, No. 5825, p. 392.

<sup>397</sup> *Sahih Muslim*, Vol. 3, No. 974R1, p. 72. This was also reported in *Sunan An-Nasa'i*, Vol. 3, No. 2039, p. 127.

<sup>398</sup> *Minhaj Al-Muslim*, Vol. 2, p. 341.

<sup>399</sup> *Sunan Ibn Majah*, Vol. 3, No. 1986, p. 135. For a similar report see *Sunan Abu Dawud*, Vol. 2, No. 2147, pp. 552-553.

<sup>400</sup> *Encyclopedia of Islamic Law*, p. 501.

<sup>401</sup> *Al-Muwatta of Imam Malik ibn Anas*, 36.4.7, p. 297.

<sup>402</sup> *The Kitab al-Athar of Imam Abu Hanifah*, 157.498, p. 290.

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- <sup>403</sup> *Encyclopedia of Islamic Law*, pp. 504, and 505-506.
- <sup>404</sup> *Ibid.*, pp. 504-505.
- <sup>405</sup> *Reliance of the Traveller*, n4.6, pp. 561-562.
- <sup>406</sup> *Encyclopedia of Islamic Law*, p. 503.
- <sup>407</sup> *Ibid.*, p. 505; *Reliance of the Traveller*, n1.3, p. 557, and n3.3 (3), p. 559; and *The Kitab al-Athar of Imam Abu Hanifah*, 171.530-536, pp. 307-310.
- <sup>408</sup> *The Kitab al-Athar of Imam Abu Hanifah*, 171.531, p. 308.
- <sup>409</sup> *Reliance of the Traveller*, n1.3, p. 557.
- <sup>410</sup> *Encyclopedia of Islamic Law*, pp. 511-514; *Reliance of the Traveller*, n5.0, p. 562; *The Mainstay Concerning Jurisprudence*, p. 224; *Al-Muwatta of Imam Malik ibn Anas*, 29.11 and 29.12, pp. 227-228; and *The Kitab al-Athar of Imam Abu Hanifah*, 168.520, p. 302.
- <sup>411</sup> *Encyclopedia of Islamic Law*, p. 512.
- <sup>412</sup> *Ibid.*
- <sup>413</sup> *Ibid.*, p. 471.
- <sup>414</sup> *Ibid.*
- <sup>415</sup> *Ibid.*, pp. 294 and 334.
- <sup>416</sup> *Ibid.*, p. 335; *Reliance of the Traveller*, L6.4(2), p. 478; and *The Mainstay Concerning Jurisprudence*, p. 175.
- <sup>417</sup> *The Kitab al-Athar of Imam Abu Hanifah*, 72.245-247, p. 141.
- <sup>418</sup> *Reliance of the Traveller*, g4.5, p. 230.
- <sup>419</sup> *Sahih Al-Bukhari*, Vol. 4, Book No. 59, No. 3241, p. 290. For similar statements by Muhammad about women in Hell, see: *Sahih Muslim*, Vol. 8, Nos. 2736-2737, p. 253; and *Jami' At-Tirmidhi*, Vol. 5, No. 2613, p. 24.
- <sup>420</sup> *Sahih Muslim*, Vol. 8, No. 2738, p. 253.
- <sup>421</sup> *Fatawa Islamiyah: Islamic Verdicts*, Vol. 5, pp. 41 and 43.
- <sup>422</sup> *The Sealed Nectar*, p. 227.
- <sup>423</sup> Raymond Ibrahim, "Muslim Desecration of Christian Graves: A Global Trend," *Middle East Forum*, August 22, 2019, <https://www.meforum.org/59219/muslim-desecration-of-christian-graves>. Also see Ariel Cohen, "ISIS Destroys Ancient Christian Cemeteries in Iraq," *The Jerusalem Post*, April 21, 2015, <https://www.jpost.com/Christian-News/ISIS-destroys-ancient-Christian-cemeteries-in-Iraq-398808>.
- <sup>424</sup> The Papers of George Washington, Farewell Address – Transcription [http://gwpapers.virginia.edu/documents\\_gw/farewell/transcript.html](http://gwpapers.virginia.edu/documents_gw/farewell/transcript.html)
- <sup>425</sup> A copy of the *Canadian Charter of Rights and Freedoms* can be found at <https://justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/pdf/charter-poster.pdf>.



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<sup>426</sup> *Government of Canada, Department of Justice*, “Section 2(a) – Freedom of religion,” <https://justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd1/check/art2a.html>.



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