

# Contents

September 2005 / Syabaan 1426

Inabah 21

Khadijah Mosque Management Board, 583 Geylang Road Singapore 389522 Tel : 6747 5607 Fax : 6747 5929  
website : [www.khadijahmosque.org](http://www.khadijahmosque.org) email : [admin@khadijahmosque.org](mailto:admin@khadijahmosque.org)

③ Contents

④ Our Say



⑥ Biography



⑨ The Sunna of Beloved



⑪ Dreaming of the Prophet



⑬ In the Footsteps of the Beloved



⑱ Peaceful Jihad



⑳ The Place of Tolerance in Islam



⑳ Between Peace & Terror



⑳ Speaking ,Killing and Loving in God's Name



⑳ 9/11 & the Muslim Transformation



⑳ Khadijah Mosque Welcomes Prof. Khaled



⑳ Legal Debates on Muslim Minorities :  
Between Rejection & Accommodation

# EDITORIAL of INABAH with PROF KHALED ABOU EL FADL

*The editorial team of Inabah has been fortunate to be able to conduct an interview with Prof Khaled Abou el-Fadl when he was in Singapore recently. Prof Khaled has given us his blessings and permission to publish his written articles for this Inabah issue. To Prof Khaled, his aide, Ms Naheed Fakoore, Mr Naseer of Abdul Aleem Siddique Mosque and all others who have contributed to the publication of this issue, we extend our deepest heartfelt appreciation. May Allah swt bestow upon all of us His Love, Compassion and the manifestation of His Beauty now and forever.*

Excerpts of Interview with Prof Khaled Abou el-Fadl

*Q. Could you enlighten us what is the purpose of your writings? What motivate you to write and the message you intend to get across to your readers?*

Arising from my writings and discourses, I have been attacked from both the Islamists and non-Islamists. Journalists too have made contradictory statements about me and my writings. At the same time, there are only a few among those who have actually obtained access to my works, have understood my aims and

objectives. It is up to the reader to figure it out why such things occur. As far as my writings are concerned in terms of my passion for writing, it arises from a single theme, and that is based on these Hadith Qudsi :

إِنَّ اللَّهَ جَمِيلٌ يُحِبُّ الْجَمَالَ

*“Indeed God is Beautiful Who Loves Beauty”*

كُنْتُ كَنْزًا مَخْفِيًّا فَأَحْبَبْتُ أَنْ أَعْرِفَ فَخَلَقْتُ الْخَلْقَ لِكَيْ أَعْرِفَ

*“I was a hidden treasure and I wished to be known, so I created Creation.”*

In my opinion, from its beautiful fragrance, one will automatically know a flower. On the other hand, if one smells something that is disgusting, one will easily conclude that it emits from a skunk. In my opinion, Allah is a hidden treasure which can be seen from behind His Marvellous Creation. We encounter Allah from His creation. There is consistent beauty in the marvel of creation.

When we look at the ‘aql, our eyes, and all other creation, it is like a piece of art. The coloration in our eyes shows a multitude of shades. The

dynamics of colour and the way we define form to make it into an entity shows beauty in existence.

There is a remarkable symphony of creation. I look at creation as utter beauty with all its wonderful mathematical proportions and assertions in remarkable harmony. My writings stem from the conviction that Allah's words must be consistent with Allah's creation. The Quran mirrors the very logical creation itself in its movement, matters, mathematics, dynamics, quality and so forth.

*Q. Thus the nature of your writings aims towards...*

The nature of my writings leans towards two objectives. Firstly, my writings explore the beautiful nature in what I engage in Allah's world of creation. Secondly, my writings aim to point out ugliness.

*Q. Your book entitled "Conference of the Books: The Search for Beauty in Islam" is a remarkable piece that engages in the notion of beauty. We have recited the chapter "The Sunna of the Beloved" in one of our congregations, and the response has been overwhelming. What lies behind those lines?*

اللَّهُ جَلَّ جَلَّالُهُ يَتَجَلَّى لِمَنْ جَلَّ

"Allah, Most Honourable Is His Honour,  
Honours Whomever Is Honourable"

In writing The Sunna of The Beloved, it happened that I was moved by an inspiration of the beauty of the Prophet *saw.*, and I believed the inspiration should be shared with all, thus the passage was written. Such an inspiration makes an individual the mode by which a particular message is extended.

*Q. How do you envisage beauty in Islam and the Syariah?*

Allah *swt* mentions in the Quran :

مَا أَنْزَلْنَا عَلَيْكَ الْقُرْآنَ لِتَشْقَىٰ

"We have not revealed unto thee (Muhammad) this Quran that thou shouldst be distressed." Surah Taha 20:2

While Prophet Muhammad (*saw*)'s existence is exclaimed as :

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

"We sent thee not, but as a Mercy for all creatures." Surah Al-Anbiya' 21:107

The Syariah is a fountain of beauty, and not to be taken as a bunch of rules which causes stress and harm, as shown in the Quranic expressions above. If Syariah is not beautiful in trying to create beauty, then man has messed up in understanding the Syariah. To me, the evidence of ugliness is the absence of beauty, and evil is the absence of godliness. Similarly, if there is ugliness in life of people, I see that as an absence of Islam and Syariah.

*Q. How do you explain the beauty of the Quran?*

Saidina Ali *k.w* pointed out that :

الْقُرْآنُ يُعْطِيكَ كَيْفَ مَا تَأْتِي

"Al-Quran presents to you in the way that you approach it."

If one approaches the Quran with evil and ugly intentions, closed paradigms and limited understanding, he will understand the Quran within his limited, ugly understandings. If one approaches the Quran with love and mercy, the Quran will build upon them castles of mercy and compassion.

*Q. As a conclusion, any message for the readers of Inabah?*

The rest of my work is as Allah has commanded upon all of us by making us nations on this earth to bear witness truthfully to guard beauty and keep away ugliness. I will justify beauty and point to ugliness where I find it, and ugliness can never be Islam. Thus there is nothing more meaningful, other than to live and understand the beauty that is God and the manifest beauty. When one bears witness to ugliness, one witnesses the absence of God.

The ultimate beauty is heaven and seeing Allah. The ultimate ugliness is Hell and never to reunite with your true nature.

What else is there in life and for people to do.....

# BIOGRAPHY

Dr. Khaled Abou El Fadl is the most important and influential Islamic thinker in the modern age. An accomplished Islamic jurist and scholar, he is Professor of Law at the UCLA School of Law where he teaches Islamic law, Immigration, Human Rights, International and National Security Law. Dr. Abou El Fadl previously taught Islamic law at the University of Texas at Austin Law School, Yale Law School and Princeton University. He holds degrees from Yale University (B.A.), University of Pennsylvania Law School (J.D.) and Princeton University (M.A./Ph.D.).

A high-ranking shaykh, Dr. Abou El Fadl also received formal training in Islamic jurisprudence in Egypt and Kuwait.

Dr. Abou El Fadl is a world renowned expert in Islamic law and an American lawyer, offering a unique and seasoned perspective on the current state of Islam and the West. He is a strong proponent of human rights and serves on the Board of Directors of Human Rights Watch. He was also appointed by President George W. Bush as a commissioner on the US Commission on International Religious Freedom. He regularly provides expert testimony in a wide variety of cases ranging from human rights and political asylum to terrorism, national security, and international and commercial law.

Dr. Abou El Fadl is a prolific author and prominent public intellectual on Islamic law and Islam, most noted for his scholarly approach to Islam from a moral point of view. He writes extensively on universal themes of morality and humanity, and the notion of beauty as a moral value. Dr. Abou El Fadl is a staunch advocate and defender of women's rights, and focuses much of his written attention on issues related to women. As the most critical and powerful voice against puritan and Wahhabi Islam today, he regularly appears on national and international television and radio including CNN, NBC, PBS, NPR, and Voice of America (broadcast throughout the Middle East). His most recent work focuses on issues of authority, terrorism, tolerance, Islam and Islamic law.

He is the author of seven books and over fifty articles on Islamic law and Islam. His recent books include: *Islam and the Challenge of Democracy* (Princeton University Press, 2004); *The Place of Tolerance in Islam* (Beacon Press, 2002); *Conference of the Books: The Search for Beauty in Islam* (University Press of America/Rowman and Littlefield, 2001); *And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourses* (UPA/Rowman and Littlefield, 2001); *Speaking in God's Name: Islamic law, Authority and Women* (Oneworld Press, Oxford, 2001) and *Rebellion and Violence in Islamic Law* (Cambridge University Press, 2001).

## BOOKS

*Islam and the Challenge of Democracy*. Princeton: Princeton University Press, forthcoming.

*The Place of Tolerance in Islam*. Boston, Ma.: Beacon Press, 2002.

*Rebellion and Violence in Islamic Law*. Cambridge: Cambridge University Press, 2001.

*Speaking in God's Name: Islamic Law, Authority and Women*. Oxford: Oneworld Publications, 2001.

*And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourses*. Lanham, Md.: University Press of America/Rowman and Littlefield, 2001.

*Conference of the Books: The Search for Beauty in Islam*. Lanham, Md.: University Press of America/Rowman and Littlefield, 2001.

*The Authoritative and Authoritarian in Islamic Discourses: A Contemporary Case Study*. 3rd edition. Washington, D.C.: Al-Saadawi Publishers, 2002.

## ACADEMIC ARTICLES

"The Death Penalty, Mercy and Islam: A Call for Retrospection." In *A Call for Reckoning: Religion and the Death Penalty*, Erik C. Owens, John D. Carlson & Eric P. Elstain, eds. (forthcoming Wm. B. Eerdmans Publishing Co., Grand Rapids, MI).



Encyclopedia of Religion and Nature, s.v. "Dogs in the Islamic Tradition and Nature." New York: Continuum International, forthcoming.

"Islam and the Challenge of Democratic Commitment." *Fordham International Law Journal* 27, no. 1 (December 2003): 4 - 71.

"9/11 and the Muslim Transformation." In *September 11: A Transformative Moment? Culture, Religion and Politics in an Age of Uncertainty*, edited by Mary Dudziak. Duke University Press, 2003.

"The Human Rights Commitment in Modern Islam." In *Human Rights and Responsibilities in the World Religions*, edited by Joseph Runzo, Nancy M. Martin and Arvind Sharma. Oxford: Oneworld Publications, 2003.

"Between Functionalism and Morality: The Juristic Debates on the Conduct of War." In *Islamic Ethics of Life: Abortion, War, and Euthanasia*. Edited by Jonathan E. Brockopp. University of South Carolina Press, Columbia, SC: 2003, pp. 103 -128.

"Islam and the Challenge of Democracy." *Boston Review* 28, no. 2 (April/May 2003).

"Conflict Resolution as a Normative Value in Islamic Law: Handling Disputes with Non-Muslims." In *Faith-Based Diplomacy: Trumping Realpolitik* Edited by Douglas Johnston. New York: Oxford University Press, 2003, pp. 178-209.

"The Unbounded Law of God and Territorial Boundaries." In *States, Nations and Borders: The Ethics of Making Boundaries*. Edited by Allen Buchanan and Margaret Moore. Cambridge: Cambridge University Press, 2003, pp. 214 - 227.

"The Modern Ugly and the Ugly Modern: Reclaiming the Beautiful in Islam." In *Progressive Muslims*. Edited by Omid Safi. Oxford: Oneworld Publications, 2003, pp. 33 - 77.

"The Culture of Ugliness in Modern Islam and Reengaging Morality." *UCLA Journal of Islamic and Near Eastern Law* 2, no. 1 (Fall/Winter 2002-03): 33 - 97.

"The Orphans of Modernity and the Clash of

Civilisations." *Global Dialogue*, vol. 4, no. 2 (Spring 2002), pp. 1 - 16.

"Introduction." In *Shattered Illusions: Analyzing the War on Terrorism*. London: Amal Press, 2002, pp. 19 - 44.

"Peaceful Jihad." In *Taking Back Islam*. Edited by Michael Wolfe. Emmaus, Pa: Rodale Press, 2002, pp. 33 - 39.

"Islamic Law and Ambivalent Scholarship: A Review of Lawrence Rosen, *The Justice of Islam: Comparative Perspectives on Islamic Law and Society* (Oxford: Oxford University Press, 2000)." *Michigan Law Review*, vol. 100, no. 6, May 2002, pp. 1421 - 43.

"Soul Searching and the Spirit of Shari'ah: A Review of Bernard Weiss' *The Spirit of Islamic Law*." *Washington University Global Studies Law Review*, vol. 1, nos. 1 and 2, Winter/Summer 2002, pp. 553 - 72.

"Constitutionalism and the Islamic Sunni Legacy." *UCLA Journal of Islamic and Near Eastern Law* 1, no. 1 (Fall/Winter 2001-02): 67-101.

"Islam and Tolerance: Abou El Fadl Replies." *Boston Review* 27, no. 1 (February/March 2002): 51.

"The Place of Tolerance in Islam." *Boston Review* 26, no. 6 (December 2001/January 2002): 34 - 36. Translated into Arabic for publication in *Al-Rashad*.

"Islam and the Theology of Power." *Middle East Report* 221 (Winter 2001): 28 - 33.

"Negotiating Human Rights Through Language." *UCLA Journal of International Law and Foreign Affairs* 5, no. 2 (2001): 229 - 236.

Review of "The Origins of Islamic Law: The Qur'an, the Muwatta' and Madinan 'Amal," by Yasin Dutton. *32 International Journal of Middle Eastern Studies* 32 (2000): 531 - 532.

"Fox Hunting, Pheasant Shooting and Comparative Law." Co-authored with Alan Watson. *American Journal of Comparative Law* 48 (2000): 1 - 37.

"Holy War Versus Jihad: A Review of James Johnson's *The Holy War Idea in the Western & Islamic Traditions*." *Ethics and International Affairs* 14 (2000): 133 - 140.

"The Rules of Killing at War: An Inquiry into Classical Sources." *The Muslim World* 89, no. 2 (1999): 144 - 157.

"Striking the Balance: Islamic Legal Discourse on Muslim Minorities." *Muslims on the Americanization Path?* Edited by Yvonne Haddad and John Esposito. Atlanta, Ga.: Scholars Press, 1998; Oxford: Oxford University Press, 1999.

"Political Crime in Islamic Jurisprudence and Western Legal History." *UC Davis Journal of International Law and Policy* 4 (1998): 1 - 28.

"Muslims and Accessible Jurisprudence in Liberal Democracies: A Response to Edward B. Foley's *Jurisprudence and Theology*." *Fordham Law Review* 66 (1998): 1227 - 1231.

*Encyclopedia Iranica*, Vol. 7, s.v. "Dia," 1996.

"Muslim Minorities and Self-Restraint in Liberal Democracies." *Loyola Law Review* 29, no. 4 (1996): 1525 - 1542.

*Encyclopedia of the Modern Islamic World*, s.v. "Hostages." Co-authored with Asma Sayeed. Oxford: Oxford University Press, 1995.

*Encyclopedia of the Modern Islamic World*, s.v. "Diplomatic Immunity." Oxford: Oxford University Press, 1995.

"Democracy in Islamic Law." In *Under Siege: Islam and Democracy*. Edited by Richard Bulliet. New York: Middle East Institute of Columbia University, 1994.

"Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries." *Islamic Law and Society* 1, no. 2 (1994): 141 - 187.

"Legal Debates on Muslim Minorities: Between Rejection and Accommodation." *Journal of Religious Ethics* 22, no. 1, (1994): 127 - 162.

Review of *Law and Islam in the Middle East*, by

Daisy Hilse Dwyer, ed. *The American Journal of Islamic Social Sciences* 9, no. 2 (1992): 268 - 272.

"Tax Farming in Islamic Law: A Search for a Concept." *Islamic Studies* 31, no. 1 (1992): 5 - 32.

"Law of Duress in Islamic Law and Common Law: A Comparative Study." *Arab Law Quarterly* 6, no. 2 (1991): 121; *Islamic Studies* 30, no. 3 (1991): 305 - 350.

"*Ahkam al-Bughat: Irregular Warfare and the Law of Rebellion in Islam*." In *Cross, Crescent & Sword: The Justification and Limitation of War in Western and Islamic Tradition*. Edited by James Turner Johnson and John Kelsay. Westport, Ct.: Greenwood Press, 1990.

#### OTHER PUBLISHED ARTICLES

"Al-Qaeda and Saudi Arabia." *Opinion*, Wall Street Journal, 10 November, 2003.

"On Rebuilding Iraq." *Opinion*, Wall Street Journal, 21 April, 2003.

"Past year has been difficult for American Muslims." *Editorial*, Dallas Morning News, 8 September, 2002.

"US Muslims, Unite and Stand Up." *Editorial*, Los Angeles Times, 14, July 2002.

"Moderate Muslims Under Siege." *Editorial*, New York Times, 1 July 2002.

"What Became of Tolerance in Islam?" *Editorial*, Los Angeles Times, 14 September 2001.

"Terrorism is at Odds With Islamic Tradition." *Editorial*, Los Angeles Times, 22 August 2001.

"Islamic Sex Laws." *Article*, LA Daily Journal, 15 August 1999.

"Human Rights Must Include Tolerance." *Los Angeles Times*, 12 August 1997.





# The Sunna Of the Beloved

If envy is a sin, then I am the incurable sinner, for I envy every eye that ever caught a glimpse of you. I envy the waves that carried your voice and the air that touched your cheeks. I envy even the ground that once served you, and I confess to you that despite my indulgent sins, my shameful whimsies, and my ugly flimsies, I confess to you, “I love you.” My confessions are as silly as my muted words. You have been loved by so many more substantial than I, and what good does my silence or confession possibly do? So many moments have I sat sheltered by the night in the midst of these books, my mind fulfilled but my heart calling for you. Only my shame restrains my words from filling pages of books and from whimpering into the night, “I long for you.”

This Conference of the Books, in countless days and nights, ignited by your memory,

calls upon the world to ponder your legacy. Despite the citations, the arguments, and refutations, nothing equals a blissful moment spent engulfed in your adoration. For all the enlightenment of books, the brilliance of beauty, and the purification of light coalesced in the moments of time that hosted your life—Muhammad, Ahmad, Abu al-Qasim, *An-Nabi Al-Amin*, the Messenger of God. Permit me, my Prophet, my own beloved Prophet, to tell you that I do not know you from the majestic debates of this Conference. I do not know you from the lectures of learned teachers, nor from some infatuated delusional dream. No, I do not know you from the books full of sayings you reportedly said, and I even do not know you from all the reports about your life and about your likes and dislikes. I know you from a moment in time in which I fell in love with you. I know you because God taught you, praised

you, and honored you. I know you because God comforted you, consoled you, and empowered you. I know you because God loved you. My Prophet, I know you through a heart that loves. I know you through every moment of compassion I extended to another. I know you through every moment of pain I felt for the agony of others. I know you through every moment of dignity and honor. I know you through that day my brother and I walked two miles in the desert heat to bring water to a dying cat. Or, the day we intervened to stop a man from beating his wife only to have her blood mingle with ours. Or, in those days in which we were never cool, current, fashionable, or popular because those values never existed in a household raised in your love. But I also know you through every moment of shame I felt for my weakness, arrogance, anger, and profanity.

I think of you, an orphaned child, with wide pure eyes rejoicing at life. I see you in your youth, quiet and bashful, in your solitude, feeling the longing for God. I feel your tranquility in the arms of your wife, and your trembling body with the advent of truth. I see you sitting bewildered and sad in Taif, persevering through the trials of life. I think of you comforting your Companion in the Cave of Hira with your trust in God. I think of you instructing your soldiers away from the ants' nest and mending the broken wing of the injured

bird. I feel your beautiful smile tenderizing my world and hear your laughter in the midst of children. I watch you mending your cloth, and then playfully racing your wife. I ponder your poverty, and the agony of your grief over your dying children. I think of your kindness and forgiveness with every hypocrite and fool, and of the way you honored and dignified your followers. I think of the hypocrite 'Abdullah Ibn Salul yelling at you, "You and your donkey stink," and you refusing to hate, punish, or take vengeance. I think of all of this and I feel you in my heart, and I believe I know you.

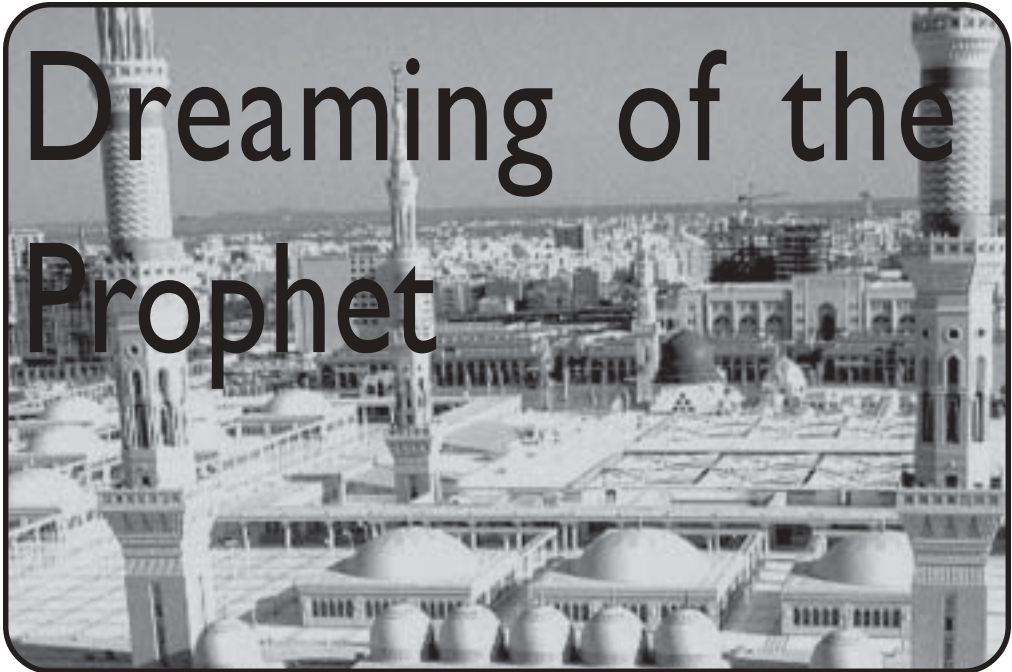
And yet, my Prophet, there are those who see your *Sunna* only as an endless array of legalistic and pedantic reprimands. They know you only through transmissions and reports, seeing you only through the filter of commands. There are those who understand the *Sunna* as mindless imitation and soulless regurgitation.

But for me, and may God forgive me, your *Sunna* is a moment of unadulterated beauty spent in your love. Your *Sunna* is your beauty, and

beauty cannot be mimicked. It must be felt and loved. All the descriptive manuals of the world cannot teach an ugly heart about beauty. And all the reports and transmissions of the world cannot teach the obstinate heart the *Sunna* of the beloved.

Your *Sunna*  
is your  
beauty, and  
beauty  
cannot be  
mimicked. It  
must be felt  
and loved.





Prophet of God, Muhammad, may peace and blessings be upon you. Peace and blessings from the heart of this pitiful delinquent, and if you turn me away, I have no grounds to complain. I know that I am a man who is frivolous, malevolent, and trivial; I deem myself entirely contemptible. So if you ignore me, I understand; in fact, perhaps that is exactly what you should do. Yet, you never turned a single soul away especially when this soul, with your love, is entirely at peace. Truly, God and God's angels extol their blessings upon you. "O ye who believe, invoke blessings upon him, and give him greetings of peace" (33:56).

The visions and dreams ravage this sorry mind with images of what was, but to me, they are the only truth that remains worthwhile. I see the images in my wake and sleep, I see them in the Conference and in the books I read. I see them in every instant of the struggle of life. I see them in embarrassment, I see them, and I am invigorated despite my shame. I see you in your last illness ravaged by the unrelenting fever, and your beloved standing frozen at your feet. I see you dipping your hand in water and wiping your blessed face. It is as if I can hear the rupturing of the breaking hearts and the very echo of the

falling tears. I can feel the agony of the earth, and the embarrassments of nature at the illness overcoming your body, and I even feel their embarrassment at the searing heat. But the earth and nature confess their servility to God and their inability to waver before God's decree. I can see it, and I see you overcoming your pain to rise and confront the burdens of fate. You face your people and say, "Whoever has erred and fears his fate, let him come forward so that I may pray, for him." Among those who rise is a man who tells you, "I am a liar and a hypocrite and there is no sin that I did not commit." Umar ibn al-Khattab, may God bless his soul, looks at the remorseful fellow and in pity exclaims, "My fellow, you have embarrassed and shamed yourself." But you, and blessed be you, you say, "Umar, the embarrassments of the Hereafter are worse than the embarrassments of this earth. Allah, give [this fellow] truthfulness, and faith and lead him to the good."

In embarrassment, I confess my love, and, yet, my longing draws me near. I should absorb my shame in silence, but I feel that I will combust if I do not speak. What I want is impossible and even preposterous, but since childhood this has been my singular dream. I want the laws of nature to break, I want history to revert, and I

want to spend a single day in your company. I want to hug your hand, kiss your head, feel your heart, and implore you to pray for me. I want to study your movements, your gestures, the blink of your eye, and memorize your every step. I want to imbue every cell in my brain and every nerve in my body with a sense of your balance and dignity. I want to mend my heart by fully absorbing your beauty, and then rebuild my faith in humanity. Yet, I know that if the earth and nature could not pause to grant you relief, history will not revert, and I will have to go on living in my visions and dreams.

In the mind of my dreams, I can see Thawban (d. 54/674), your charge and friend, his face darkened with dismay. You noticed, and thus you asked, "Thawban, what disturbs you?" Thawban gave the answer that lives in my heart, "Prophet, I am not ill or in pain. It is just that when I am not with you, I miss you terribly until I see you. Then, when you mention the Hereafter, I fear that I will no longer see you because you will be in the highest levels of heaven, and if I enter heaven, I fear I will be at a lower rung. But if I do not enter heaven, I will not see you at all. My Prophet, Thawban deserved a revelation (4:69), but I-what do I deserve when I see you with the eye of my mind, and the love of my heart? I console myself, for in Bukhari it is reported that you said, "A person [in the Hereafter] will be with whom he loves." But what possible claim do I have when I am such an insignificant newcomer at the tail of so many great others?

I confess my love to you, my Prophet, but my love is not a eulogy of enchantment and idolization. It is the love of the assiduous engagement; the love of conviction, of reflection, of study and examination. I want to study your trials and tribulations, your strength, your power and patience, your intricate balance, and unfathomable beauty. You are but a human a beautiful human and a blessed example for all the nations. I see no merit in the love of selfishness and simple sensations. I see no merit in the love that is simply a form of indulgent self-affirmation. I want to absorb your example, transform myself, and learn the road to our salvation. I want to explore the meaning, the subtleties, the implications, and permutations. If

I study your *hadith* and *Sunna*, I find but a complex mixture of data. It is the heart and mind that places this matrix of data on a bed of beauty. It is the heart and mind that weaves its morality. It is my vigilant heart and probing mind that engage you in my dreams, and guide my sensations. I see you after your migration with your camel leading the way. It picks the spot where the mosque in Medina is destined to be. But the land belongs to two young men, and they insist that the land is a gift. But you insist on paying them just and full compensation.

You did not take the rights of people for granted; you did not pretend that the ends justify the means. You treated your people with dignity, and with dignity they learned to live free of fear. After the hardship and homesickness of migration came the affliction of disease. Both Abu Bakr al-Siddiq (d. 22/634) and Bilal Ibn Rabah (d. 17-21/638-642) fell ill with malaria, and when 'Aisha (d. 58/678) would nurse them they would lament their homesickness in poetry. I see you praying that God would replace the hardships with ease. I see you imploring God that Medina would become the land of the free. It came true my Prophet, but today, we continue our migrations chased by our fears. Our loss of dignity has become an unrelenting moral disease.

I see you, my Prophet, your gaze to the ground is longer than the sky, ever reflecting, adorned by humility. I see you in your dignity. If a new comer arrives, you move quickly to give them a seat. I see you quick to smile, quick to greet, neither harsh nor offensive, rarely angry. If you did become angry, you simply turn your face away in silence. I see you generous with praise, never castigating or disparaging, averse to conflict, and averse to comfort always rising to the challenges of history. I see you in the day of Badr with 'Ali and Abu Lubaba by your side alternating the ride on one camel on the way to battle. Ali and Abu Lubaba offer you their turn on the camel, and you exclaim, "You are not more capable of walking than I, and I need God's blessings no less than you." At the end of the battle, in the midst of your happiness at God's victory, you learn that your beloved daughter Ruqayya (d. 2/624) died, succumbing to disease.



And so, victory mingles with calamity and the blessings and tests of God never cease. So many tests and so many blessings, and I reflect upon your remarkable balance. After the Battle of Khaybar and during the ecstasy with God's victory, your daughter Zaynab (d. 7/628) takes her last breath as you sit close by. You comfort your son-in-law and now motherless granddaughter, and bury your daughter with your own hands. After the expedition of Tabuk, you returned home to find that Umm Kulthum (d. 9/630), your daughter, had died. You console her husband, bury her, and dry your tears. Truly, the tests of God never cease. Then, honored with the Lord's victories and the approach of the Farewell Pilgrimage, a calamity befalls your son Ibrahim (d. 10/632). He falls ill and takes his last breath at your side. He was a vivacious and lively child; your arms embraced him with the delight of love, but now you hold his lifeless body, as your love bleeds in tears. When the sun eclipsed, the mourners said it eclipsed in bereavement, but you stood up and said, "The sun and moon are the signs of God. They do not eclipse for the death of any human being." Earlier during the life of your beloved wife Khadijah Bint Khuwaylid (d. 3 years before *hijra*/619), you witnessed death taking your baby boys al-Qasim and Abdullah from her arms. My Prophet, you know that people witness the death of a single child and their sense of balance forever dissipates I beg of you, teach me your sense of balance in confronting the trials of my fate. In Uhud, I see you proceed to battle outnumbered by your enemies. At the approach of battle, 'Abdullah Ibn Obarr Ibn Salul (d. 9/631) withdraws with one-third of the Muslim army and leaves you and the believers to your fates. Despite the defeat in Uhud, you seek no slaughter or vengeance against Ibn Obarr and his army of cowards. 'Umar offers to kill the traitor, and you declare Muhammad does not kill his people. 'Abdullah Ibn 'Abdullah, Ibn Obarr's son, offers to kill his father for his persistent sedition, and you, my Prophet, state, "No, we will have mercy, and treat him kindly as long as he remains with us." And, when Ibn 'Obarr dies after the Battle of Tabuk, you stand and pray at his grave. In a tradition, 'Umar protests the bestowal, upon this long-time

hypocrite, of such a grace. You look at 'Umar, smile, and say, "'Umar, pray behind me for I have the choice, and I chose to pray."

When Hatib Ibn Balta'a betrayed you by sending a message to Mecca informing them of your preparations against them, you hold the message in your hand and say, "What is this, Hatib?" His response is as shameful as his actions, but you accept it with forgiveness and remarkable grace. When Mecca is defeated, you grant all an unqualified amnesty, but Fadallah Ibn 'Umayr conspires to have you killed. Fadallah approaches you, looking for his opportunity to plunge his knife in your chest, but you meet him with calm and a smiling face. You say, "What were you thinking of Fadallah?" Nervous, he lies, "Nothing, I was just thinking of God." You laugh kindly, and say, "Fadallah, seek God's forgiveness, and abandon what you intended to achieve." You speak kindly to him and place your blessed hand on his chest to cool his rankling heat. Fadallah lived the rest of his life saying, "I came to kill him, and I left with no man more beloved and dear to me." On another occasion, Ghawrath Ibn al-Harith stealthily comes up to kill you as you sit alone under a tree. Holding his sword, Ghawrath says, "Who can protect you now, Muhammad?" You calmly look at him and say, "God." Perturbed by your calm and his overwhelming guilt, Ghawrath drops the sword. You rush to grab the sword and say, "Who will protect you now Ghawrath?" Then you throw the sword away and forgive him. Ghawrath returned to his masters in Mecca proclaiming, "I have returned to you [from the land of] the best man." Such is your character your pain and hurt humbly succumb to your faith. Even when your Companions tell you that they have suffered at the hands of their enemy, and ask you to pray against them, you respond with, "May God guide the people of Thaqif." In Uhud, with your blood mingled with the blood of your Companions, you are told, "If you would pray to God to curse the people of Mecca [God would answer your prayers]." You wipe your blood and proclaim, "I was not sent to curse people. I was sent as an inviter to the truth and as a mercy for the people. May God guide my people [the people of Mecca] for they do not know"

I see you in these glimpses that are as if revelations into your personality. If only my resolve could match my education. In the Battle of Hunayn, once again you confront a major defection, and most of the *tulaqa*' run in retreat. But the believers persevere and the battle ends in victory. Once again, you seek no punishment, and you accept their contrived apologies. Meanwhile, Abu Talha (d. 34/654), the Companion, runs into his wife Umm Salim wielding a knife angrily the same courageous Umm Salim who fought in several battles along your side. "What- is this Umm Salim?" Abu Talha asks her, and she snaps back, "A knife to fight the enemy, and after that, I will fight those who deserted you in the midst of battle. Abu Talha looks at you and complains, "Prophet do you hear what Umm Salim is saying?" You gently laugh and say, "God has been kind to us Umm Salim, and sustained us from such a deed." For the generations to come, you proclaim that the lives and the honor of Muslims is greater than or the same as the Kaaba in its sanctity. Despite the pending dangers, you built a society free of subjugation, excoriation, excommunication, and free of fear.

Prophet of God, I long for a life free of humiliation for a life of beautiful dignity. And, when I long, I visualize you in my dreams. I visualize the moment that Asma Bint 'Amis returned after her migration to Abyssinia. Like most of the emigrants to Abyssinia, she returned after the Battle of Khaybar after missing most of the early struggle, both its bitter and sweet. Asma was visiting your wife Hafsa Bint 'Umar Ibn al-Khattab (d. 45/665) when 'Umar arrived and saw her. Perhaps he was jesting when he said to Asma, "We migrated with the Prophet and so we have more right to him than you." Jestling or not, Asma became incensed and proclaimed, "By God, I will not eat or drink until I tell the Prophet what you just said, and I will not lie, embellish, or exaggerate." She ran to you complaining and, upon hearing her, you said, "No, he has no right to me more than you. 'Umar and his companions migrated in the way of God once. You [emigrants of Abyssinia] migrated in the way of God twice [the first time to Abyssinia and the second to Medina]." Asma' was a resolute and spirited woman, and such a woman had every right to

you. She impressed Abu Bakr al-Siddiq (d. 22/634) and so he married her and, after Abu Bakr died, she married Ali your cousin and Companion. Yes, such a woman could claim her rightful position. But what right do we have to you?

When the women of Medina complained that the men manage to outspoke them in meetings, you smiled and gave them their own day. In Bukhari, it is reported that Anas Ibn Malik (d. 93/711) said that any women in Medina could grab you by the hand and lead you to where she wished, and you would follow her until you fulfilled her need or request. In fact, again, it was Anas Ibn Malik who reported that a senile woman in Medina came and said, "Prophet, I need something from you." My Prophet, you replied, "Umm so and so, choose any place in Medina and I will sit with you until I get you what you need." Both of you, woman and Prophet, sat down in the place she chose, while she talked and you listened. And, you did not leave until you fulfilled her need. Truly, as God has said, "If you had been harsh and hard-hearted, they would have dispersed from around you" (3: 159). But my Prophet, today we care about *fitna* more than we care about need. So if a woman in need would grab a man's hand today, the man would probably look at her and growl, "Let go of my hand, woman!" When Umar heard that your wives argue with you and lose their balance, he came protesting that women are bound to learn to defy their men. Your response was a beautiful smile a response more telling and more eloquent than a thousand words. Your smile, your magnanimous smile, your smile was the earmark of your balance, your dignity, and the blissful essence of your soul. Your smile melted hearts and was more effective than any possible *bay'a* (oath of allegiance) that could be given. Jarir Ibn 'Abdullah said, "Since I became a Muslim I never felt neglected by the Prophet, and whenever he would see me, he would smile at me." When a man attempted to kiss your hand, you smiled and pulled away while saying, "Do not do that, I am one of you."

When someone in your household would call upon you, you would smile and respond, "At your service." In fact, you did serve your family you



deloused your cloth, mended your sandals, served yourself, cleaned the house, kneaded the bread, and hobbled the camels. You would take, the camels to graze, you would eat with the servants, and you would carry your own goods from the market. When 'Aisha (d. 58/678) was asked, "How did the Prophet behave at home?" She responded, "He was in the constant service of his family." Anas Ibn Malik served you in your household for ten years, you never chided him or castigated him, and whenever you would see him you would smile.

You owed money to Zayd Ibn Sanah. Zayd approached you as you walked with 'Umar and grabbed you by the collar of your garb yelling, "You, the people of Abd al-Muttalib, do not pay back your debts." 'Umar defended you by yelling and pushing Zayd back. You, my Prophet, smiled, and said, "There is no need for this 'Umar. 'Umar, we wanted more than this from you. You should advise me to pay back my debts, and advise Zayd to be kind in the way he demands his rights." You paid the debt back and more, and Zayd, humbled by your kindness, became a Muslim. I also see you walking with Anas Ibn Malik when a Bedouin comes up from behind you, and grabs the neck of your robe. The ring of the collar leaves a red mark on your blessed neck, and you turn around to look at the brute. He yells, "Give me some of the money that God has given you!" You smile, and you grant what he asked for. I find my mind wandering to your solemn robe this robe that seems to have accompanied you for a good portion of your life without the company of a similar robe. I see you standing in Hunayn with the same old garb. You are distributing God's wealth when a group of louts descend upon you. They clamor and fight over the delusional ornaments of this earth until they force you against a tree and snatch even your very robe. You call upon those louts to return your lonely garb, and gently remind them that, other than the clothes on your shoulders, there is not a single thing of value or item of wealth that you intend to reserve for yourself or to keep.

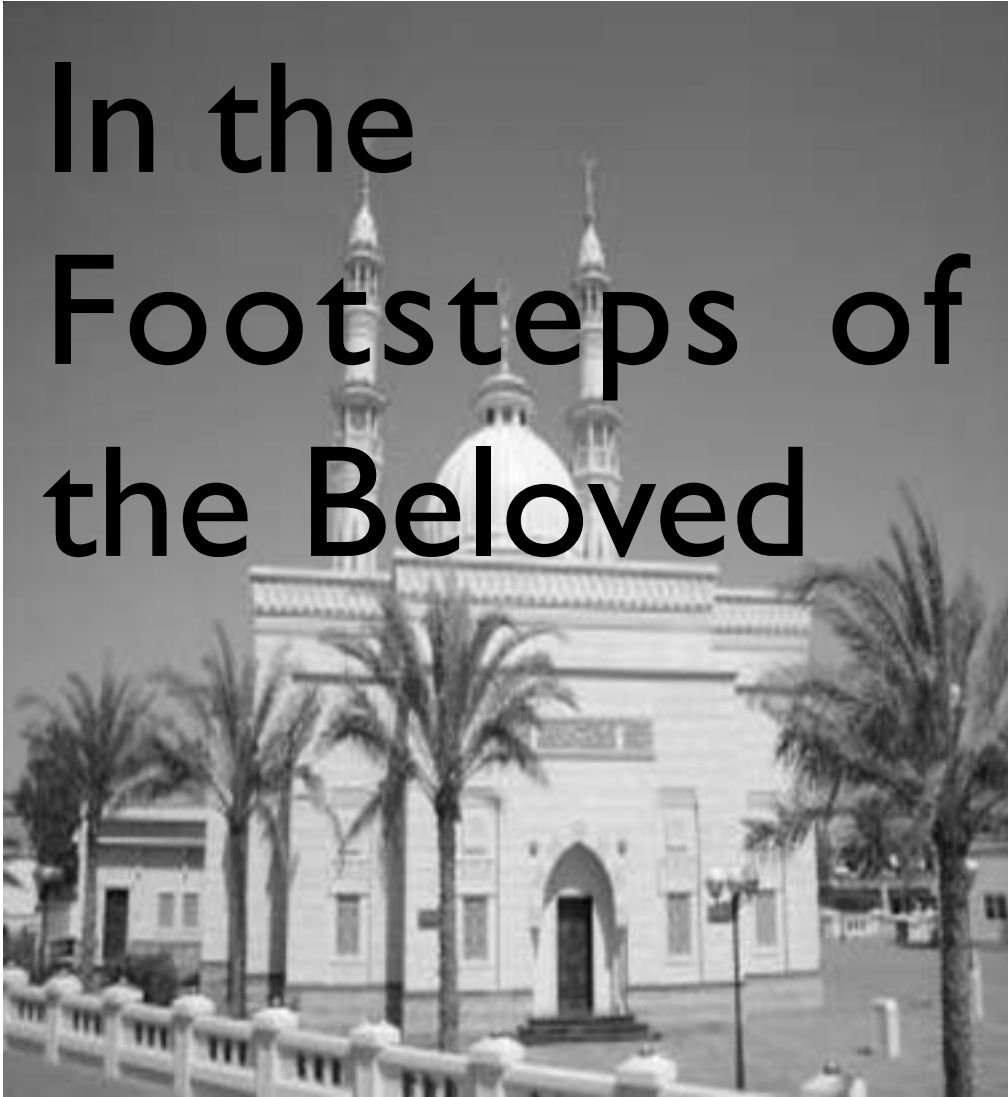
There is no wonder in this, for Anas Ibn Malik had said that in your life you never tasted soft bread. There is no wonder, when I hear 'Aisha say that three months would pass in your home

without a cooking fire being lit. There is no wonder, when upon your death, the only food found in your home was a small batch of edible grain. Even more, you died with your shield pawned with a Jewish merchant.

Yet, my beloved Prophet, at the end, despite the searing fever and pain, you fight your illness and rise to declare, "People, rancor and enmity is not in my character or quality. The most beloved to me are those who have a right over me, and demand it. If this right is justly theirs, then they will unburden me, and I can meet my God in peace." You prayed *Zuhr* sitting down, and afterwards, repeated your request. Finally, a man stood up and said that he had lent you three dirhams, and you gave it to him promptly. Whoever asked for a supplication or prayer you kindly obliged. The end of your burdens and the beginning of ours were now painfully clear. Your last words were not about property, dominance, or kingdoms. Your last testament was to maintain our prayers and protect the weak. You repeated the testament until your lips stammered, but the voice had retreated to a whisper. Beautiful in life, and beautiful in death and so your last act of beauty was to clean your teeth. Then, you put the *miswak* down, and closed your eyes. Your head rested on 'Aisha's lap as she stroked your hair and consoled her tears. When your head grew heavy in her lap, she knew that the Prophet of God had now been set free.

Thus, my Prophet, I engage you, and such is the nature of my visions and dreams. Yes, I confess to you that I wish I could break the law of history and live in the beauty of your comfort. But I know that there is no virtue in the idolatry of love or in the pure indulgence of sensation. We worship only God. You were but a human being. It is just that my heart longs for beauty, and you were such a beautiful human being. So I do what I must do with beauty I engage it and absorb it in the pulse of my heart, in the folds of my mind, and in every fiber of my being. Beauty, my Prophet, becomes my vision of life and my singular dream.

# In the Footsteps of the Beloved



Can we trace the footsteps of the beloved when the beloved has walked away? Can we find the scent, the fragrance, the redolence of his trace? Can we seek the fragments of memory, the smiles, the laughs, and the kind gestures? Can we locate the beauty over fourteen hundred years too late? I agonize over these questions, struggle with the promises, and I refuse to despair.

I agonize over the questions, and so I run to the Conference I run to the books. I run to the papers and the ink. I run to the transmissions and reports to so and so reported from so and

so. I pursue the evidence in the books, in the testimonials and quotes, and in the layers of words. I pursue it with the relish of reverence, with the fervor of zeal, and the rapture of love. What I want is not to find him, for the Prophet is dead, but to find the perfume of his soul, the radiance of his beautiful face, and the magnanimous bliss of his hands. Yes, I search the *hadith*, the *sunan*, and the *masanid*, I even search the imagination and dreams.

Those who love him will understand, and the others will only be interested in the archeology of his footprints in the sand. But the perfume of

the beloved travels in the soul not in the burdened winds or the antiquities of the land.

I search, and what I find are sightings and descriptions of time and place the reports that say what the beloved said or did, the beloved once occupied this certain space. But I do not want to stare at the scatter of remains, or simply retrace his footsteps, or collect the relics on the trail. What I want is to inhale the perfume, sprinkle it on my soul wash my heart and reshape every single cell in my brain. You *see* I do not want to commemorate or memorialize, and I do not want to reminisce or build a shrine. I am not searching for graphs or illustrations. I am not searching for plats or delineations. The *Sunna* of the beloved, my friends is not a map; it lives in our soul not our hand.

I do not want to retrace his steps and then walk along his trail. I want to walk my own trail and route for in life, no two paths are exactly the same. But I want to walk the road of life with his heart not mine.

To mimic the Prophet is nothing but an impersonation for his sublimity cannot be simulated. The instant his majesty is animated it is reduced and degraded. The replication of his *Sunna* becomes a grotesque parody of images and sounds a demeaning forgery and an insolent falsification. The authenticity of the Prophet does not mean imitation but personification.

Beauty is not to counterfeit what cannot be copied but beauty is to bring to life the truth of the Prophet. And the truth cannot be placed within the idiosyncrasies of limits. We cannot follow the *Sunna* of the beloved we must live it as if inhaling the fragrance only to emit it.

So I stand in the road of my life confronting my own fate but I confront it with his fragrance his truth and his beauty. I stand in dignity steady, somber and staid for I sit in judgment over myself before God seals my case. When presented with a problem or an argument I exercise diligent self-restraint. For I ask myself the fundamental question that transcends time place or any limitations, "What would the Prophet have done in this situation?"

In whatever life gives or takes, in whatever the liabilities or stakes in whatever the pains or aches, in whatever pleasures or gratifications I inhale the fragrance of the Prophet and ask "What would the Prophet have done in this situation?"

Who would the Prophet have married? How would the Prophet have made love or acted with

his neighbors? How would the Prophet have acted in his home, shared the happiness, or reacted to any consternation? How would the Prophet have dealt with an extended hand or acted toward this poverty or privation? How would the Prophet have driven a car, managed a job, or even responded to any small sensation?

The response to the question is mine and yours, not the Prophet's, for the truth, that is the Prophet, is not susceptible to relative individualization. But to ask the question will unlock the heart to the Prophet's beautiful authenticity, and the heart's own moral self-realization. "What would the Prophet have done in this situation?" A society, built on this solemn inquiry is a society permeated with his blessed fragrance, and his miraculous beauty becomes its salvation. His *Sunna* would not be pursued in malformed and contorted imitations, but a fundamental state of transformation.

Ibn 'Abdullah, Abu al-Qasim, my Prophet, my beloved, you are among God's most wondrous manifestations. My heart is wedded to beauty, and, my Prophet, you are the beautiful marvel of all creation. But the truth is, I have no use for my heart, I want to live through yours. My Prophet, what words can I find to describe my utter and unrelenting infatuation? "I love you," just won't do, and there are no words, no expressions-language is just a system of bounded significations. When the words leave my heart, they are formalized, interpreted, and corrupted by my own mind. So I absorb the silence, stand in place, and look all around. When I glimpse your footprints or hear the echo of your footsteps, I run to where I know your perfume will be found. I inhale the fragrance, sprinkle it on my soul, wash my heart, and reshape every single cell in my mind. Then I walk on my own road carrying my own burdens and chores. But I confront the blessings, trials, and tribulations not by acting out a parody or attempting an impersonation, but by the authenticity of a personification. And, in every point, and at every sensation, I pause and ask myself, "What would the Prophet have done in this situation?"



When it comes, to the issue of Islam and violence, I must confess that, as a Muslim intellectual, I find myself in a bit of a bind. Islam, as expounded in the classical books of theology and law, does not bear a message of violence. In fact, *salam* (peace and tranquility) is a central tenet of Islamic belief and *aman* (safety and security) are considered profound divine blessings to be cherished and vigilantly pursued.

The absence of peace is identified in the Quran as a largely negative condition; it is variously described as a trial and tribulation, as a curse or punishment, or, sometimes, as a necessary evil. But the absence of peace is never in and of itself a positive or desirable condition. The Quran asserts that if it had not been for divine benevolence, many mosques, churches, synagogues, and homes would have been destroyed because of the ignorance and pettiness of human beings. Often, God mercifully intervenes to put out the fires of war and save human beings from their follies. The Islamic historical experience was primarily concerned not with war-making, but with civilization-building. Islamic theology instructs that an integral part of the divine covenant given to human beings is to occupy themselves with

building and creating, not ruining and destroying life. The Quran teaches that the act of destroying or spreading ruin on this Earth is one of the gravest sins possible. *Fasad li al-'ard*, which means to corrupt the Earth by destroying the beauty of creation, is considered an ultimate act of blasphemy against God. Those who corrupt the Earth by destroying lives, property, and nature are designated as *mufsidun* (corruptors and evil-doers) who, in effect, wage war against God by dismantling the very fabric of existence. In addition, the Quran states that God has made people different and diverse and that they will remain so until the final day. Accordingly, the challenge is for human beings to coexist and interact despite their differences. The Quran proclaims in unequivocal fashion, "God has made you into many nations and tribes so that you will come to know one another. Those most honored in the eyes of God are those who are most pious." From this, classical Muslim scholars reached the reasonable conclusion that war is not the means most conducive to getting "to know one another." Thus, they argued that the exchange of technology and merchandise is, in most cases, a superior course of action to warfare. In the opinion of most classical jurists, war, unless it is purely defensive, must be treated as a last resort

as it is not a superior moral virtue. Perhaps because of these moral imperatives, the Islamic civilization excelled in the sciences, arts, philosophy, law, architecture, and trade and Islam entered into areas such as China, Indonesia, Malaysia, the Philippines, and sub-Saharan Africa primarily through traveling merchants and scholars, and not through warfare. Despite this rich doctrinal and historical background, the dilemmas of a modern Muslim intellectual persist. For one, this tolerant and humanitarian Islamic tradition exists in tension with other doctrines in the Islamic tradition that are less tolerant or humanitarian. Other classical Muslim scholars, for instance, insisted on a conception of the world that is bifurcated and dichotomous. Those scholars argued that the world is divided into the region of Islam (*dar al-Islam*) and the region of war (*dar al-harb*); the two can stop fighting *for* a while, but one must inevitably prevail over the other. According to these scholars, Muslims must give non-Muslims one of three options: become Muslim, pay a poll tax, or fight.

These classical scholars were willing to tolerate differences as long as the existence of these differences did not challenge Muslim political supremacy and dominance. This dichotomous and even imperialist view of the world, however, did not go unchallenged. *For* instance, many classical scholars argued that instead of a two-part division of the world, one ought to recognize a third category, which is the region of truce or neutrality (*dar al-sulh*) - a region that is not Muslim but which has a peaceful relationship with the Muslim world.

In addition, many classical jurists argued that, regardless of the political affiliation of a particular *territory*, the real or true region of Islam is wherever justice exists (*dar al-'adl*) or wherever Muslims may freely and openly practice their religion. It is therefore possible *for* a territory that is ruled by non-Muslims and where Muslims are a minority to be considered part of the region of true Islam.

### A MUSLIM DILEMMA

The fact that the Islamic scholastic tradition is not unitary, and that it is often diverse and multifaceted, is hardly surprising. What is surprising and often aggravating is the extent to which Islamic debates in the modern age have become politicized and polarized. It is difficult for a contemporary Muslim scholar to take a

position on Islam and violence without becoming the subject of suspicion and even accusations as to his loyalties and commitments. For instance, if a contemporary Muslim scholar emphasizes the imperatives of tolerance and peaceful coexistence in Islam, or emphasizes the importance of moral commitments over political expedience, or perhaps condemns terrorism, he is often understood to hold a thoroughly political position. Such a scholar becomes susceptible to accusations of being a sellout to the West, pro-Israeli, pro-government, or of being insufficiently sensitized to the suffering of the Palestinians, Kashmiris, Chechnyans, or any other oppressed Muslim population.

The real challenge that confronts Muslim intellectuals is that political interests have come to dominate the public discourse, and to a large extent, moral discourses have become marginalized in modern Islam. In many ways, since the onslaught of colonialism and its aftermath, Muslims have become preoccupied with the attempt to remedy a collective feeling of powerlessness and a frustrating sense of political defeat, often by engaging in highly sensationalistic acts of power symbolism. The normative imperatives and intellectual subtleties of the Islamic moral tradition are not treated with the analytic rigor that this tradition rightly deserves but are rendered subservient to political expedience and symbolic displays of power.

The theology of power in modern Islam is a direct contributor to the emergence of highly radicalized Islamic groups, such as the Islamic Jihad Al-Qaeda. Far from being authentic expressions of inherited Islamic paradigms or a natural outgrowth of the classical tradition, these are thoroughly a byproduct of colonialism and modernity. Such groups ignore the history of the Islamic civilization, with all its richness and diversity, and reduce Islam to a single dynamic - the dynamic of power. They tend to define Islam as an ideology of nationalistic defiance. A vulgar form of obstructionism to the dominance of the Western world. Instead of Islam being a moral vision given to humanity, it is therefore constructed as the antithesis of the West. In the world constructed by these groups, there is no Islam; there is only opposition to the West. I am not implying that resistance to Western cultural hegemony, or fighting oppression, is illegitimate. But the type of Islam that the radicalized groups offer is akin to a perpetual state of emergency where expedience trumps principle, and

illegitimate means are consistently justified by invoking higher ends what prevails is an aggravated siege mentality that suspends the moral principles of the religion in pursuit of political power. In this siege mentality, there is no room for critical thought or for seriously engaging Islamic intellectual heritage. There is only room for bombastic dogma and for a stark functionalism that ultimately impoverishes Islamic heritage.

### JIHAD VERSUS VIOLENCE

This, perhaps, is nowhere as clearly apparent as in the treatment of the issue of jihad and violence. Jihad is a core principle in Islamic theology; it means to strive, to apply oneself: to struggle, and persevere. In many ways, jihad connotes a strong spiritual and material work ethic in Islam. Piety, knowledge, health, beauty, truth, and justice are not possible without jihad—without sustained and diligent hard work. Therefore, cleansing oneself from vanity and pettiness, pursuing knowledge, curing the ill, feeding the poor, and standing up for truth and justice even at great personal risk are all forms of jihad.

The Quran uses the term jihad to refer to the act of striving to serve the purposes of God on this Earth, which include all the acts mentioned above. Importantly, the Quran does not use the word jihad to refer to warfare or fighting; such acts are referred to as *qital*. While the Quran's call to jihad is unconditional and unrestricted, such is not the case for *qital*. Jihad is a good in and of itself while *qital* is not. Every reference in the Quran to *qital* is therefore restricted and limited by particular conditions, but exhortations to jihad, like the references to justice or truth, are absolute and unconditional. Consequently, the early Muslims were not allowed to engage in *qital* until God gave them specific permission to do so. The Quran is careful to note that Muslims were given permission to fight because they had become the victims of aggression. Furthermore, the Quran instructs Muslims to fight only those who fight them and not to transgress, for God does not approve of aggression.

In addition, the Quran goes on to specify that if the enemy ceases hostilities and seeks peace, Muslims should seek peace as well. Failure to seek peace without just cause is considered arrogant and sinful. In fact, the Quran reminds Muslims not to pick fights and not to create

enemies, indicating that it is a Divine blessing when one chooses to make peace. God has the power to inspire in the hearts of non-Muslims a desire for peace, and Muslims must treat such a blessing with gratitude and appreciation, not defiance and arrogance.

In light of this Quranic discourse, Muslim jurists debated what would constitute a sufficient and just cause for fighting non-Muslims. Are non-Muslims fought because of their act of disbelief or *only* because they pose a physical threat to Muslims? Most jurists concluded that the justification for fighting non-Muslims is directly proportional to the physical threat they pose to Muslims. In other words, if they do not threaten or seek to harm Muslims, then there is no justification for acts of belligerence or warfare. Similarly, relying on precedents set by the Prophet, classical Muslim jurists held that non-combatants—children, women, people of advanced age, monks, hermits, priests, or anyone else who does not seek to or cannot fight Muslims are inviolable and may not be targeted.

The existence of these doctrines is crucial for assessing the relationship between Islam and violence. But the reality is that the impact of such doctrines entirely depends on how modern Muslims choose to understand, develop, and assert them. Perhaps it is painfully obvious that regardless of how rich, humanistic, and moral the Islamic tradition is in fact, this tradition will be of very limited usefulness if it is not believed and acted upon by Muslims today.

Herein is the true travesty of modern Islam and the agony of every honest Muslim intellectual. It is fairly well-known that non-Muslims suffer from much ignorance and prejudice about the Islamic doctrine of jihad, its meaning, and its effect. Unfortunately, much of this ignorance is shared by Muslims themselves about their own tradition. For example, many Muslims today do not know the difference between jihad and *qital* or are woefully ignorant about the rules for the conduct of war in Islam. Even worse, when contemporary Muslim scholars rise to emphasize the numerous moral and humanistic aspects of the Islamic tradition, they are accused by their fellow Muslims of being westernized or of seeking to appease the West.

The real danger is that in this highly polarized and politicized climate, much of what is authentically Islamic and genuinely beautiful will be lost or forgotten for a long period to come.





# The Place of Tolerance in Islam

The terrorist attacks on New York City and the Pentagon have focus public attention on the site of Muslim theology. For most Americans the utter indifference to the value of human life and the unmitigated hostility to the United States shown by some Muslims came as a great shock. Others were confirmed in their belief that we face great struggle between civilizations. Islamic values, they say, are fundamentally at odds with western liberal values. The terrorist attacks are symptomatic of a clash between Judeo – Christian civilization with its values of individual freedom pluralism and secularism and an amoral unwesternized so call authentic Islam. Indeed, Islamic civilization is associated with the ideas of collective rights, individual duties legalism, despotism and intolerance that we associated with our former civilizational rival the Soviet bloc. We seem to project onto the other everything we like to think that we are not.

This intellectual trap is easy to fall into when we deal with the theology of Osama Bin Laden, the Taliban, the Wahhabis of Saudi Arabia and the Jihad organizations. The theologically-based attitudes of these Muslim puritans are fundamentally at odds not only with a Western way of life, but also with the very idea of an

international society or the notion of universal human values. They display an intolerant exclusiveness and a belligent sense of supremacy vis a vis the other. According to their theologies, Islam is the only way of life, and must be pursued regardless of its impact on the rights and well being of other. The straight path (al-sirat al mustaqim) is fixed, they say by a system of Divine laws (shariah) that trump any moral considerations or ethical values that are not fully codified in the law. God is manifested through a set of determinate legal commands that specify the right way to act in virtually all circumstances. The sole purpose of human life on earth is to realize the Divine manifestation by dutifully and faithfully implementing God's law. Morality itself begins and ends in the mechanics and technicalities of Islamic law. (though different schools of Islamic law understand the content of those laws differently.) A life devoted to compliance with this legal code is considered inherently superior to all others and the followers of any other way are considered either infidels (kuffar) hypocrites (munafiqun) or iniquitous (fasiqun). Anchored in the security and assuredness of a differentiate between the rightly-guided and the misguided. The rightly – guided obey the law the misguided either deny



attempt to dilute or argue about the law. Naturally the rightly – guided are superior because they have God on their side. The Muslim puritans imagine that God's perfection and immutability are fully attainable on earth as if God's perfection had been deposited in the Divine Law, and, by giving effect to this law, we could create a social order that mirrors Divine Truth. By attaching themselves to the Supreme Being, Puritan groups are able to claim a self-righteous perfectionism that easily slips into a pretense of supremacy.

### Extremism in Islamic History

Perhaps all firmly held systems of belief, especially those founded on religious conviction, are in some way supremacist. Believers are understood to have some special virtue that distinguishes them from adherents of other faiths. But the supremacist creed of the puritan groups is distinctive and uniquely dangerous. The supremacist thinking of Muslim puritans has a powerful nationalist component which is strongly oriented towards cultural and political dominance. These groups are not satisfied with living according to their own dictates, but are actively dissatisfied with all alternative ways of life. They do not merely seek self-empowerment but aggressively seek to disempower, dominate, or destroy others. The crux of the matter is that all lives lived outside the Law are considered an offense against God that must be actively resisted and fought.

The existence of Muslim Puritanism is hardly surprising. Most religious systems have suffered at one time or another from absolutist extremism, and Islam is no exception. Within the first century of Islam, religious extremists known as the Khawarij (literally, the secessionists) slaughtered a large number of Muslims and non-Muslims, and were even responsible for the assassination of the Prophet's cousin and companion, the Caliph Ali b. Abi Talib. The descendants of the Khawarij exist today in Oman and Algeria but after centuries of bloodshed, they became moderates if not pacifists. Similarly, the Qaramites and Assassins for whom error became a *raison d'être* earned unmitigated infamy in the writings of Muslim historians, theologians, and jurists. Again, after centuries of bloodshed, these two groups learned moderation, and they continue to exist in small numbers in North Africa and Iraq. The essential lesson taught by Islamic history is that extremist

groups are ejected from the mainstream of Islam, they are marginalized, and eventually treated as heretical aberrations to the Islamic message.

But Islam is now living through major shift, unlike any it has experienced in the past. The Islamic civilization has crumbled, and the traditional institutions that once sustained and propagated Islamic orthodoxy and marginalized Islamic extremism have been dismantled. Traditionally, Islamic epistemology tolerated and even celebrated divergent opinions and schools of thought. The guardians of the Islamic tradition were the jurists (*fuqaha*), whose legitimacy rested largely on their semi-independence from a decentralized political system, and their dual function of representing the interests of the state to the laity and the interests of the laity to the state. But in Muslim countries today, the state has grown extremely powerful and meddlesome and is centralized in ways that were inconceivable two centuries ago. In the vast majority of Muslim countries the state now controls the private religious endowments (*awqaf*) that once sustained the juristic class. Moreover, the state has co-opted the clergy, and transformed them into its salaried employees. This transformation has reduced the clergy's legitimacy, and produced a profound vacuum in religious authority. Hence there is a state of virtual anarchy in modern Islam: It is not clear who speaks with authority on religious issues. Such a state of virtual religious anarchy is perhaps not problematic in secular societies where religion is essentially reduced to a private matter. But where religion remains central to the dynamics of public legitimacy and cultural meaning, the question of who represents the voice of God is of central significance.

### Puritanism and Modern Islam

It would be wrong to say that fanatic supremacist groups such as the al-Qa'ida or al-Jihad organizations now fill the vacuum of authority in contemporary Islam. Though they are obviously able to commit highly visible acts of violence that command the public stage, fanatic groups remain sociologically and intellectually marginal in Islam. Still they are extreme manifestations of more prevalent intellectual and theological currents in modern Islam.

Fanatic groups derive their theological premises from the intolerant puritanism of the Wahhabi and Salafi creeds. Wahhabism was



founded by the eighteenth-century evangelist Muhammad Ibn 'Abd al-Wahhab in the Arabian Peninsula. 'Abd al-Wahhab sought to rid Islam of the corruptions that he believed had crept into the religion. He advocated a strict literalism in which the text became the sole source of legitimate authority, and displayed an extreme hostility to intellectualism, mysticism, and any sectarian divisions within Islam. According to the Wahhabi creed, it was imperative to return to a presumed pristine, simple, straight forward Islam, which could be entirely reclaimed by literal implementation or the commands of the Prophet and by strict adherence to correct ritual practice. Importantly, Wahhabism rejected any attempt to interpret the divine law historically or contextually, with attendant possibilities of reinterpretation under changed circumstances. It treated the vast majority of Islamic history as a corruption of the true and authentic Islam. Furthermore Wahhabism narrowly defined orthodoxy, and was extremely intolerant of any creed that contradicted its own.

In the late eighteenth century, the Al Sa'ud family united with the Wahhabi movement and rebelled against Ottoman rule in Arabia. The rebellions were very bloody because the Wahhabis indiscriminately slaughtered and terrorized Muslims and non-Muslims alike. Interestingly mainstream jurists writing at the time such as the Hanafi Ibn Abidin and the Maliki al-Sawi, branded the Wahhabis the modern day Khawarij of Islam, and condemned their fanaticism and intolerance. In 1818, Egyptian forces under the leadership of Muhammad Ali defeated this rebellion, and Wahhabism seemed destined to become another fringe historical experience with no lasting impact on Islamic theology. But the Wahhabi creed was resuscitated in the early twentieth century under the leadership of Abd al-Aziz Ibn Sa'ud, who allied himself with Wahhabi militant rebels known as the Ikhwan, in the beginnings of what would become Saudi Arabia. Even with the formation of the Saudi state, Wahhabism remained a creed of limited influence until the mid-1970 when the sharp rise in oil prices, together with aggressive Saudi proselytizing, dramatically contributed to its wide dissemination in the Muslim world.

Wahhabism did not propagate itself as one school of thought or a particular orientation within Islam. Rather, it asserted itself as the orthodox "Straight path" of Islam. By claiming

literal fidelity to the Islamic text, it was able to make a credible claim to authenticity at a time when Islamic identity was contested. Moreover, the proponents of Wahhabism refused to be labeled or categorized as the followers of any particular figure including Abd al-Wahhab himself. Its proponents insisted that they were simply abiding by the dictates of *al-salaf al-salih* (the rightly-guided predecessors namely the Prophet and his companions and in doing so Wahhabis were able to appropriate the symbolisms and categories of Salafism.

Ironnically Salafism was founded in the early twentieth century by Al Afghani Muhammad Abduh, and Rashid Rida as a liberal theological orientation. To respond to the demands of modernity, they argued Muslims needed to return to the original sources of the Quran and Sunnah (tradition of the Prophet) and engage in de novo interpretations of the text. By the 1970s however Wahhabism had succeeded in transforming Salafism from liberal modernist orientation to a literalist puritan and conservative theology. The sharp rise in oil prices in 1975 enabled Saudi Arabia the main proponent of Wahhabism to disseminate the Wahhabi creed under a Salafi guise, which purported to revert back to the authentic fundamentals of religion uncorrupted by the accretions of historical practice. In reality however Saudi Arabia projected its own fairly conservative cultural practices onto the textual sources of Islam and went on to proselytize these projections as the embodiment of Islamic orthodoxy.

Despite its tolerance and rigidity however, Wahhabism itself does not bear primary responsibility for the existence of terrorist groups in Islam today. To be sure Wahhabism and its militant offshoots share both attitudinal and ideological orientations. Both insist on a normative particularism that is fundamentally text-centered both reject the notion of universal human values and both deal with the other however defined in a functionalist and even opportunistic fashion. But Wahhabism is distinctively inward – looking although focused on power it primary asserts power over other Muslims. This is consistent with its obsession with orthodoxy and correct ritualistic practice. Militant puritan groups however are both introverted and extroverted – they attempt to exert power against both Muslims and Non – Muslims. As populist movements, they are a reaction to the disempowerment most Muslims

have suffered in the modern age at the hands of harshly despotic governments, and at the hands of interventionist foreign power. These groups compensate for extreme feelings of disempowerment by extreme and vulgar claims to power. Fueled by supremacist and puritan theological creeds their symbolic acts of power become uncompromisingly fanatic and violent.

### The Theology of Intolerance

Islamic puritans whether of the Wahhabi or more militant varieties, offer a set of textual references in support of their exclusionary and intolerant theological orientation. For instance, they frequently cite the Quranic verse that states: 'O' you who believe, do not take the Jews and Christians as allies. They are allies of each other, and he amongst you who becomes their ally is one of them. Verily, God does not guide the unjust Wahhabi and militant puritanism read this and similar Quranic verses literally and historically, and therefore reach highly exclusionary conclusions. For example, while Muslims may elicit the support or aid of non-Muslims over particular issues when the self-interests of Muslims so require, they may not befriend or share the nonnative values of non-Muslims. This orientation often demands the performance of symbolic acts, which aim to distinguish Muslims from non-Muslims for instance, dressing in a particular way or marking non-Muslims with distinctive symbols.

Islamic puritanism also often invokes the Quranic verse asserting that, "whomsoever follows a religion other than Islam this will not be accepted from him and in the Hereafter he will be among the losers. This verse is invoked in arguing that the theology and rituals of Islam are the exclusive path to salvation. Moreover, a mere testament of faith or a general act of submission to God is insufficient to attain salvation in the Hereafter; rather, a person must comply with the particulars of the Divine law in order to qualify as a "true" believer. The puritan trend is thus uncompromising in its rejection of all forms of belief and ritual that do not qualify as the "true" religion of God.

As to the principles that should guide the interaction between Muslims and non-Muslims, the puritan trend cites the Quranic verse commanding Muslims to fight the unbelievers until there is no more tumult or oppression, and until faith and all judgment belongs to God. Moreover justifying an essentially supremacist

view towards non-Muslims, proponents of puritanism often quote the following Quranic injunction: "Fight those among the People of the Book (Jews and Christians) who do not believe in God or the Hereafter, who do not forbid what God and His Prophet have forbidden and who do not acknowledge the religion of truth-fight them until they pay the poll tax (*jizyah*) with willing submission and feel themselves subdued.

Relying on such textual evidence, Muslim puritans assert that Muslims are the inheritors of an objectively ascertainable and realizable Divine Truth; while Jews and Christians may be tolerated they cannot be befriended. Ultimately, however, they must be subdued and forced to acknowledge Muslim supremacy by paying a poll tax. The puritan doctrine is not necessarily or entirely dismissive of the rights of non-Muslims, and it does not necessarily lead to the persecution of Jews and Christians. But it does assert a hierarchy of importance, and the commitment to toleration is correspondingly fragile and contingent. So it is conducive to an arrogance that can easily descend into a lack of respect or concern for the well-being or dignity of non-Muslims. When this arrogant orientation is coupled with textual sources that exhort Muslims to fight against un-believers (*kuffar*) it can produce a radical belligerency.

### The Case for Tolerance in Islam

The puritans construct their exclusionary and intolerant theology by reading Quranic verses in isolation, as if the meaning of the verses were transparent as if moral ideas and historical context were irrelevant to their interpretation. In fact, however, it is impossible to analyze these and other verses except in light of the overall moral thrust of the Quranic message.

The Quran itself refers to general moral imperatives such as mercy, justice, kindness, or goodness. The Quran does not clearly define any of these categories, but presumes a certain amount of moral probity on part of the reader. For instance, the Quran persistently commands Muslims to enjoin the good. The word used for "the good" is *ma'ruf* which means that which is commonly known to be good. Goodness, in the Quranic discourse, is part of what one may call a lived reality it is the product of human experience and constructed normative understandings. Similarly, the Quranic term for kindness is *ihsan*, which literally means to beautify and improve upon. But beautification or improving upon can



have meaning only in the context of a certain sociological understanding and practice.

In a further example, as to justice, the Quran states: "O you who believe, Stand firmly for justice, as witnesses for God, even if it means testifying against yourselves, or your parents, or you kin, and whether it is against the rich or poor, for God prevails upon all. Follow not the lusts of your hearts, lest you swerve, and if you distort Justice or decline to do justice, verily God knows what you do. The idea that Muslims must stand up for justice even against their own self-interests is predicated on the notion that human beings are capable of achieving a high level of moral agency. As agents Muslims are expected to achieve a level of moral conscientiousness, which they will bring to their relationship with God. In regards to every ethical obligation, the Quranic text assumes that readers will bring a pre-existing, innate moral sense to the text. Hence, the text will morally enrich the reader, but only if the reader will morally enrich the text. The meaning of the religious text is not fixed simply by the literal meaning of its words, but depends, too, on the moral construction given to it by the reader. So if the reader approaches the text without moral commitments, it will almost inevitably yield nothing but discreate, legalistic, technical insights

Similarly, it is imperative to analyze the historical circumstances in which specific Quranic ethical norms were negotiated. Many of the institutions referenced in the Quran such as the poll tax or the formation of alliances with non-Muslims can be understood only if the reader is aware of the historical practices surrounding the revelation of the text. By emptying the Quran both of its historical and moral context, the puritan trend ends up transforming the text into a long list of morally non-committal legal commands.

The Quranic discourse, for instance, can readily support an ethic of diversity and tolerance. The Quran not only expects but even accepts the reality of difference and diversity within human society. "O humankind, God has created you from male and female and made you into diverse nations and tribes so that you may come to know each other. Verily, the most honoured of you in the sight of God is he the most righteous! Elsewhere, the Quran asserts that diversity is part of the Divine Intent and purpose in creation: "If thy Lord had willed, He would have made humankind into a single nation but

they will not cease to be diverse And for this God created them (humankind). The classical commentators on the Quran did not fully explore the implications of this sanctioning of diversity or the role of peaceful conflict resolution in perpetuating the type of social interaction that would result in people 'knowing each other nor does the Quran provide specific rules or instruction about how diverse nations and tribes are to acquire such knowledge. In fact the existence of diversity as a primary purpose of creation as suggested by the verse above, remained underdeveloped in Islamic theology. Pre-modern Muslim scholars did not have a strong incentive to explore the meaning and implications of the Quranic endorsement of diversity and cross-cultural intercourse. This is partly because of the political dominance and superiority of Islamic Civilization which left Muslim scholars with a sense of self-sufficient confidence. Nevertheless it is fair to say that the Islamic civilizations was pluralistic and unusually tolerant of various social and religious denominations. Working out the implications of a commitment to human diversity and mutual knowledge under contemporary conditions requires moral reflection and attention to historical circumstance precisely what is missing from puritan theology and doctrine.

Other than a general endorsement of human diversity the Quran also accepted the more specific notion of a plurality of religious beliefs and laws. Although the Quran clearly claims that Islam is the Divine Truth and demands belief in Muhammad as the final messenger in a long line of Abrahamic prophets it does not completely exclude the possibility that there might be other paths to salvation. The Quran insists on God's unfettered discretion to accept in His mercy whomever He wishes. In a rather remarkable set of passages that again have not been adequately theorized by Muslim theologians the Quran recognizes the legitimate multiplicity of religious convictions and laws. In one such passage for example the Quran asserts "To each of you God has prescribed a Law and a way. If God would have willed He would have made you a single people. But God's purpose is to test you in what he has given each of you so strive in the pursuit of virtue and know that you will all return to God (in the Hereafter) and He will resolve all the matters in which you disagree. On this and other occasions the Quran goes on to state that is possible for non-Muslims to attain the blessing

of salvation. “Those who believe those who follow Jewish scriptures, the Christians, the Sabians and any who believe in God and the Final Day, and do good and all shall have their reward with their Lord and they will not come to fear or grief. Significantly this passage occurs in the same chapter that instructs Muslims not to take the Jews and Christians as allies. How can these different verses be reconciled?

If we read the text with moral and historical guidance, we can see the different passages as part of a complex and layered discourse about reciprocity and its implications in the historical situation in Mohammed’s Medina. In part the chapter exhorts Muslims to support the newly established Muslim community in Medina. But its point is not to issue a blanket condemnation against Jews and Christians (who ‘shall have their reward with their Lord’). Instead, it accepts the distinctiveness of the Jewish and Christian communities and their laws, while “also insisting that Muslims are entitled to the same treatment as those other communities. Thus it sets out an expectation of reciprocity for Muslims while calling upon Muslims to support the Prophet of Islam against his Jewish and Christian I detractors, it also recognizes the moral worth and rights of the non-Muslim “other”

The challenge most often invoked against an argument *for* tolerance in Islam is the issue of jihad. Jihad, especially as portrayed in the Western media, is often associated with the idea of a holy war that is propagated in the name of God against the unbelievers. Therefore, jihad is often equated with the most vulgar image of religious intolerance.

At the most rudimentary level the Quran itself is explicit in prohibiting any form of coerced conversions to Islam. It contends that truth and falsity are clear and distinct, and so whomever wishes to believe may do so, but no duress permitted in religion. There is no compulsion in matter of faith. Of course this response is incomplete- even if forced conversions to Islam are prohibited, aggressive warfare to spread Islamic power over non-believers might still be allowed. Does the Quran condone such expansionist war? Interestingly, Islamic tradition does not have a notion of holy war. “Jihad” simply means to strive hard or struggle in pursuit of a just cause and according to the Prophet of Islam, the highest form of Jihad is the struggle waged to cleanse oneself from the vices of the heart. Holy war (In Arabic *al-harb al-muqaddasah*) an

expression used by the Quranic text or Muslim theologians. In Islamic theology, war is never holy it is either justified or not and if it is justified those killed in battle are considered martyrs. The Quranic text does not recognize the idea of unlimited warfare, and does consider the simple fact of the belligerent’s Muslims identity to be sufficient to establish the justness of his cause. In other words, the Quran entertains the possibility that the Muslim combatant might be the unjust party in a conflict.

Moreover, while the Quran emphasizes that Muslims may fight those who fight them, it also insists that Muslims may fight those who fight them may not transgress. Transgression is an ambiguous term, but on several occasions the Quran intimates that in order not to , transgress. Muslims must be constrained by a requirement of proportionality, even when the cause is just. For Instance, it states “Mandated is the law of equality, so that who transgresses against you, respond in kind, and fear God, and know that God is with those who exercise restraint.

Despite the prohibition against transgression and condemnation of unlimited warfare many classical jurists adopted an imperialist orientation, which divided the world into the abode of Islam and the abode of war supported expansionist wars against unbelievers. But this view was not unanimous. Classical Muslim jurists debated whether unbelief is a sufficient justification for warfare, with a sizeable number of classical jurists arguing that non-Muslims may not be fought unless they pose a physical threat to Muslims. If non-Muslims seek peace Muslims should make an effort to achieve such a peace.

This discourse was partly inspired by the Quranic injunctions concerning peace. The Quran asserts that God does not prohibit Muslims from making peace with those who do not fight Muslims, but God does prohibit Muslims from making peace with those who have expelled Muslims from their homes and continue to persecute them elsewhere, the Quran pronounces a stronger mandate in favor of peace in stating : “If your enemy inclines towards peace, then you should seek peace and trust in God. Moreover, the Quran instructs Muslims not to haughtily turn away unbelievers who seek to make peace with Muslims, and reminds Muslims that, if God would have willed, He would have given the unbelievers power over you (Muslims) and they would have fought you



(Muslims) Therefore if they (the unbelievers) withdraw from you and refuse to fight you and instead send you guarantees of peace know that God has not given you a license [to fight them]. These discussions of peace would not make sense if Muslims were in a permanent state of war with non-believers were a permanent enemy and always a legitimate target.

The other major issue on the point of tolerance in Islam is that of the poll tax (*jizyah*) imposed on the People of Book (Christians and Jews) who live in Muslim territory. When the Quran was revealed it was common inside and outside of Arabia to levy poll taxes against alien groups. Building upon the historical practice, classical Muslim jurists argued that the poll tax is money collected by the Islamic polity from non-Muslims in return for the protection of the Muslim state. If the Muslim state was incapable of extending such protection to non-Muslims. It was not supposed to levy a poll tax. In fact, 'Umar the second Rightly Guided Caliph and close companion of the Prophet, returned the poll tax to an Arab Christian tribe that he was incapable of protecting from Byzantine aggression.

Aside from the juristic theory justifying the poll tax, the Quran does not, however, pronounce an absolute and unwavering rule in favor of such an institution. Once more, attention to historical circumstance is essential. The Quran endorsed a poll tax as a response to particular groups in Arabia who were persistently hostile, to the early Muslims. Importantly, the Prophet did not collect a poll tax from every non-Muslim tribe that submitted to Muslim sovereignty, and in fact. In the case of a large number of non-Muslim but non-hostile tribes, he paid them a periodic sum of money or goods. These tribes were known as "those whose hearts have been reconciled. Furthermore Umar entered into a peace settlement with Arab Christian tribes pursuant to which these tribes were obligated to pay the Islamic annual tax known as the *zakah* and not the poll tax. Reportedly, although they refused to convert to Islam the Christian tribes contended that paying the *jizyah* (poll tax) was degrading and instead, asked to pay the *zakah*, and 'Umar accommodated their request.

In short, there are various indicators that the poll tax is not a theologically mandated practice but functional solution that was adopted in response to a specific set of historical circumstances. Only an entirely ahistorical reading of the text could conclude that it is an

essential element in a Divinely-sanctioned program of subordinating the non-believer.

### Final Thoughts

Ultimately the Quran, or any text speaks through its reader. This ability of human beings to interpret texts is both a blessing and a burden. It is a blessing because it provides us with the flexibility to adapt texts to changing circumstances. It is a burden because the reader must take responsibility for the normative values he or she brings to the text. Any text including those that are Islamic provides possibilities for meaning not inevitabilities. And those possibilities are exploited developed and ultimately determined by the readers effort - good faith efforts we hope - at making sense of the text complexities.

Consequently the meaning of the text is often only as moral as its reader. If the reader is intolerant, hateful or oppressive, so will be the interpretation of the text. It would be disingenuous to deny that the Quran and other Islamic sources offer possibilities of intolerant interpretation. Clearly these possibilities are exploited by the contemporary putitians and supremacists. But the text does not command such tolerant readings. Historically, Islamic civilization has displayed a remarkable ability to recognize possibilities of tolerance and to act upon these possibilities. Islamic civilization produced a moral and humanistic tradition that preserved Greek philosophy, and generated much science art, and socially benevolent thought. Unfortunately, however. the modern puritans are dissipating and wasting this inspiring moral tradition. They are increasingly shutting off the possibilities for a tolerant interpretation of the Islamic tradition.

If we assess the moral trajectory of a civilization in light of its past record then we have ample reason to be optimistic about the future. But the burden and blessing of sustaining that moral trajectory - of accentuating the Quranic message of tolerance and openness to the other - falls squarely on the shoulder of contemporary Muslim interpreters of the tradition.



Extreme acts of violence like the September 11 terrorist attacks on the World Trade Center and Pentagon test the mettle and moral depth of societies - the society that is targeted by the violence and the society that generated it.

As Americans, *we* ought to reflect upon the ways that our own Middle East policies and the arrogance with which we deal with dark-skinned people we refer to collectively as “the Arabs” contribute to the radicalization and polarization of Muslims. On the other hand, Muslims, both within America and without, should reflect upon the ways that their own discourses and symbolisms contribute to a belligerent and morally irresponsible attitude toward Western countries. There is no doubt that the vast majority of Muslims are not terrorists and will never take part in acts of violence or hate. And there is also little doubt that Muslim and Arab organizations have every reason to be genuinely concerned in the wake of these horrendous acts by Islamophobics and the kind of frenzied atmosphere of hate that they are capable of generating. Nevertheless, as a Muslim scholar, I feel “that the horror of the terrorist attacks in New York and Washington, and the subsequent

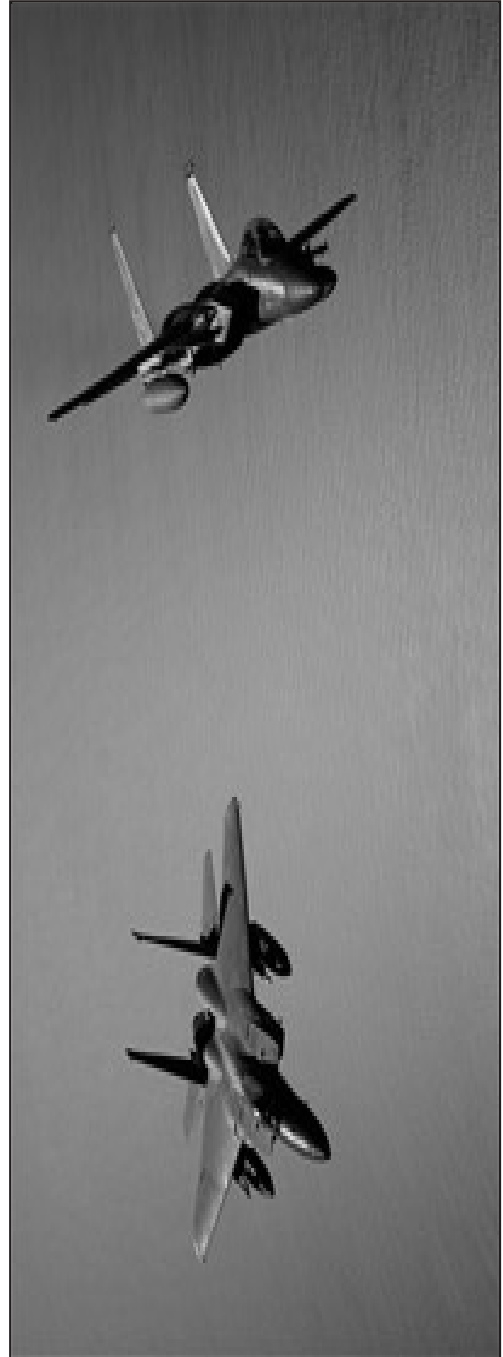
anthrax attacks through the mail, though not definitively linked to the perpetrators of the September 11 atrocities, demand a serious, conscientious pause - a reflective stand upon the prevailing moral and ethical structure of contemporary Islam.

There is little doubt that terrorism and hate crimes - make no mistake about it, terrorism is, first and foremost, a hate crime - are most often an aberration. Terrorism, however, is often an extreme manifestation of underlying mainstream social and ideological currents prevalent in a particular culture. Terrorism is not a virus that suddenly infects the brain of a person; rather, it takes long-standing and cumulative cultural and rhetorical dynamics to produce a terrorist. The classical culture of Islamic law is uncompromisingly hostile to all acts of terrorism. Terrorism, known as *hirabah* in Islamic law, is considered cowardly, predatory and a grand sin punishable by death. In fact, the Muslim juristic tradition equated terrorism with the Quranic concept of *fitnah* (betrayal and oppression), which the Quran describes as a crime against humanity. Consequently, classical Muslim jurists considered crimes of terror to be acts of

corruption on the earth” the most heinous and reprehensible type of crime committed against humanity at large. More specifically, classical Islamic law explicitly prohibits the taking or slaying of hostages or diplomats, even in retaliation against unlawful acts by the enemy. In addition, it prohibits stealth or indiscriminate attacks against enemies, Muslim or non-Muslim, and prohibits the use of weapons of mass and indiscriminate destruction, such as fire or the poisoning of water wells.

It would be disingenuous, however to propose that this classical attitude is predominant or even that familiar, especially in modern Arab-Muslim culture. To put it simply and bluntly, I, like many other Muslims, grew up with an unhealthy dose of highly opportunistic, anti-Western and belligerent rhetoric, delivered not only through the official media but also through popular religious/cultural venues such as local mosques. Even in the United States, it is not unusual to hear such remarkably irresponsible and unethical rhetoric repeated in local Islamic centers or at meetings of university Muslim-student organizations.

All of this raises the question: What happened to the Islamic civilization that produced such tolerance, knowledge and beauty throughout its history? A lot has happened. The Islamic civilization has been wiped out by an aggressive and racist European civilization; colonialism happened; the expulsion of Palestinians from their lands happened. Furthermore, virulently despotic and exploitative regimes have taken control in nearly every Muslim country and, like most Third World countries, Muslim nation-states remain underdeveloped and continue to suffer from chronic economic and political problems. But most importantly, a dogmatic, puritan and ethically oblivious form of Islam has continued to develop and predominate since the 1970s. This puritan brand of contemporary Islam is well-represented today in several Muslim regimes and mass-based Islamic movements. This brand of Islamic theology is largely dismissive of the classical juristic tradition and is also dismissive of any notions of universal and innate moral or ethical values. This orientation insists that only the mechanics and technicalities of Islamic law define morality - there are no moral considerations that can be found outside the technical law. Paradoxically, however it also rejects the classical juristic tradition as an historical aberration and insists on a *denovo* and



literal reinterpretation of all Islamic texts. But the *de novo* reinterpretation of Islam is not forward-looking; rather it claims to bring Islam back to its pristine and authentic self. According to puritan theology there was an Islamic Golden

Age - a period of absolute utopia that lasted some 40 years, from the time of the Prophet until the death of the fourth Rightly Guided Caliph Ali b. Abi Talib in 661 C.E. Under the tenets of this theology, if Muslims purify their religion from all corruptions and external influences they can bring back this Golden Age, with all its glory and power. As part of this paradigm, this puritanism tends to be distinctly anti-intellectual Intellectualism or social thinking that attempts to have a critical approach to hermeneutics or that introduces nuances of meaning to the text, or that attempts to integrate sociohistorical insights into the understanding of the doctrines of the Islamic law, is considered to be pure sophistry and a corruption of the purity of the Divine message. Fundamentally, however this puritan theology projects its own frustrations and aspirations upon the text. In fact one notes that it responds to the feelings of powerlessness and defeat with uncompromising symbolic displays of power not only against non-Muslims, but also against Muslim women. It is not accidental that this puritan orientation is the most virulent in flexing its muscles against women, and that it is also plagued by erotic fantasies of virgins in heaven submissively catering to the whims and desires of men. This contemporary orientation is anchored in profound feelings of defeatism alienation and frustration. It is a theology that is alienated not only from the institutions of power of the modern world but also from its own Islamic heritage and tradition. Importantly, this puritan trend compensates for those feelings of defeatism and alienation with a distinct sense of self-righteous arrogance vis-a-vis the nondescript "other" - whether the other is the West nonbelievers in general or even Muslim women. It is certainly true that the extreme and violent form of puritan Islam does not represent the vast majority of Muslims today. But there are two ways in which contemporary Muslim culture. Arab or non-Arab, inadvertently contributes to, and feeds, these extreme trends. First, since the fall of the Ottoman Empire and the onslaught of colonialism, Islamic intellectuals have busied themselves with the task of "defending Islam" by rampant apologetics. This produced a culture that eschews self-critical and introspective insight and embraces projection of blame and a fantasy-like level of confidence and arrogance. Second, confronted by the challenges of modernity, many Muslim intellectuals and activists tended to give precedence to the logic

of pragmatism over any other competing normative requirements. Invoking the logic of necessity or public interest to justify a variety of courses of action, at the expense of normative moral imperatives, became common practice. Effectively, Muslims got into the habit of paying homage to the presumed superiority of the Islamic tradition, but marginalized this idealistic image in everyday life.

The reality of contemporary Muslims is unfortunate. Easy oil money, easy apologetics, easy puritanism and easy appeals to the logic of necessity have all but obliterated the incentive for introspection and critical insight. Arab and Muslim organizations in the United States are right to worry about hate crimes and stereotypical projections of Muslims and the Islamic religion. The problem, however, is that Muslims themselves responded to the challenge of modernity by stereotyping and then completely ignoring their own rich moral tradition. It is not surprising that some extremists have taken this tendency to its logical and heinous extreme.

Nonetheless, there are several ways in which the United States contributed to the emergence of these same extreme trends. We ourselves have tended to throw around the rhetoric of moral imperatives and commitments, but our foreign policy fell far short of our rhetoric. Our foreign policy toward Muslim nations remained guided by considerations of realpolitik and pure self-interest. In this vein, we supported, and continue to support, very repressive and corrupt governments with abysmal human-rights records. While touting the cause of freedom and democracy, we consistently referred to these repressive governments as our friends and allies. Even more, we arrogantly claimed to be the leader of the free world - whatever that means - but did not prove to be a very benevolent or principled leader. The claim of leadership comes with a heavy responsibility. It should be understood that the leader becomes the symbolic scapegoat for the frustrations and failures of its purported followers. Significantly, when the leader relies on the logic of unprincipled and pragmatic interest, the lesson taught to others is not a particularly moral one.



# Speaking, Killing and Loving in God's Name

*Lecture delivered at the conference on "Religion and Violence" at the University of Virginia, Center of Religion and Policy. The Levinson Lectures, November 7, 2003.*

The topic I will address today is a difficult one because it is multi faceted and multi layered. It has so many various aspects to it. But it is also difficult because I cannot claim to be distant towards it. I cannot claim to be an objective engager analyzing the topic as if a specimen in a lab. For every Muslim who believes in the creed of Islam, the act of speaking on God's behalf, and consequently, the results of speaking in God's behalf – whether the results are something akin to love or something akin to violence – is at the heart and core of existence. And, considering the type of political dynamics that are taking place today, perhaps none of us can really maintain a distance or objectivity – certainly, not in the way we might have pretended to, just a few years ago.

Let me start by perhaps stating the obvious: that religious belief – like all systems of ideological conviction-is powerful. And in the case of religion in particular, its power comes from its ability, among other things, to synchronize between the physical and the metaphysical; to integrate between the individual and the collectivity, but also that the collectivity stands behind the individual. Part of the power

of religion is that it defines its own strengths. It promises what appears to be unattainable.

At times, that power could disintegrate into a from of careless thinking where the aspirations are not connected to any material or logical or rational premises, but, where it becomes something that yields the power to dream. To dream – it is remarkably powerful-powerful whether it produces love, beauty or any opposites. Furthermore, depending of course on how one handles religious conviction, in many ways, it allows the individual to have a claim to the universal; to make the universal attainable through an individuality. The personal, with all its details, can suddenly become relevant to much more than itself. And ultimately, this power redeems the promise of the comfort of a truth that can give coherence to matters that often are confronted with cynicism, and a sense of hopelessness, or at least a sense of futility. It can render the incoherent coherent in a word.

But that power sits in tension and is quite at odds with another aspect of the religious. The religious quite often is not self-referential. Rather, it references something quite bigger than the individuality claimed. In the case of Islam, it is not sufficient that the individual says, "I feel, I want, I dream." In the case of Islam, in many

ways, the individual's struggle is the attempt to understand what God wants, what God desires, what God says.

Now, naturally, the individual is asked to handle the power that it is profound and awesome—a power of divinity. And, without a remarkable dosage of humility-daily injections of humility and modesty—what religion promises could turn on itself in very profound ways. In the case of Islam, can we say that by its nature, the fact that someone speaks or represents the will of God—speaks on behalf of God—that necessarily, it will produce a paradigm or induce a result that is oblivious to the humane, or oblivious to the particularities of human needs?

Here we come to another aspect of the Islamic situation. When we often speak about Islam, simply saying “Islam” is grossly insufficient. What we are presented with when we say “Islam” is various attempts by various human beings acting within a variety of contexts subject to a variety of contingencies and attempting to represent or assert something on behalf of the divine, all along struggling with whether the covenant that balances the relationship—the relationship between the human being and the divine—is being violated in any way. To restate this, there is a covenant is multi-faceted, but as the core of this covenant is the notion of balance—a balance that never allows a human being to become divine, and never allows the divine to become human; a balance that is intricate. The minute that humans transcend the proper bounds of their place, they are transgressing upon the divine and the covenant is broken.

When we say “Islam,” we find that there is an amalgamation – a sum of total of attempts to deal with that intricate balance under a variety of contexts and under a variety of contingencies that a human being can affect or try to influence, but doesn't necessarily at all control. But, what I am claiming is that the contingencies of the human condition in dealing with that covenant and that balance are often what allows us to understand symbolically what a religion stands for, and in this case, the religion of Islam. I will demonstrate this with a few examples that also serve to emphasize another point about the importance of rituals and technicalities when trying to understand the contingencies of the religious condition.

Early on Islam, in the first years of the religion, as many of you might know, the Prophet starts this city-state in Medina. Relationships between

the Prophet and various localities surrounding him are dangerous to say the least. First, the moral practices and the political practices at the time that the Islamic message commences are not ruled by any international covenants. There are no international agreements and there is nothing like the United Nations, to state the obvious. And, often, something like the city-state would have to negotiate and carefully navigate its surroundings in order to ensure its survival. At the beginning of this Islamic state, this city-state, there are hostilities. There are in fact battles that are waged between the Prophet in Medina and the Quraysh in Mecca and, in fact, other major tribes like the Jewish tribe of Khaybar. Not surprisingly, within this contingency, there is a nearly rhetorical practice in which Muslims saw themselves as quite vulnerable. We read in the early sources of Islam claims such as one report in which the army of Khaybar, one enemy, is said to number 10,000 soldiers, while the Muslim army was 850 soldiers. Another report describes 1,200 Muslims confronting 10,000 enemy soldiers. Now aside from whether these reflect accurate numbers or not, the idea is that Muslims at least perceived themselves to be grossly outnumbered and grossly outmatched. What would you expect to find within these contingencies?

You would probably expect to find the leader of the community pumping up the fervor so that every member of this community would join the battle and ensure the survival of the community. You would probably expect that there would be a rhetorical practice to charismatically induce people to rise up and stand up and so on. That contingency naturally produced many reports that celebrate the ritual of sacrifice—not any ritual of sacrifice, but the ritual of a particular type of sacrifice: sacrifice when confronted by overwhelming odds; the sacrifice when confronted by what seems to be a hopeless situation; the sacrifice when it seems that there is no way you can win a battle. Early reports – from a historical perspective making absolute sense—drilled and emphasized this point. Furthermore, there are a variety of micro practices where there was a constant message painted under the themes of “Islam under siege”; “Muslims under siege”; Muslims surrounded by enemies”; “Muslims must persevere and overcome.” Within the contingencies that



Muslims confronted, again, it makes absolute historical sense.

Now, to me, this is interesting, but not nearly as interesting as the times where the religious text, instead of doing what is expected from it, i.e. confronting contingencies, actually reaches beyond the contingencies to dream of something else. What do I mean by that?

My assumption, as a jurist and a theologian, is that knowing the contingency that confronted Muslims, that I will certainly find an impetus for rituals of sacrifice. And, my assumption is that I will find an emphasis on the notion of being under siege and breaking the siege. What would be less expected is finding parts of the text that addressed situations that can only exist in contexts beyond the state of siege and beyond the state of animosity and hostility. So for instance, finding the parts of the text that say, "Do not let the injustice of others lead you into injustice, for God does not like the unjust"; or the parts of the text where I find Muslim jurists debating whether there is a legal cause for killing a non-Muslim in battle and what that legal cause should be. And Muslim jurists, in these moments where religion reaches beyond its context to reach for the subliminal and the supernal, saying

that the reason you do kill a non-Muslim, is not because of their disbelief, but in order to repel their danger.

Historically-speaking and contingency speaking, I expect the text to not necessarily reach beyond its specific contingencies and to dream of a time where things are different. But in fact, I find that the Muslim text-whether it is the Quran, the traditions of the Prophet, or the texts of the jurists-often rising beyond these physical contingencies, and dreaming of the more human, the more supernal, the more sublime, the more beautiful-for instance, the parts of the Islamic texts that emphasize no treachery in warfare outside of warfare. From historical practice, what I could expect is that people under siege would emphasize survival, whether it would involve treachery or not. Speaking solely historically, when Islamic texts, for example, are dealing with a situation where non-Muslim armies have killed Muslim hostages, I would expect the text to say, "Well, they killed our hostages. Kill theirs." I would expect the text to say, for instance, that if you need a military secret disclosed and the only way to get that military secret as to torture the captured enemy soldier, it would be acceptable.





But in fact, what I find is the text not saying that, but saying something quite different: that God has not allowed a human being to torture one another; and that even if the non-Muslims kill Muslim hostages, you cannot answer in kind.

So, to me, these – what I call, acts of moral reaching, acts of subliminal reaching, acts which are trying to transcend the ugly, contingent reality to something more sublime – represent something that is more universal, and something that is more true to the divine than merely responding to the immediate contingencies

present at a specific time. In other words, to me, these portions of the text are the part of the religion that allow me to dream – to look beyond the physical necessities and means, to what is normative, good and just.

Alas, I cannot claim that this approach is the one that prevails. Alas, maybe I am wrong, but I feel that the tendency is to take as equal parts of the text that express highly contingent realities, and the parts of the text that express the subliminal, supernal reach. The tendency is to treat them not only as equal, but in fact, to insist upon perpetuating the same contingencies, as if religion is there merely to validate physical contingencies and then repeat them endlessly. So for instance, in reports about rituals and sacrifice, what confronts them are reports about rituals of life. In reports about the state of siege, what confronts them are reports about equanimity and human unity.

For instance, I'll give you one example. The Quran says, "We have made you nations and tribes so that you will come to know one another." And then elsewhere, it says, "And God has made you different and you shall remain different, and if God would have willed, all of you would have believed." Now, the text seems to be reaching for the supernal. It seems to be reaching for the sublime, not the contingent, because I think it is reasonable to say, if God has created us different to know one another – then thinking in terms of states of siege is not consistent with achieving true knowledge of the other. Similarly, it seems to me that thinking in terms of the necessity of killing the other is not consistent with knowing the other. It stands to reason to say that, if you kill someone, you don't get to know them very well.

Confronting the traditions about the rituals of sacrifice, the siege traditions, and the traditions about the exclusivity of attaining God's pleasure, it is clear that from the perspective of contingencies, there emerged a time where the identity and distinctiveness of Muslims needed to be defined quite clearly. And the message had to be sent loud and clear that Islam calls people to something concrete. That contingency probably will remain forever; I don't contest that. But if we are to respond to a progression of contingencies, we start thinking about the reality of something like the United Nations, international covenants of human rights, and so on. In other words, we will not remain static at a single contingency and still recognize all others.

That seems to me to defeat the very object of the role of what religion ought to do.

I want to give you another example of the extent to which being caught in the micro and the contingent can derail the reach towards the supernal and the attempt to speak on behalf of the divine all together. You find the Quran talking about the morality-the moral value- of spreading both verbally and spiritually the idea of “Peace be upon you,” or “Al-salamu alaykum”- the greeting that Muslims greet each other with. And yet, I find reports that say, “This has to be qualified. A Muslim should never initiate a greeting to a non-Muslim of ‘Peace be upon you.’” Another report says that a woman should never initiate greeting a man with “Peace be upon you.” The least I can say about these reports is that even if authentic-and I challenge their authenticity, but that is a different matter – they are contextual and contingent. They do not represent a reach towards the supernal. They are not a normative, moral grasp towards human unification. They are marred in the context which produced them-whatever that context was. For instance, the need to distinguish between those in Medina and converted to Islam, and those who had not converted yet; or, in the case of the reports about women assuming an active voice in the community, and thus becoming an active voice potentially representing the divine. To treat the traditions of supernal reach as equivalent to the traditions of contingency seems to me a fundamental failure.

I worked on a case in which there was a prosecution against certain suspected members of al-Qaeda, and in that case, there were about 130 cassette tapes that the government had seized. The government asked me if I would listen to these cassette tapes; they were looking for certain types of evidence. I told them that the evidence they were looking for was not there, but these tapes became fascinating to me because for 130 tapes, about two hours each, what you think would exist in al-Qaeda cassettes didn’t actually exist. There were no calls for hating Americans. There were no calls for generally spilling blood without purpose. In fact, in the tapes, something that bin Laden had repeated later, there was an insistence that they did not have anything against the American people. In fact, the whole posture that was assumed was that the American people were put in an unfortunate position where they had to become the unwilling participants in a ritual of

sacrifice because of the sins of their leaders – a cleansing ritual. In these tapes, there was an insistence that “We don’t hate you. We have nothing against you, but your leaders have sinned grossly and now you have to bravely and piously accept the fact that some of you, many of you, have to be sacrificed in the purification process.” But what was most notable for me in these tapes was the amount of contingency or contextually contingent laws that were repeated. These tapes went on and on about the mechanic of how to say “Peace be upon you”; the mechanics of what you say when you wake up and what you say when you go to bed; the mechanic of what you do when you go to the bathroom; the mechanics of another world-a world of enormous contingencies, and enormous, specific micro-level contingencies.

I was struck at the conclusion of these tapes that it is impossible, if you listen to these tapes again and again, to engage in a supernal outreach. It is impossible to reach for the sublime. How can you? You are very busy day-in and day-out engaging, indulging, and perpetuating these contingencies time and time and time again. And then, when someone comes about and says there is one more contingency that you have to engage in and that is a ritual, like all the rituals that you’ve engaged in – a ritual of sacrifice – it doesn’t become that odd. It doesn’t become that difficult and it doesn’t become that unacceptable. It’s merely one more technical ritual that you have to perform...

I return again to where I started. Speaking of God’s behalf is an onerous burden – an onerous burden because after all, from the start, it is a nearly impossible proposition. As a human being, if you truly believe that God is omnipotent, immutable, and perfect, under what circumstance can you imagine yourself, as a human being, qualified to speak on God’s behalf? The least you can say is that the balance between the divine and the human – the very logic of speaking in God’s behalf would require that you constantly reach towards the more subliminal, the more supernal, and even the more primordial, if you had a fighting chance of in any way reflecting the nature of divinity, or reflecting something of the nature of divinity.



Several years ago, I remember seeing a picture of Osama bin Laden that ominously foretold the tragedy that would come in 9/11. The picture showed bin Laden, with his typical slothful and even indifferent look, sitting while gripping his Kalashnikov with neatly organized and impressive-looking books filling the background. What caught my attention in this picture were the titles of books. With the help of a magnifying glass, I was able to figure out the titles of the books appearing in the picture, and to my surprise, and dismay, these were the same titles that I have in my own personal library.

I could have been looking at a section of my library where I keep books on classical Muslim jurisprudence. There they were - the texts that represent the cream and kernel of the intellectual tradition of the Islamic civilization. With very few exceptions, bin Laden's library contained no works by modern writers; nearly all the books were heavy-duty, profound works on premodern Islamic law and legal theory. Bin Laden is not a Muslim jurist, and he does not have the training that would enable him to read or understand these classical texts. I do not know if it is possible to describe the pain that a Muslim, like myself, feels when they see the heart of the Islamic tradition co-opted in this fashion by a terrorist

like bin Laden. Much of what is actually in these books would condemn everything bin Laden represents, but bin Laden was making a symbolic point. The point was not simply to claim Islamic authenticity. In fact, considering bin Laden's neo-Wahhabi orientation, which tends to be anti-juristic and also tends to be dismissive of the dialectical hermeneutic methods of classical jurisprudence, his display of the books is quite paradoxical. But with his paltry and rustic furniture, Kalashnikov, and tradition-oriented library, bin Laden symbolized a rebellion against the prevailing paradigms of postcolonialism and the culture of modernity.

### **The Significance of 9/11 and Orphans of Modernity**

None of the Muslim revolutionaries of the past concerned themselves with displaying a formidable Islamic classical library. Even activists, such as the founder of the Muslim Brotherhood, Hasan al-Banna, who, unlike bin Laden, actually wrote a few books in his lifetime, were not bookish people. Bin Laden has not shown much interest in systematic thought, not even of the revolutionary type, and does not exhibit much familiarity with the constructs or

methodologies of Islamic jurisprudence. In addition, as discussed later, bin Laden considers the vast majority of the Islamic intellectual tradition to be a *bid'a*, a deviant and heretical innovation in the true and uncorrupted religion. Furthermore, unlike the national liberation movement leaders of the 1950s and 1960s bin Laden is not interested in publicly claiming responsibility or, in his view taking credit for his attacks; and unlike the Palestinian Hamas or Lebanese Hizbullah, for instance, he does not make a list of demands or articulate specific objectives. the fulfillment of which would bring an-end to the attacks Bin Laden's violence has a global and apoplectic quality to it; it seeks to do nothing less than alter the power structures of the world.

The classical juristic texts displayed might generate the impression that bin Laden is the champion of a lost Islamic authenticity to which he seeks to return, but in reality there is a considerable degree of what might be described as modernistic nihilism in bin Laden's worldview. Unlike Islamic revolutionaries of the past, bin Laden is not focused on over-throwing particular Muslim governments, the establishment of the caliphate, or even the implementation of the rule of Shari'ah in particular states. Rather, in many ways, bin Laden and his followers are the orphaned children of postcolonialism. He employs the technological instruments of modernity; for instance in many of his pictures he appears smiling with a cell phone in hand. But bin Laden and his followers do not see themselves as partners in the culture of modernity.

It is as if the modern world has imposed a fate upon them that is evil, and this fate must be *resisted*, even if the resistance is suicidal or utterly self-destructive. In one of his television appearances, bin Laden expressed this idea when he claimed that in general, most nations of the world, and all the Muslim countries in particular, do not have freedom of will or autonomy. But this begs the question: in what way was the 9/11 attack on the United States supposed to empower these countries that have lost their autonomy, or otherwise shift the balance of power in the modern world? I think that it is not possible to provide a coherent response to this question, and this is why I describe bin Laden's thought as somewhat nihilistic. The point of the attacks is to protest against modernity by destroying its symbols, to

deconstruct what exists without much thought for what can be constructed in its place, and to draw attention, in the most negative way, to the plight of Muslims in the postcolonial age.

Though the event occurred only a couple of years ago, one can safely assert that 9/11 has become a powerful symbolic moment in world history. Whether 9/11 can be considered a transformative point in history, and very few events can authentically claim this status, remains to be seen. But as a symbolic moment, the status of 9/11 is secure. This is not just the date in which thousands of people were tragically murdered, but 9/11 also represents the culmination of trends, many of them suicidal, set in motion in the nineteenth and twentieth centuries.

The attacks of 9/11 are the incipient outgrowth of social and political frustrations that have steadily grown since the onset of modernity. In many ways, these attacks are extreme acts of deconstructionism, a suicidal rejectionism and obstructionism toward the hegemonic power structures that have come to dominate human history for the past two centuries. Whether or not the attacks of 9/11 will, in fact, lead to a transformation in the world, these attacks ought to serve as a powerful warning to Muslims and non-Muslims alike. At the most basic level, they are a clear signal that subaltern cultures continue to exist in the shadow of postcolonialism, and that many people who belong to these cultures feel that they do not have a vested interest in the life created by modernity. I would argue that we ought to be enormously worried that modernity has lost credibility, or perhaps never had credibility in the first place, in the eyes of the subaltern cultures that have not played much of a role in the shaping of modernity.

The makers of modernity are the same nations, and races, that perpetuated colonialism, and in the age of postcolonialism, subaltern cultures, for the most part, continued to be economically dependent, culturally marginalized, and politically dominated. Contributing to modernity's lack of credibility is the perceived rampant hypocrisy of its leaders. Countries that have been at the forefront of modernity have employed language that invokes uplifting values. One cannot exaggerate the impact that such concepts as self-determination, development, social justice, individual rights, and democracy have had on the social imagination of the Muslim world; nor can one exaggerate the enormous

letdown felt after it became abundantly clear that the same nations and races who invented the concepts and espoused them are the only ones who continue to enjoy them. And, whether justifiably or not, it was believed, and continues to be believed, that the leaders of Muslim nations were placed and sustained in power through the support of the same countries that once colonized the Muslim world.

Here, my primary concern is not to ascribe fault to certain civilizations or vindicate others. As I argue below, the notion of civilizational superiority, as opposed to supremacy, is a simplistic and unhelpful idea. A civilization can flourish and become supreme at a particular point in history, but the assessment of the influence and credibility of a civilization ought not become akin to a beauty pageant competition, in which we engage in the pretentious act of selecting superiors and inferiors. Contrary to the assertions of some students of Samuel Huntington; 9/11 is not a symptom of a clash of civilizations, and it does not exemplify the tensions between the moral values of the West and Islam.

These types of assertions ignore the fact that the Islamic experience in the modern age has been lived largely in the shadow of colonialism and postcolonialism. In the past two centuries, the Islamic experience has been largely reactive, and not proactive; it has struggled to come to terms with modernity, with its own marginality and loss of autonomy, and with the concentration of power in the hands of the non-Muslim "other." The attacks of 9/11 were not an expression of an Islamic authenticity, anymore than the impressive *display of books* transformed bin Laden into a scholar of Islamic thought. But to say this is not to say that bin Laden is not a Muslim or that his experience is not part of the Islamic experience. Whether one likes it or not, and for better or worse, what a Muslim does in the name of Islam is in fact a part of the Islamic experience.

This is why Muslims should be concerned about what bin Laden represents. Although one can plausibly maintain that bin Laden's behavior was foremost an act of vengeance against a modern reality that has increasingly alienated and marginalized Muslims, and that the classical literary sources of Islam do not support his vengeful behavior, the fact remains that what bin Laden did does have normative value. If Muslims do not succeed in debunking, rejecting, and

marginalizing bin Laden's behavior, his ideology, vengeful as it is will set a normative precedent. In the absence of an effort to counteract it, bin Laden's behavior could acquire a legitimacy and authenticity that it may not possess at the current time. I will elaborate on this below, but perhaps a helpful way of understanding this problem is to assume that meaning in Islam is acquired through the formation of communities of interpretation. In effect, bin Laden, through his actions, has offered an interpretive community that is at odds with the main interpretive communities of classical Islam. If not dealt with appropriately, bin Laden's interpretive community could become larger, more convincing, more effective, and more mainstream. But the challenge, I believe, is that violent suppression will not effectively respond to the community of meaning that bin Laden offers.

The only effective way of responding is to offer alternative communities of meaning that are more convincing to Muslims and that would act to challenge and negate the worldview of the bin Ladens of the world. The problem is, however, that any alternative communities of meaning offered by any Muslim will make sense, or not, only in light of the overall sociopolitical context in which Muslims live. For instance, attempts to disseminate an interpretation of Islam that is consistent with normative values that are considered Western in origin, such as democracy or individual rights, often falter because of the perceived hypocrisies of the West.

### **The transformation of Islam after 9/11**

Whether the dominant powers, especially the United States, will heed the warnings of 9/11 and act to empower and incorporate the orphans of modernity remains to be seen. Considering the policies, thus far, of the United States and England *post 9/11* I am quite skeptical. American support of highly authoritarian regimes, such as the ones in Saudi Arabia, Kuwait and Egypt, has not wavered. In what can be described as typical imperialistic fashion, the United States installed a puppet government in Afghanistan that to say the least, is of questionable legitimacy and effectiveness. American support of Israel, despite its consistent and systematic brutalization of the Palestinians, has continued unabated. In addition, the American and British administrations seem to act on the assumption that it is possible, and even desirable, to beat



Muslim dissenters into submission. President Bush's colorful language about the axis of evil and the crusade against terrorists has emphasized the unreasonableness and absolutism of the American administration. The polarizing policies and statements of the wielders of power in modernity have led some commentators to characterize the events of 9/11 as symbolizing the clash of fundamentalisms, the fundamentalism of bin Laden against that of Bush." Unfortunately, all indications seem to point to the conclusion that the problems that led to 9/11 are only being aggravated in the current political climate.

Be that as it may, the question is: what about the Islamic side of things? Are the events of 9/11 a point of transformation for Islam, and if they are not, should they be to begin with, let's consider an important symbolic point, which has been raised by several Muslim commentators.

There have been many shocking massacres in the world including the slaughter of Muslims in Srebrenica and Muslim-Palestinians in Sabra and Shatila. More recently, Israel has brutally murdered Palestinians in the refugee camps of

Jenin. Several commentators writing in the Arab world have protested the significant amount of attention dedicated to the death of Americans when compared to the attention given to the slaughter of Arabs or other subalterns. Such commentators have noted, for instance, that every Muslim and even the religion of Islam itself, is held vicariously responsible for any acts 'of violence.

Often, it is demanded of Muslims to condemn terrorism and to clearly disassociate themselves from acts of violence committed by their coreligionists. Acts of violence by Christians and Jews are not met with the same expectations. Jews for instance, are not regularly asked to condemn massacres of civilians, like the one in the Jenin camp; nor are they expected to disassociate themselves from any other acts of terror committed by their coreligionists. Recently for example, a Pakistani commentator accused me of being an apologist for the West and a "sell-out" because, since 9/11. I have argued that Muslims ought to rethink certain aspects of their tradition. This commentator protested that I, and people like me, have not



called on Jews to reexamine their tradition in light of the crimes Israelis have committed against the Palestinians. In addition, in light of Bush's declared Christian convictions, and his invocation of Christian symbolism in his so-called war against terrorism, I failed to call on Christians to examine critically their traditions regarding war. The point he is making is that even Muslims like myself internalize and project the hypocrisies of postcolonialism. He, like many commentators in the Muslim world, contends that even the perception of trauma in the modern world has become relativized. The slaughter of Muslims is treated as an unfortunate fact of life, but it does not induce people to call for transformations or reconstructions. Meanwhile any large-scale loss of Western lives does generate calls for transformations and reconstructions, and it also creates demands for a new world order in which villains and violence must be suppressed.

This criticism although quite rhetorical and even dogmatic, cannot be dismissed as simple propaganda. I do think however, that it does exaggerate and essentialize the discourses of non-Muslims about their own short comings. Compared to Muslims, one can argue that Jews and Christians do deal with their own traditions with critical insights that sometimes border on the malicious. Modernity with its paradigms of secularism and critical scientism is often unkind to all religious traditions, including the traditions of Christianity and Judaism.

Moreover, I think that this criticism often ignores the fact that, unlike the major social movements of Christians and Jews, Muslim movements in the modern age often claim to act on behalf of Islam. Bush and Sharon do not explicitly pretend to carry out the will of God and do not explicitly cite canon or Rabbinic law as justifications of their policies. Activists such as bin Laden whether one likes it or not do claim to act on behalf of Islam. He not only claims that God approves of what he does; he goes much further in claiming that Islam affirmatively commands him to adopt certain paradigms and then act on them. My point is not to justify what I have described as the hypocrisy of the world powers that are dominant today, and I do, in fact, agree that there is considerable bigotry and prejudice that acts to undervalue the worth of Muslim life. But it is important that we are able to assess the plight of modern Muslims and

Islam from an honest and well-informed perspective.

The issue raised by many Muslims and some non-Muslims is that it is unfair to focus on Islam as a source of problems after 9/11. These commentators contend that 9/11 would have happened with or without religion, that there are sociopolitical reasons behind the attacks of 9/11 and that religion plays a marginal role at best. The likes of bin Laden abuse religion to justify their actions, but they are not led or influenced by religion to opt for a specific course of action in the first place. Recently, Tariq Ali went as far as arguing that theology is marginal to either understanding or reacting to the events of 9/11 and that, in fact, theological arguments are of no real consequence. Perhaps Ali's point is that it is more useful to speak in terms of transforming the dynamics of power and exploitation than it is to think about the role of religion.

I agree that material conditions related to who possesses power and how power is used and exploited is very significant. Most certainly, Muslims such as the Taliban and bin Laden, despite the practice of waving the banner of Islamic authenticity and legitimacy, are far more anti-Western than they are pro-Islamic. Their primary concern is not to explore or investigate the parameters of Islamic values, but to oppose the West. As such, Islam is simply the symbolic universe in which they function. Their protest is framed in Islamic terms because they are Muslim but it is not the case that they protest because they are Muslims. In many ways, they are not so much the outgrowth of a religious process as they are a reaction to external, secular forces, such as colonialism, corporate capitalism or imperialism.

Therefore at the most basic level, one reason for thinking seriously about the Islamic tradition and engaging in religious discourse is to wrestle away from, such groups their Islamic banner and to challenge their claim to authenticity. But aside from the largely apologetic goal of salvaging the image of Islam, there is also the more important and challenging issue of the identity of the Islamic message in the modern world. In light of the claims of the Taliban and bin Laden about the religion, the difficult issue that confronts Muslims today can be framed as follows: what normative role is Islam to play, and what ought to be the role of Muslim intellectuals in the world today?



The claim that Islamic normative doctrines played no role, or even a minor role, in bin Laden's and the Taliban's moral paradigms is, I think, both inaccurate and dishonest. Religion does not perform a merely cosmetic function in constructing the moral paradigms of a believer. For a believer, religion is the most authoritative and effective source of ideals. Confronted by constraining material conditions, a believer will seek to modify these conditions or reconstruct and reinvent his system of belief so as to adapt to the constraints. But in reconstructing and reinventing his system of belief, the believer also creates normative doctrines for other followers of the faith. Put differently, believers such as bin Laden, when confronted with the power dynamics that exist in the world today have two options: either they can seek to alter those power dynamics or they can reinvent Islamic normativities so as to make them consistent with the material realities that confront them today. There is a third option, if one can call it an option, and that is to exist in a state of perpetual dissonance.

This state of dissonance can appropriately be described as a condition of social schizophrenia in which believers survive with irresolvable conflicts between their lived reality and their convictions, between life as it is and life as it ought to be of course, these three potential responses- modification of reality, reinvention of belief systems, and dissonance are not mutually exclusive. For most believers, all three play a role at various times and to different extents. Importantly, these responses are issue specific; depending on a variety of factors, believers may reinvent their system of belief on some issues, while continuing in a state of dissonance vis-a-vis others. This depends on the extent to which particular material realities are pressing, the centrality of a particular religious doctrine to the faith of a believer, and the susceptibility of the culture of the believer to change in regard to certain issues. For example, a wealthy patriarchal society confronted with material conditions that necessitate the economic and social mobility of women will react very differently than a financially impoverished society. The former society might be tempted to alter the material conditions so that they become consistent with its religious convictions, while the latter might be tempted to reinterpret or reinvent its religious doctrines. But, in all cases, the response will be

affected by the perceived centrality of the religious doctrine to the faith.

Generally speaking, religion matters; it matters because it is an integral part of the frame of reference for a believer, which will guide how a believer chooses to respond to a given situation. Even a state of dissonance is not a condition of inertia or perpetual dormancy. It is a state of unrest that is bound to have consequences both for the lived reality and the religious consciousness of a believer in many ways, bin Laden and the Taliban grew out of this state of dissonance. In all probability, they understood their faith to demand certain things of them and then proceeded to alter the reality of the world to make it consistent with what they believed are the precepts of Islam. In doing so, bin Laden and the Taliban acted on conviction and also set a precedent for future Muslims.

In this sense, 9/11 could prove to be a point of transformation for Islam. Unless Muslims carefully analyze and understand bin Laden's and the Taliban's systems of belief, and also carefully assess the normative impact of the precedents set by them, Muslims will be running the risk of unwittingly acquiescing to a reconstructed religion that, in my view, is immoral and inhumane. While what bin Laden did in 9/11, by itself, will not transform or reinvent the Islamic tradition, Muslims are forced to deal with the reality that, considering its scale and impact, bin Laden's and the Taliban's actions are precedent setting. The role of Muslim intellectuals is to engage the various precedents set in the name of Islam and to negotiate the meaning of their religion. Far from being a "sell-out" position, quite simply, this is exactly what the Islamic duty of enjoining the good and rejecting what is wrong (*al-amr bi'l ma'ruf wa al-nahy 'an al-munkar*) is all about. This is also why the Quran commands Muslims to bear witness, on God's behalf, for truth and justice even if the testimony is against themselves or against their loved ones. In my view, the truthful testimony is rendered on God's behalf because silence in the face of a wrong committed in the name of Islam is a form of suborning the corruption of the religion.

#### **Bearing Witness in the Shadow of Pastcolonialism**

When it comes to the issue of Islam and violence, Muslim discourses, for the most part, remain captive to the postcolonial experience.

These discourses are sufficiently politicized and polarized to the extent that Muslim intellectuals who address the subject often feel that they are stepping into a highly volatile minefield. It is difficult for contemporary Muslim scholars to take a critical position on Islam and violence without becoming the subject of suspicion and even accusations as to their loyalties and commitments. For instance, if a contemporary Muslim scholar emphasizes “the imperatives of tolerance and peaceful coexistence in Islam, or emphasizes the importance of moral commitments over political expedience, or perhaps condemns terrorism, this is often understood as a thoroughly political position. Such a scholar becomes susceptible to accusations of being a sell-out to the West, an apologist for Israel and the United States, or of being insufficiently sensitized to the suffering of the Palestinians, Kashmiris, Chechnyans, or any other oppressed Muslim population. In addition, it has become a rather powerful rhetorical device to contend that the West is perpetuating false universalisms and to accuse Muslim critics of being deluded into accepting these universalisms as a God-given truth.

These Muslim critics, it is claimed, then project the West’s truth onto the Islamic tradition, as if what the West sees as true and good must necessarily be so and therefore must be adopted by all Muslims. Most often, this type of accusation is leveled against Muslim critics with feminist agendas, but it also has been utilized rather widely against Muslim intellectuals calling for self-critical reevaluations post 9/11. It is a powerful rhetorical device because the users of such a device are positioning themselves as the guardians of integrity and authenticity, while positioning their opponents as gullible and even simple-minded.

The issue of what is now commonly described as cultural relativism versus universalism is very complex, and this is not the place to delve into it. I will only note that this whole discourse becomes rather incoherent unless one clearly identifies what specific value is being identified as relative or universal. In addition, Islam itself, like all religions, is founded on certain universals such as mercy, justice, compassion, and dignity. Claims of ontological truth, which could be based on reason or revelation, are not an anathema to Islam. From an Islamic perspective, Muslims are not forbidden, and in my opinion are even encouraged, to search for moral universals that

could serve as shared and common goals with non-Muslims. However, aside from the philosophical point concerning the existence of universal and invariable human moral principles, I think that the silencing tactic, mentioned above, points to an unfortunate sociological fact, and that is the primacy of politics in contemporary Islam.

### **The Siege Mentality in Contemporary Islam**

The real challenge that confronts Muslim intellectuals is that political interests have come to dominate public discourses to the point that moral investigations and thinking have become marginalized in modern Islam. In the age of postcolonialism, Muslims have become largely preoccupied with the attempt to remedy a collective feeling of powerlessness and a frustrating sense of political defeat, often by engaging in highly sensationalistic acts of power symbolism. The normative imperatives and intellectual subtleties of the Islamic moral tradition are not treated with the analytical and critical rigor that the Islamic tradition rightly deserves; they are rendered subservient to political expedience and symbolic displays of power. Elsewhere, I have described this contemporary doctrinal dynamic as the predominance of the theology of power in modern Islam, and this theology is a direct contributor to the emergence of highly radicalized Islamic groups, such as the Taliban or Al-Qaeda. Far from being authentic expressions of inherited Islamic paradigms, or a natural outgrowth of the classical tradition, these are thoroughly a byproduct of colonialism and modernity. Such groups ignore the Islamic civilizational experience with all its richness and diversity and reduce Islam to a single dynamic, the dynamic of power.

They tend to define Islam as an ideology of nationalistic defiance to the other, a rather vulgar form of obstructionism to the hegemony of the Western world. Therefore, instead of Islam being a moral vision given to humanity it becomes constructed into the antithesis of the West. In the world constructed by these groups, there is no Islam; there is effectively only opposition to the West. This type of Islam that the radicalized groups offer is akin to a perpetual state of emergency where expedience trumps principle and illegitimate means are consistently justified by invoking higher ends. In essence, what



prevails is an aggravated siege mentality that suspends the moral principles of the religion in pursuit of the vindications of political power. In this siege mentality, there is no room for analytical or critical thought, and there is no room for seriously engaging the Islamic intellectual heritage. There is only room for bombastic dogma and for a stark functionalism that ultimately impoverishes the Islamic heritage.

It seems to me that certain commentators play into the hands of this siege mentality—those who responded to the events of 9/11 by engaging in a knee-jerk reaction of protesting false Western universals and by rejecting introspective self-critical approaches. If critical approaches to the tradition will be consistently dismissed as Western-influenced, or as a form of “Westoxification,” it is difficult to imagine how Muslims will be able to emerge out of what I have called a state of dissonance and enter into a more constructive engagement with modernity. Even more, there is the very real risk that in our defensive effort to expunge the moral universals of the West, we will also end up dismissing the moral universals of Islam itself. For instance, when contemporary Muslim scholars rise to emphasize the numerous moral and humanistic aspects of the Islamic tradition, and they are accused by their fellow Muslims of seeking to appease the West, the real danger is that in this highly polarized and politicized climate, much of what is authentically Islamic and genuinely beautiful will be lost or forgotten for a long period to come. This, however, points to a more fundamental and serious fallacy, and that is the tendency, clearly emboldened and becoming more pronounced because of the events of 9/11, to presume that values can be precisely identified as Islamic or Western. Values, according to this view, can be identified as belonging to a particular culture, and often they are not transferable or susceptible to being transplanted into a different culture. Not surprisingly, the more dogmatic elements in this tendency ended up imagining a grand battle being waged by the bearers of civilizations. In one corner is the civilization of the West and in the other is Islam. Presumably, every terrorist organization from Al Qaeda to Hamas is the representative of the values of the Islamic civilization, which are clearly at odds with Western values.

### **9/11 and the Paradigm of Battling Civilizations**

There is already a rather large body of literature on the myth of the clash of civilizations. To an extent, this issue has passed from the realm of rational conversation based on historical and doctrinal evidence to the realm of dogma and ideology. I do not wish to deconstruct the notion that there are cultural values that become prevalent at a particular point in time. I also do not contest the idea that, as put by Samuel Huntington and Lawrence Harrison, culture matters. But I think that there are several important points that ought to be kept in mind when thinking about cultural values, and the role that they are purported to play. The first point pertains to what I will call “claims of lineage,” the second pertains to “claims about the other,” the third relates to “the enterprise of meaning,” and the fourth addresses what I call “competence.”

Proponents of the notion of the clash of civilizations seem to rely on an unfounded claim about the specificity and purity of particular values. Accordingly, they are willing to classify particular values as squarely Judeo-Christian while others are Islamic. It is as if values have a genealogy that can be clearly and precisely ascertained, which then can be utilized in classifying what properly belongs to the West and what belongs to the Islamic “other” But the origin and lineage of values are as much of a socio-historical construct as are claims about racial genealogical purity. Considering the numerous cultural interactions and cross-intellectual transmissions between the Muslim world and Europe, it is highly likely that every significant Western value has a measure of Muslim blood in it. But this is not merely a matter of acknowledging the Muslim contribution to Western thought. Rather, by recognizing the mixed lineage of ideas, a simple and straightforward taxonomy of civilizations and what they are supposed to stand for becomes much more problematic. One ought to recognize that, like racial categories, civilizational categories are artificial political constructs that do not necessarily fit comfortably with socio-historical realities.

Claims about the so-called pure lineage of values lead me to the second point. Often the attempt to identify one’s own civilization and distinguish it from the “other” has much more to do with one’s own aspirations than the reality

*Khadijah Mos  
Professor Khaled*



14th July



...que Welcomes  
M. Abou El Fadl



...y 2005



of the “other.” Put differently, descriptions of the “other” whoever the other may be, often tell us much more about the author of the description than the subject of the description. For instance, when Westerners attempt to describe the Islamic civilization and what it represents, there is a real risk that the constructed image of the Islamic civilization will only reflect the aspirations and anxieties of those Westerners. Therefore, for example, if those Westerners aspire to achieve a greater degree of democracy, or are anxious about their own shortcomings vis-a-vis women’s rights, it is likely that they will invent an image of the Muslim “other” as the exact antithesis of their own aspirations. By constructing the other as the exact antithesis, one is then able to feel more secure about one’s own cultural achievements. The colonial images of the orient its exoticness, mystique, and harems, had much more to do with the anxieties and fantasies of the Western colonizer that it did with the sociological reality of the Orient. “

There is a further problem with approaches that focus on civilizational paradigms and conflicts. Values, and their meaning in culture, are not constant or stable. They are constantly shifting, evolving, and mutating in response to a variety of influences and motivators. For instance, concepts such as *shura* (government by consultation), the caliphate or enjoining the good and forbidding the evil have had very different meanings and connotations from one century to another and one culture to another in Islamic history. Even when one is considering divinely revealed values, such values acquire meaning only within evolving and shifting contexts. As noted earlier, interpretive communities coalesce around revealed injunctions and values, and then endow them with meaning. Put differently, there is a socio historical enterprise formed of various participants that partake in the generation of meaning. When one speaks of Islamic justice, for instance, one is really speaking of various interpretive enterprises that existed at different times in Islamic history, which gave the notion of justice in Islam a variety of imports and connotations. When commentators speak of a civilizational conflict between the West and Islam, there is a further creative and inventive process engaged in by the commentators themselves. Since meaning is the product of cumulative enterprises that generate communities of meaning, a student of Hunting-

ton, for instance, cannot speak in terms of an Islamic notion of justice or an Islamic notion of human liberty. The most that this student can do is to speak of prevailing meanings within specific communities of interpretation. Therefore, a student of Huntington, for instance, would have to speak in terms of a Mu’tazali notion of justice, or an Ash’ari notion of justice. This argument about meaning being the product of interpretive enterprises generated by various communities has both vertical and horizontal implications. Vertically speaking, we are reminded of the point about the purity of lineage. There are a variety of historical contributors to the production of meaning, and it is quite difficult to find a value with a purely Western or Islamic pedigree. From a horizontal perspective, what is identified as a civilization is in reality a complex bundle of competing interpretations generated by a variety of communities of meaning, with some interpretations becoming more dominant than others at different times and places. This brings me to the final point, which I described as a problem of competence.

Put simply, who has the competence to describe which of the competing communities of meaning becomes the legitimate and credible representative of the values of a civilization? In this context, I am not interested in the problem of the dynamics of power and authority within a particular system of thought. Rather, my concern here takes us back to the problem of the invention and construction of the “other.” It is imperative to keep in mind that when a student of Huntington, for example, claims that the Islamic civilization stands for a particular proposition, this student is in effect endowing a certain interpretive community with the power of representation. This student is engaging in choice making by selecting what, in his mind, is the community that best represents the Islamic civilization. For example, the interpretive community to which someone like Muhammad ‘Abduh belongs may make an assertion, which we will designate as “y.” Meanwhile, bin Laden, and his interpretive community, may make an assertion designated as “x.” By claiming that the Islamic civilization stands for “x,” but not “y,” Huntington’s student is making a choice about representation. Again, this choice might have much more to do with the choice maker, that is, Huntington’s student, than with the actual dynamics of Islamic societies.



These various cautionary points are intended to emphasize that claims of civilizational conflict are fraught with conceptual pitfalls. From a pedagogical point of view, such claims are likely to degenerate into powerful vehicles for the expression of prejudice. As such, they tend to further misunderstandings and promote conflict. It is no wonder that when one examines the arguments of the Western proponents of the clash of civilizations, one finds that these proponents invariably ascribe most of what they perceive to be good and desirable to the West, and most of what they find distasteful or objectionable to Islam. They then condescendingly contend that the values of the “other,” as terrible as they might be for Westerners, ought to be respected. Despotism, oppression, and degradation, for example, might be terrible for Westerners, but they are acceptable for Muslims because, after all, Muslims themselves do not consider their social institutions as despotic, oppressive, or degrading.

The effect of this doctrinal commitment to the paradigm of clashing civilizations only serves to obfuscate the real dynamics that are in fact taking place in Islam. There are significant tensions within contemporary Islam that are bound to materially impact on the world today. Bin Laden’s terrorism is not simply the product of a system of thought that he single-handedly invented. Rather, his violence is an integral part of the struggle between interpretative communities over who gets to speak for Islam and how.

### **The Roots of 9/11**

Islam is now living through a major paradigm shift the like of which it has not experienced in the past. There is a profound vacuum in religious authority, where it is not clear who speaks to the religion and how traditionally the institutions of Islamic law have been decentralized, and Islamic epistemology has tolerated and even celebrated differences of opinions and a variety of schools of thought, Islamic law was not state-centered or state-generated; it was developed by judges and jurists through a slow creative, indeterminate, and dialectical process, somewhat similar to the Anglo-American common law system. Classical Islam did develop autonomous institutions of law and theology that trained and qualified jurists, who then provided a class of individuals who authoritatively spoke for, and most often disagreed about, the divine law. The institutions

Islam is now  
living through a  
major paradigm  
shift the like of  
which it has not  
experienced in  
the past.

of religion and law were supported by a complex system of private endowments (*awqaf*), which enabled Muslim scholars to generate a remarkably rich intellectual tradition. The guardians of this were the *fuqaha*, whose legitimacy to a large extent rested on their semi-independence from the political system, which was already fairly decentralized, and on their dual function of representing the interests of the state to the laity and the interests of the laity to the state. Importantly, however, much of this has changed in the modern age.

The traditional institutions that once sustained the juristic discourse have all but vanished. Furthermore, the normative categories and moral foundations that once mapped out Islamic law and theology have disintegrated, leaving an unsettling epistemological vacuum. Colonialism formally dismantled the traditional institutions of civil society, and Muslims witnessed the emergence of highly centralized, despotic, and often corrupt governments that nationalized the institutions of religious learning and brought the *awqaf* under state control. This contributed to the undermining of the mediating role of jurists in Muslim societies. The fact that nearly all charitable religious endowments became state-

controlled entities and that Muslim jurists in most Muslim nations became salaried state employees delegitimated the traditional clergy and effectively transformed them into what may be called “court priests.” In addition, Western cultural symbols, modes of production, and normative social values aggressively penetrated the Muslim world, seriously challenging inherited normative categories and practices, and adding to a profound sense of socio cultural alienation.

Most Muslim nations experienced the wholesale borrowing of civil law concepts. Instead of the dialectical and indeterminate methodology of traditional Islamic jurisprudence, Muslim nations opted for more centralized, determinative, and often code-based systems of law. These developments only contributed to the power of the state, which had become extremely meddlesome and which was now capable of a level of centralization that was inconceivable just two centuries ago. Even Muslim modernists, who attempted to reform Islamic jurisprudence, were heavily influenced by the civil law system, and thus they sought to resist the indeterminate fluidity of Islamic law and increase its unitary and centralized character. But not only were the concepts of law heavily influenced by the European legal tradition, but even the ideologies of resistance employed by Muslims were laden with Third World notions of national liberation and self-determination. For instance, modern nationalistic thought exercised a greater influence on the resistance ideologies of Muslim and Arab national liberation movements than anything in the Islamic tradition. The Islamic tradition was reconstructed to fit Third World nationalistic ideologies of anti-colonialism and anti-imperialism, rather than the other way around.

While national liberation movements such as that of the Palestinian or Algerian resistance resorted to guerilla or non-conventional warfare, modern-day terrorism of the variety promoted by bin Laden is rooted in a different ideological paradigm. There is little doubt that organizations such as the Jihad, Tanzim al-Qa'idah, and Hizb al-Tahrir were influenced by national liberation and anticolonialist ideologies, but they have anchored themselves in a theology that can be described as puritan, supremacist, and thoroughly opportunistic in nature.

This theology is the by product of the emergence and eventual primacy of a

synchronistic orientation that unites Wahhabism and Salafism in modern Islam. Puritan orientations, such as the Wahhabis, imagine that God's perfection and immutability are fully attainable by human beings in this lifetime. It is as if God's perfection had been deposited in the divine law, and, by giving effect to this law, it is possible to create a social order that mirrors the Divine Truth. But by associating themselves with the Supreme Being in this fashion, puritan groups are able to claim a self-righteous perfectionism that easily slips into a pretense of supremacy.

### **Wahhabism, Salafism, and Salafism**

The foundations of Wahhabi theology were set into place by the eighteenth-century evangelist Muhammad b. 'Abd al-Wahhab (d. 1792). With a puritanical zeal, 'Abd al-Wahhab sought to rid Islam of all the corruptions that he believed had crept into the religion, corruptions that included mysticism and rationalism. Wahhabism resisted the indeterminacy of the modern age by escaping into a strict literalism in which the text became the sole source of legitimacy. Wahhabism exhibited extreme hostility to all forms of intellectualism, mysticism, and any sectarianism within Islam. The Wahhabi creed also considered any form of moral thought that was not entirely dependent on the text as a form of selfidolatry and treated humanistic fields of knowledge, especially philosophy, as the “sciences of the devil.” According to the Wahhabi creed, it was imperative to return to a presumed pristine, simple, and straight-forward Islam which was believed to be entirely reclaimable by a literal implementation of the commands and precedents of the Prophet and by a strict adherence to correct ritual practice.

Wahhabism also rejected any attempt to interpret the divine law from a historical contextual perspective and in fact treated the vast majority of Islamic history as a corruption or aberration from the true and authentic Islam. The dialectical and indeterminate hermeneutics of the classical jurisprudential tradition were considered corruptions of the purity of the faith and law. Furthermore, Wahhabism became very intolerant of the long-established Islamic practice of considering a variety of schools of thought to be equally orthodox and it attempted to narrow considerably the range of issues about which Muslims may legitimately disagree. Orthodoxy was narrowly defined, and 'Abd al-Wahhab



himself was fond of creating long lists of beliefs and acts that he considered hypocritical and the adoption or commission of which would immediately render a Muslim an unbeliever.

In the late eighteenth century, the Al Saud family united itself with the Wahhabi movement and rebelled against Ottoman rule in Arabia, at one point reaching as far as Damascus. Egyptian forces under the leadership of Muhammad 'Ali in 1818, however, after several failed expeditions, quashed the rebellion, and Wahhabism, like other extremist movements in Islamic history, seemed to be on its way to extinction. Nevertheless, Wahhabi ideology was resuscitated once again in the early twentieth century under the leadership of Abd Al-Aziz b. Sa'ud, who adopted the puritanical theology of the Wahhabis and allied himself with the tribes of Najd, thereby establishing the nascent beginnings of what would become Saudi Arabia. Importantly, the Wahhabi rebellions of the nineteenth and twentieth centuries were very bloody because the Wahhabis indiscriminately slaughtered Muslims, especially those belonging to the Shi'i sect. In 1802, for example, the Wahhabi forces massacred the Shi'i inhabitants of Karbala, and in 1803, 1804, and 1806 the Wahhabis executed a large number of Sunnis in Mecca and Medina, whom they considered heretical. This led several mainstream jurists writing during this time period, such as the Hanafi Ibn 'Abidin (d. 1837) and the Maliki al-Sawi (d.1825), to describe the Wahhabis as a fanatic fringe group and labeled them the "modern day Khawarij of Islam. Interestingly, the Wahhabis introduced practices into Islam that were quite unprecedented and which considerably expanded the intrusive powers of the state. For instance, the Wahhabis introduced the first reported precedent of taking roll call at prayers.

They prepared lists of the inhabitants of a city and called off the names during the five daily prayers in the mosque. Anyone absent without a sufficient excuse was flogged. In 1926 the Wahhabi hostility to all forms of musical instruments led to a crisis between Egypt and Saudi Arabia, when Egyptian soldiers carrying the ceremonial palanquin to the sound of bugles during pilgrimage were attacked and beaten and had their musical instruments destroyed. The Wahhabis also criminalized all forms of Sufi chants and dances in Mecca and Medina and, eventually, in all of Saudi Arabia.<sup>43</sup> Perhaps the

most extreme form of Wahhabi fanaticism took place recently, on March 11, 2002, when the *mu-tawwa'in* (religious police) prevented school girls from exiting a burning school in Mecca, or from being rescued by their parents or firemen, because they were not properly covered. At least fifteen girls are reported to have burned to death as a result.

There were four main factors that contributed to the survival and, in fact, the thriving of Wahhabism in contemporary Islam. First, by rebelling against the Ottomans, Wahhabism appealed to the emerging ideologies of Arab nationalism in the eighteenth century. By treating Muslim Ottoman rule as a foreign occupying power, Wahhabism set a powerful precedent for notions of Arab self-determination and autonomy. Second, as noted above, Wahhabism advocated the return to the pristine and pure origins of Islam. Accordingly, Wahhabism rejected the cumulative weight of historical baggage and insisted on a return to the precedents of the rightly guided early generations (*al-salaf al-salih*) this idea was intuitively liberating for Muslim reformers since it meant the rebirth of *ijtihad*, or the return to de novo examination and determination of legal issues unencumbered by the accretions of precedents and inherited doctrines. Third, by controlling Mecca and Medina, Saudi Arabia became naturally positioned to exercise a considerable influence on Muslim culture and thinking. The holy cities of Mecca and Medina are the symbolic heart of Islam, and they are the sites where millions of Muslims perform pilgrimage each year.

Therefore by regulating what might be considered orthodox belief and practice while on pilgrimage, Saudi Arabia became uniquely positioned to influence greatly the belief systems of Islam itself. For instance, for purely symbolic purposes, the king of Saudi Arabia adopted the lowly title of the custodian and servant of the two Holy Sites. Fourth and most importantly, the discovery and exploitation of oil provided Saudi Arabia with high liquidity. Especially post 1975 with the sharp rise in oil prices Saudi Arabia aggressively promoted Wahhabi thought around the Muslim world. Even a cursory examination of the predominant ideas and practices would reveal the widespread influence of Wahhabi thought on the Muslim world today. Part of the reason for Saudi Arabia's aggressive proselytizing of its creed is related to the third



element mentioned above. It would have been politically awkward for Saudi Arabia to be the custodian of the two Holy Sites yet, at the same time, to adopt a system of belief at odds with the rest of the Muslim world.

To say the least custodianship of the Holy Sites is a sensitive position in the Muslim world and the Saudi claim to exclusive sovereignty over these cities remained problematic from the 1920s through the 1960s especially because of the Wahhabis' intolerant attitude toward ritualistic practices that they deem unorthodox. In the 1950s and 1960s, Saudi Arabia was coming under considerable pressure from republican and Arab nationalist regimes who tended to consider the Saudi system archaic and reactionary. In the 1970s, Saudi Arabia finally possessed the financial means to address its legitimacy concerns. Either the Wahhabis had to alter their own system of belief to make it more consistent with the convictions of other Muslims or they had to aggressively spread their convictions to the rest of the Muslim world. The first choice would have required the Saudi regime to reinvent itself; but in many ways it was

easier to attempt to reinvent the Muslim world, and that is the option they chose.

Wahhabism, however did not spread in the modern Muslim world under its own banner. Considering the marginal origins of the Wahhabi creed this would have been quite difficult to accomplish. Wahhabism spread in the Muslim world under the banner of Salafism. It is important to note that even the term "Wahhabism" is considered derogatory to the followers of Ibn 'Abd-al-Wahhab since Wahhabis prefer to see themselves as the representatives of Islamic orthodoxy. According to its adherents, Wahhabism is not a school of thought within Islam; it is Islam itself, and it is the only possible Islam. The fact that Wahhabism rejected the use of a school label gave it a rather diffuse quality and made many of its doctrines and methodologies eminently transferable. Salafism, unlike Wahhabism, was a far more credible paradigm in Islam, and in many ways it was an ideal vehicle for Wahhabism. Therefore, in their literature, Wahhabi clerics have consistently described themselves as Salafis (adherents of Salafism), and not Wahhabis.

Salafism is a creed founded in the late nineteenth century by Muslim reformers such as Muhammad 'Abduh, al-Afghani, al-Shawkani, al-San'ani, and Rashid Rida. Salafism appealed to a very basic and fundamental concept in Islam: that Muslims ought to follow the rightly guided precedent of the Prophet and his companions (*al-salaf al-salih*). Methodologically, Salafism was nearly identical to Wahhabism, except that the latter is far less tolerant of diversity and differences of opinions. In many ways, Salafism was intuitively undeniable, partly because of its epistemological promise.

The founders of Salafism maintained that on all issues Muslims ought to return to the original textual sources of the Quran and the Sunnah (precedent) of the Prophet. In doing so, Muslims ought to reinterpret the original sources in light of modern needs and demands without being slavishly bound to the interpretive precedents of earlier Muslim generations. As originally conceived, Salafism was not necessarily anti-intellectual but like Wahhabism it did tend to be uninterested in history. By emphasizing a presumed golden age in Islam, the adherents of Salafism idealized the time of the Prophet and his companions and ignored or demonized the balance of Islamic history. Furthermore, by rejecting juristic precedents and undervaluing tradition as a source of authoritativeness, Salafism adopted a form of egalitarianism that deconstructed traditional notions of established authority within Islam. According to Salafism, effectively, anyone was considered qualified to return to the original sources and speak for the Divine Will. By liberating Muslims from the burdens of the technocratic tradition of the jurists, Salafism contributed to a real vacuum of authority in contemporary Islam.

However, unlike Wahhabism, Salafism was not hostile to the juristic tradition or to the practices of various competing schools of thought. In addition, Salafism was not hostile to mysticism or Sufism. The proponents of Salafism were eager to throw off the shackles of tradition and to engage in the rethinking of Islamic solutions in light of modern demands. As far as the juristic tradition was concerned, Salafi scholars were synchronizers; they tended to engage in a practice known as *talfiq*, in which various opinions from the past are mixed and matched in order to generate novel approaches to problems. Significantly for the most part Salafism was founded by Muslim nationalists who were

eager to read the values of modernism into the original sources of Islam. Hence, Salafism was not necessarily anti-Western.

In fact, its founders strove to project contemporary institutions such as democracy, constitutionalism, or socialism onto the foundational texts and to justify the paradigm of the modern nation-state within Islam. In this sense, Salafism as originally conceived, betrayed a degree of opportunism. Its proponents tended to be more interested in the end results than in maintaining the integrity or coherence of the juristic method. Salafism was marked far more by an anxiety to reach results that would render Islam compatible with modernity than by a desire to critically understand either modernity or the Islamic tradition itself. For instance the Salafis of the nineteenth and early twentieth centuries heavily emphasized the predominance of the concept of *maslaha* (public interest) in the formulation of Islamic law. Accordingly, it was consistently emphasized that whatever would fulfill the public interest ought to be deemed a part of Islamic law.

By the mid-twentieth century it had become clear that Salafism had drifted into a stifling apologetics. The incipient opportunism in early Salafi approaches had degenerated into all intellectual whimsicality and carelessness that had all but destroyed any efforts at systematic and rigorous analysis. Such apologetics consisted of an effort by a large number of commentators to defend and salvage the Islamic system of beliefs from the onslaught of orientalism, Westernization, and modernity by simultaneously emphasizing both the compatibility and also the supremacy of Islam. Apologists responded to the intellectual challenges of modernity by adopting pietistic fictions about the Islamic traditions; such fictions eschewed any critical evaluation of Islamic doctrines and celebrated the presumed perfection of Islam. A common heuristic device of apologetics was to argue that any meritorious or worthwhile modern institutions were first invented and realized by Muslims. Therefore, according to the apologists, Islam liberated women, created a democracy, endorsed pluralism, protected human rights and guaranteed social security long before these institutions ever existed in the West.

Nonetheless, these concepts were not asserted out of critical understanding or ideological commitment, but primarily as a means of

resisting the deconstructive effects of modernity, affirming self-worth and facilitating emotional empowerment. The main effect of apologetics”, however, was to contribute to a sense of intellectual self-sufficiency that often descended into moral arrogance. To the extent that apologetics were habit-forming, they produced a culture that eschewed self-critical and introspective insight and embraced the projection of blame and its fantasy-like level of confidence and arrogance. Effectively, apologists got into the habit of paying homage to the presumed superiority of the Islamic tradition while marginalizing the Islamic intellectual heritage in everyday life.

By the 1960s the initial optimistic liberalism had dissipated; and what remained of this liberal bent had become largely apologetic. Through a complex sociopolitical process, Wahhabism was able to rid itself of some of its extreme forms of intolerance and proceeded to co-opt the language and symbolisms of Salafism in the 1970 until the two had become practically indistinguishable. Both theologies imagined a golden age within Islam; this entailed a belief in a historical utopia that is entirely retrievable and reproducible in contemporary Islam. Both remained uninterested in critical historical inquiry and responded to the challenge of modernity by escaping to the secure haven of the text. And both advocated a form of egalitarianism and anti-elitism to the point that they came to consider intellectualism and rational moral insight to be inaccessible and thus corruptions of the purity of the Islamic message. These similarities between the two facilitated the Wahhabi co-optation of Salafism. Wahhabism from its very inception, and Salafism, especially after it entered into the apologetic phase were infested with a kind of supremacist thinking that prevails to this day. To simplify matters, I will call this Unity of Wahhabism with the worst that is in Salafism Salafabism.

Salafabism took things to their logical extreme. The bonding of the theologies of Wahhabism and Salafism produced a contemporary orientation that is anchored in profound feelings of defeatism, alienation, and frustration. The synchronistic product of these two theologies is one of profound alienation not only from the institutions of power of the modern world, but also from the Islamic heritage and tradition. Neither Wahhabism nor Salafism, nor the synchronistic Salafabism, is represented by

formal institutions; these are theological orientations and not structured schools of thought.

Therefore, one finds a broad range of ideological variations and tendencies within each orientation. But the consistent characteristic of Salafabism is a supremacist puritanism that compensates for feelings of defeatism, disempowerment, and alienation with a distinct sense of self-righteous arrogance vis-à-vis the nondescript “other,” whether the “other” is the West, nonbelievers in general, or even Muslim women. In this sense, it is accurate to describe this widespread modern trend as supremacist, for it sees the world from the perspective of stations of merit and extreme polarization. It is important to note, however, that this trend devalues not only the moral worth of non-Muslims, but also those that it considers inferior or of a lesser station, such as women or heretical Muslims. Instead of simple apologetics, Salafabism responds to the feelings of powerlessness and defeat with uncompromising and arrogant symbolic displays of power, not only against non-Muslims, but even more so against fellow Muslims.

Salafabism anchored itself in the confident security of texts. But, in my view, far from being respectful toward the integrity of the text, Salafabism is abusive. As a hermeneutic orientation, it empowers its adherents to project their sociopolitical frustrations and insecurities on the text. Elsewhere, I have described the dynamics of Salafabism vis-à-vis the text as thoroughly despotic and authoritarian. Consistently, religious texts became like whips to be exploited by a select class of readers in order to affirm the reactionary power dynamics in society. The adherents of Salafabism, unlike the apologists, no longer concerned themselves with co-opting or claiming Western institutions as their own. Under the guise of reclaiming the true and real Islam, they proceeded to define Islam as the exact antithesis of the West. Apologetic attempts at proving Islam’s compatibility with the West were dismissed as inherently defeatist. Salafabists argued that colonialism had ingrained into Muslims a lack of self-pride or dignity and convinced Muslims of the inferiority of their religion.

This has trapped Muslims into an endless and futile race to appease the West by proving Islam’s worthiness. According to this model, in reality, there are only two paths in life- the path of God,



or the straight path, and the path of Satan, or the crooked path. By attempting to integrate and co-opt Western ideas such as feminism, democracy, and human rights, Muslims have fallen prey to the temptations of Satan by accepting ungodly innovations (*bida'*, sing. *bid'a*). They believe that Islam is the only straight path in life, and such a way must be pursued regard-less of what others think and regardless of its impact on the rights and well-being of others. Importantly the straight path (*al-sirat al-mustaqim*)” is firmly anchored in a system of divine laws that trump any considerations of morality or ethical normative values. God is manifested through a set of determinable legal commands that cover nearly all aspects of life and the sole purpose of human beings is to realize the divine manifestation by, dutifully and faithfully implementing the divine law. Salafabists insist that only the mechanics and technicalities of Islamic law define morality-there are no moral considerations that can be found outside the technical law.

This fairly technical and legalistic way of life is considered inherently superior to all others and the followers of any other way are considered either infidels (*kuffar*), hypocrites (*munafiqun*), or iniquitous (*fasiqun*). Anchored in the security and assuredness of a determinable law, it becomes fairly easy to differentiate between the rightly guided and the misguided. The rightly guided obey the law; the misguided either deny, attempt to dilute, or argue about the law. Any method of thought or process that would lead to indeterminate results such as social theory, philosophy, or any form of speculative thinking is part of the crooked path of Satan. According to the Salafabists, lives that are lived outside the divine law are inherently unlawful and, therefore, an offense against God that must be actively fought or punished.

Bin Laden, along with most extremist Muslims, belongs to the orientation that I have called Salafabist. Although he was raised in a Wahhabi environment bin Laden is not, strictly speaking, part of that creed. Wahhabism is distinctively introverted-though focused on power, it primarily asserts power over other Muslims. This is consistent with its ob- session with orthodoxy and correct ritualistic practice. Militant puritan groups, however, are both introverted and extroverted-they attempt to assert power against both Muslims and non-Muslims. As populist movements, they are a reaction to the disempowerment most Muslims have suffered

in the modern age at the hands of harshly despotic governments and at the hands of interventionist foreign powers. In many ways, these militant groups compensate for extreme feelings of disempowerment by extreme and vulgar claims to power. Fueled by the supremacist and puritan creed of Salafabism, these groups’ symbolic acts of power become uncompromisingly fanatic and violent.

The existence of this puritan orientation in Islam is hardly surprising. All religious systems have suffered at one time or another from absolutist extremism and Islam is no exception. Within the first century of Islam, religious extremists known as the Khawarij (literally, the secessionists) slaughtered a large number of Muslims and non-Muslims and were even responsible for the assassination of the Prophet’s cousin and companion, the Caliph ‘Aub. Abi Talib. The descendants of the Khawarij exist today in Oman and Algeria, but, after centuries of bloodshed, they became moderates, if not pacifists. Besides the Khawarij, there were other extremists such as the Qaramites and Assassins whose terror became the reason for their very existence, and who earned unmitigated infamy in the writings of Muslim historians, theologians, and jurists. Again, after centuries of bloodshed, these two groups learned moderation, and they continue to exist in small numbers in North Africa and Iraq. The essential lesson taught by Islamic history is that extremist groups, such as those mentioned above, and others are ejected from the mainstream of Islam; they are marginalized, and they eventually come to be treated as a heretical aberration to the Islamic message. The problem, however, as discussed earlier, is that the traditional institutions of Islam that historically acted to marginalize extremist creeds no longer exist. This is what makes the events of 9/11 particularly significant for the future of Islam 9/11 symbolizes the culmination of a process that has been in the making for the past two centuries, in the same way that Salafabism has become the culmination of Salafism, Wahhabism, apologetics, and Islamic nationalism. It would be inaccurate to contend that the fanatic supremacist groups fill the vacuum of authority in contemporary Islam. Fanatical groups such as Al Qaeda or the Taliban, despite their ability to commit highly visible acts of violence, are a sociological and intellectual marginality in Islam. However, these groups are in fact extreme manifestations of more prevalent

intellectual and theological current; in modern Islam. In my view, they are extreme manifestations of the rather widespread theological orientation of Salafism. After 9/11 and the blood letting that followed, the following question presents itself: now that we have witnessed the sheer amount of senseless destruction that the children of this orientation are capable of producing and the type of world that they are capable of instigating, will Muslims be able to marginalize Salafism and render it, like many of the arrogant movements that preceded it, a historical curiosity?

### Is There an Alternative?

The last issue I want to deal with here is perhaps the most significant. I noted earlier that I believe that theology matters. In fact, if there is any hope for reversing and marginalizing the supremacist and puritan orientation in modern Islam, it must be engaged and rebutted on theological grounds. This is not merely a functional point it is a matter of principle.

For a believer, there is simply no alternative to the process of persuasion. A believing Muslim must ultimately confront the questions of faith, such as: What does God want? What would God approve of? And, does God care? After the events of 9/11, the issue for a Muslim is not only one of understanding the sociopolitical circumstances or ideological orientations that contributed to the tragedy, but also the quintessential questions: Is this Islam? Can this be Islam? And, should this be Islam? It is simply too easy to shirk off responsibility for the problem to imperialism, colonialism, fanaticism, terrorism, oppression, false universals, and everything else except a confrontation with one's own conscience. In every major human tragedy, I think that it is imperative for every person to put aside, for a while, the various intellectual methods by which responsibility is projected, transferred, diluted, and distributed, and to engage in a conscientious pause. In this pause, individuals ought to examine their own system of beliefs and reflect on the ways that their own convictions might have contributed to, legitimated, or in any way facilitated the tragedy. When I say that every Muslim, and non-Muslim, ought to engage in this pause, it is not because I discreetly or surreptitiously believe that Islam is at fault. But as a way of honoring human life, and honoring God's creation, it is of the essence to evaluate one's relationship to the world in which one lives.

Of course, every honest self-critical evaluation is susceptible to abuse by unsavory characters who exploit the honesty of others in the service of their own prejudice and hate. There is always the possibility, for instance, that bigoted anti-Semites will exploit the discourse of an honest Israeli who engages in self-critical evaluations of Israel's policies toward Palestinians. And the self-critical discourses of a Muslim will be open to exploitation by the same type of bigotry. This is a serious concern, and in many ways, it is exactly this dynamic that has played a pivotal role in the promotion of apologetic discourses in contemporary Islam. In response to the often-searing criticisms of Orientalists, Muslims have been motivated to close ranks and to engage in a type of unthinking cheerleading on behalf of the Islamic tradition.

The most common comment that a Muslim critic hears from fellow Muslims is "Yes, you're making good points, but you are also playing into the hands of the enemies of Islam." For me, these types of comments raise questions of loyalty, integrity, and autonomy. As was noted earlier, the Quran instructs a Muslim to bear witness to the truth even if it is against oneself or against loved ones. As was also noted earlier, the testimony is rendered for God, who is, symbolically, an objective detachment that motivates and empowers aspirations for justice. It is naive, in my view, to presume that human beings are capable of transcending the contingencies of their context and rendering objective testimony. But, in Islamic theology, this is what differentiates the divine from the mundane. God is capable of perfect objectivity while human beings necessarily function in the realm of subjectivities. This, however does not preclude human beings from reaching out to divinity. While humbled by the realization of their unavoidable contingencies they aspire to transcend the mundane in order to attain the sublime. The closer that human beings move toward the sublime to a state of balanced justice (*qist*)-the closer they are to divinity. The purpose of rendering honest testimony is to reach out to the sublime and seek out a condition of *qist* or balanced justice.

In my view, conceding the power of setting the agenda of discourse to the hate promoters is a diversion from the sublime. Put differently, if Muslims shape their discourses in such a fashion only so as to respond to hate-filled attacks, they have conceded their autonomy to the bigots of





the world. Instead of pursuing and attempting to establish the sublime, they become preempted from thinking constructively about their contribution to an existence of greater equanimity. As discussed below, the Quran advises that one of the core moral objectives for human beings is to engage in *ta'mir* on this earth. *Ta'mir* is one of those Quranic concepts that are teasingly open to interpretation. At a minimum, it means to civilize, build, and construct. I would argue, however, that the Quran is not referring simply to the setting up of homes made of bricks and walls, but to establishing the conditions for a habitable earth. Considering the centrality of the concepts of testimony, balance, and justice in the Quranic discourse, it is reasonable to conclude that the conditions for a habitable earth must include the maintenance and promotion of a state of serenity and equanimity between human societies.

Aside from mere tolerance of the other, I would argue that Muslims and non-Muslims ought to engage in a collective enterprise for goodness. This would mean the acceptance and internalization of a paradigm of intercourse through discourse in an active engagement in a

search for the sublime. It might be a dialectical process in some cases, in which the participants in the enterprise disagree and become the alternative to the other, but never the negation of the other. By the sublime, I mean visions of the conditions of life that are necessary in order to avoid injury and destruction to oneself or others and to create equanimity between human beings. In the Islamic tradition, there are five core values that are necessary for a moral life: the preservation of life, intellect, reputation, dignity, and property. Importantly, these are not collective rights and not exclusive Muslim rights, but moral rights that each individual is entitled to enjoy. I propose that an Islamic contribution to the sublime in human existence ought to focus on investigating the ways to maximize the attainment of these values in human existence while also finding the proper balance between them.

In arguing for a human collective enterprise for goodness, I am painfully aware of the various challenges to this project. Other than the issue of false universals dealt with above, a major objection will be the charge that hegemonic powers will inevitably engage in hypocrisy and double standards. But it seems to me that this is an argument for achieving a more equitable balance of power between societies and individuals, and not an argument against such an enterprise. Perhaps it is obvious that in the face of stark inequities, there will be no discourse or enterprise, but only domination and exploitation. Unless one believes that the best way to create a discourse is by destroying the human beings that could possibly engage in it, one has no choice but to call for respecting the voice and integrity of the diverse matrix of human beings. Ultimately, as a sociopolitical matter, it might be that human beings are doomed to dominate and exploit each other - the state of current affairs definitely does not give one much cause for hope. Yet, as a matter of principle and as a normative strategy, one must decide whether one ought to encourage the conflict or oppose it. It is an entirely legitimate means of resisting oppression to insist on the desirability of an alternative normative vision of existence.

The second and, from my standpoint, the more formidable objection is the basis in Islamic tradition for this collective enterprise. Put bluntly, doctrinally speaking, can the Islamic tradition possibly support such an enterprise? Can

believing Muslims possibly contribute to a nonexclusivist vision of life? To this I turn next.

### The Collective Enterprise of Goodness and Islam

In my view, Islam, as expounded in the classical books of theology and law, does not bear a message of violence. In fact, *salam* (peace and tranquility) is a central tenet of Islamic belief, and *amn* and *aman* (safety, security, or repose) are considered profound divine blessings to be cherished and vigilantly pursued. The Quran persistently speaks of the condition or state of peace as an inherent moral good. The absence of peace is identified in the Quran as a largely negative condition; it is variously described as a trial and tribulation, as a curse or punishment, or, sometimes, as a necessary evil. But the absence of peace is never in and of itself a positive or desirable condition.

The Quran asserts that if it had not been for divine benevolence and grace, many mosques, churches, synagogues, and homes would have been destroyed because of the ignorance and pettiness of human beings. Often, God mercifully intervenes to put out the fires of war and to save human beings from their follies. In the Quranic discourse, enmity, conflict, and hate are identified as conditions of evil. Satan inspires enmity and hate in the hearts of people to ignite senseless conflicts between them. Therefore, the Quran, in instructing the Prophet on how to deal with his enemies, advises him to avoid seeking courses of action that would exacerbate enmities and increase hate. For instance, it states: "Good and evil are not the same. So repel evil with goodness; then you will find that your erstwhile enemy has become like a close and affectionate friend."

The Islamic historical experience, itself, was primarily concerned not with war making, but with civilization building. Islamic theology instructs that an integral part of the Divine covenant given to human beings is to occupy themselves with *ta'mir* (to civilize, build, and create), and not to ruin or destroy life. The Quran teaches that the act of destroying or spreading ruin on this earth is one of the gravest sins possible. *Fasad fi al-ard*, which means to corrupt the earth by destroying the beauty of creation, is considered an ultimate act of blasphemy against God. Those who corrupt the earth by destroying lives, property, and nature are designated *mufsidun* - evildoers who, in effect, wage

war against God by dismantling the very fabric of existence. The Quranic discourse on the corruptors of life inspired an extensive juristic debate on extremist groups in Islamic history, such as the Khawarij, who were infamous for their terror-inducing tactics and for waging indiscriminate attacks against noncombatants. Classical Muslim jurists reacted sharply to these groups by considering them to be corrupters on the earth and the enemies of humankind.

They were designated *muharibs* (literally, those who fight society), and they argued that such groups should not be given quarter or refuge by anyone or at any place. In fact, Muslim jurists argued that any Muslim or non-Muslim territory that sheltered such a group is to be considered hostile territory that may be attacked by the mainstream Islamic forces. A *muharib* was defined as someone who attacks defenseless victims by stealth and spreads terror in society. Although the classical jurists agreed on the definition of this crime, they disagreed as to what type of criminal acts would be considered crimes of terror. For instance, many jurists included rape, armed robbery, assassination, arson, and murder by poisoning as crimes of terror and argued that such crimes must be punished vigilantly regardless of the theological or ideological motivations of the criminal. Most importantly, these doctrines were deemed religious imperatives, so that, regardless of the desired goals or ideological justifications, the terrorizing of the defenseless was recognized as a moral wrong and an offense against society and God.

Obviously, this juristic discourse is relevant to modern-day terrorism. According to this tradition, bin Laden would be considered a *muharib*, and thus an enemy of humankind. But even beyond the problem of bin Laden and terrorism, this discourse indicates an aversion in the Islamic tradition to certain emotional states or conditions that might be forced on people. Forcing people to live in a state of fear or insecurity was considered reprehensible. Certain types of conduct were deemed unworthy of a Muslim and offensive to God. Therefore, for instance, Muslim jurists argued that treachery or betrayal, even in war, is unacceptable. Muslims must observe their treaty obligations, and in all circumstances they cannot attack their enemies without issuing warnings and giving notice of their intentions. Building on the proscriptions of the Prophet Muhammad,



Muslim jurists insisted that there are moral prescriptions that must be observed in the conduct of warfare. In general, Muslim armies may not kill women, children, seniors, hermits, pacifists, peasants, or slaves unless they are combatants. Vegetation and property may not be destroyed; water holes may not be poisoned; and flamethrowers may not be used unless out of necessity, and even then only to a limited extent. The torture, mutilation, and murder of hostages were forbidden under all circumstances. Importantly, the classical jurists reached these determinations not simply as a matter of textual interpretation, but as moral or ethical assertions.

These discourses enunciate ethical limitations on conflict. But beyond the problem of regulating conflicts, the larger issue is the attitude toward the "other." Are there doctrinal means to include the other in an ethical enterprise? On this subject, the Quranic text sets moral trajectories that, one must confess, have not been adequately developed by Muslims. In several particularly interesting passages, the Quran seems to recognize the moral worth of non-Muslims who are just or good human beings.

For instance, it states: "Surely, the believers, the Jews, the followers of Christ, the Sabians - whoever believes in God and the Last Day, and whoever does good, shall have his or her reward from God and will neither have to fear or regret." Significantly, the Quran recognizes diversity among human beings and goes so far as to endorse this diversity as part of the divine purpose. It states that God has made people different and diverse, and that they will remain so until the Final Day. Accordingly, human heterogeneity and diversity are part of the divine plan, and the challenge is for human beings to coexist and interact despite their differences.<sup>67</sup> This is bolstered by a Quranic instruction as to the method or style of engagement with the other. The Quran commands that, apart from those who attack Muslims, Muslims should not argue with the followers of other religions except in a fair and kind way. At one point, the Quran asserts: "To each of you We have given a law and a way of life. If God had so willed, He surely could have made you one people, professing a single faith. But God wished to try you by which He had given each of you. So try to excel in good deeds, and when you return to God in the Final Day, He will surely tell you about that upon which you disagreed." In a rather unequivocal fashion, the Quran then proclaims: "God has made you

into many nations and tribes so that you will come to know one another. Those most honored in the eyes of God are those who are most pious." From this, classical Muslim scholars reached the reasonable conclusion that war is not the most conducive means of getting "to know one another" (known in Islamic discourses as *ta'aruf*). Thus, they argued that the exchange of technology and merchandise is, in most cases, a superior course of action to warfare. In the opinion of most classical jurists, war, unless it is purely defensive, is not to be preferred, and it must be treated as a last resort because war is not a superior moral virtue. Perhaps because of these moral imperatives, the Islamic civilization excelled in the sciences, arts, philosophy, law, architecture, and trade, and Islam entered into areas such as China, Indonesia, Malaysia, the Philippines, and sub-Saharan Africa primarily through traveling merchants and scholars, and not through warfare.

A Muslim ethic of a collective enterprise of goodness can be premised on the dual prongs of *ta'aruf* and *ta'awun*. The first, the obligation to know one another, is not achievable without a serious and involved engagement, between human beings. One can reasonably conclude that if *ta'aruf* is a divine charge, there is value in the difference of the "other," or, put differently, that the other is worth knowing. In fact, it is highly doubtful that the duty to bear witness for God is possible without an involved knowledge of oneself and the other. As noted earlier, the risk is that instead of achieving a genuine knowledge of the other, people would simply project their anxieties and weaknesses on the other. In order to mitigate this risk, it is necessary to engage in critical self-knowledge and in a nondefensive discourse with others.

I already alluded to the obligation of *ta'awun* (cooperation) in the Quran. The Quran, addressing Muslims, advises them to cooperate in achieving goodness and piety and in the avoidance of evil and transgression. Elsewhere, the Quran instructs Muslims to adhere to justice and not to be tempted by the injustice and enmity of others to commit injustice themselves. Importantly, justice is to be expected from Muslims and non-Muslims alike, in the same way that transgression is wrongful whether committed by Muslims or non-Muslims. This appears to me to create a commonality of moral interests. This does not mean that Muslims are to be expected to dilute the distinctiveness of

their laws or moral thinking. But it does support the idea of a cooperative venture to fend off transgressive behavior and to promote as much justice as possible.

Having made an argument for a collective enterprise of goodness, one must somberly ask, but how about the bin Ladens of the world? Where and how do they get their doctrinal support? Admittedly, one can make a case for a tolerant and humanitarian Islam, but it does exist in tension with other doctrines in the Islamic tradition that are less tolerant or humanitarian. Many classical Muslim scholars, for instance, insisted on a conception of the world that is bifurcated and dichotomous.

Those scholars argued that the world is divided into the abode of Islam (*dar al-Islam*) and the abode of war (*dar al-harb*); the two can stop fighting for awhile, but one must inevitably prevail over the other. According to these scholars, Muslims must give non-Muslims one of three options: either become Muslim, pay the poll tax, or fight. These classical scholars were willing to tolerate differences as long as the existence of these differences did not challenge Muslim political supremacy and dominance. It is important to note, however, that this dichotomous and even imperialist view of the world did not go unchallenged. So,

for instance, many classical scholars argued that, instead of a two-part division of the world, one ought to recognize a third category, and that is

**Those scholars argued that the world is divided into the abode of Islam (dar al-Islam) and the abode of war (dar al-harb); the two can stop fighting for a while, but one must inevitably prevail over the other.**

the abode of nonbelligerence or neutrality (*dar al-sulh* or *al-'ahd*) - an abode that is not Muslim, but that has a peaceful relationship with the Muslim world. In addition, many classical jurists argued that, regardless of the political affiliation of a particular territory, the real or true abode of Islam is wherever justice exists (*dar al-'adl*), or wherever Muslims may freely and openly practice their religion. Therefore, it is possible for a territory with a Muslim minority that is ruled by non-Muslims to be considered part of the abode of true Islam.

The fact that the Islamic scholastic tradition is not unitary, and that it is often diverse and multifaceted, is hardly surprising. The same tensions exist when considering the concept of jihad, which has gained much notoriety especially since 9/11. Jihad is a core principle in Islamic theology; it means to strive, to apply oneself, to struggle, and to persevere. Jihad, in the most straightforward sense, connotes a strong spiritual and material work ethic in Islam. Piety, knowledge, health, beauty, truth and justice - are not possible without jihad -without sustained and diligent hard work. Therefore, cleansing oneself from vanity and pettiness, pursuing knowledge, curing the ill, feeding the poor, and standing up for truth and justice even at great personal risk are all forms of jihad.

The Quran uses the term "jihad" to refer to the act of striving to serve the purposes of God on





this earth, which includes all the acts mentioned above. Importantly, the Quran does not use the word “jihad” to refer to warfare or fighting; such acts are referred to as *qital*. While the Quran’s call to jihad is unconditional and unrestricted, such is not the case for *qital*. Jihad is a good in and of itself, while *qital* is not. Therefore, every reference in the Quran to *qital* is restricted and limited by particular conditions, but exhortations to jihad, like the references to justice or truth, are absolute and unconditional. Consequently, the early Muslims were not allowed to engage in *qital* until God gave them specific permission to do so. The Quran is careful to note that Muslims were given permission to fight only after they had become the victims of aggression. Furthermore, the Quran instructs Muslims to fight only those who fight them and not to transgress, for God does not approve of aggression. In addition, the Quran goes on to specify that if the enemy ceases hostilities and seeks peace, Muslims should seek peace as well. Failure to seek peace without just cause is considered arrogant and sinful. In fact, the Quran reminds Muslims not to pick fights and not to create enemies because the fact that a particular party does not wish to fight Muslims and seeks to make peace is a divine blessing. God has the power to inspire in the hearts of non-Muslims a desire for peace, and Muslims must treat such a blessing with gratitude and appreciation, not defiance and arrogance.

In light of this Quranic discourse, classical Muslim jurists debated what would constitute a sufficient and just cause for fighting non-

Muslims. Are non-Muslims to be fought because of their acts of disbelief or only because they pose a physical threat to Muslims? Most classical jurists concluded that the justification for fighting non-Muslims is directly proportional to the physical threat they pose to Muslims. In other words, if they do not threaten or seek to harm Muslims, then there is no justification for acts of belligerence or warfare. In my estimation, while the Islamic tradition does not convey a unitary message and does not speak in a single voice, the case for a humanistic Islam is a particularly strong one.

### Conclusion

Religious doctrine matters as diverse and contested as it may be, doctrine has a direct impact on what people choose to believe and how they choose to act. The terrorist attacks of 9/11 came as a gruesome reminder that religion, which can inspire great beauty, can also inspire much ugliness. In the case of all strongly held systems of conviction, this is a lesson that history keeps teaching. It is also a lesson not limited to religion; one cannot forget that millions of people have died in the name of irreligious, or even antireligious, ideologies as well. But 9/11 ought to be a stark reminder to Muslims, specifically. It should remind them that what I called Salafism has vulgarized their religion and emptied it of its humanistic spirit. It should also be a reminder about the role of human agency vis-à-vis religious doctrine.

The impact of the doctrines of Islam entirely depends on how modern Muslims choose to understand, develop, and assert them. Perhaps it is painfully obvious that Muslims, as the interpreters of their tradition, shoulder the primary responsibility for deciding on the role that their religion will have in the world today. Perhaps it is also painfully obvious that, regardless of how rich, humanistic, and moral the Islamic tradition is, this tradition will be of very limited usefulness if it is not believed and acted on by Muslims. But here lies the true travesty of modern Islam and the agony of every honest Muslim intellectual.

Many non-Muslims suffer from much ignorance and prejudice about Islam and Muslims. But living in the shadow of the postcolonial experience, and suffering from the movements that arose in that period, contemporary Muslims have yet to seriously engage their own tradition. Not only are Muslims

woefully ignorant about their own tradition, but also much of what they do know has been framed purely as a defensive reaction to the postcolonial experience. Bin Laden is the quintessential example of a Muslim who was created, shaped, and motivated by post-colonialism. In the past decades, when contemporary Muslim intellectuals have attempted a critical engagement with their tradition and a search for the moral and humanistic aspects of the intellectual heritage, invariably they have been confronted by the specter of postcolonialism. Their efforts have been evaluated purely in terms of whether it appeases or displeases the West. Post-9/11, it is clear that it is not Islam that should be transformed. Rather, Muslims must seek to emerge from the shadow of postcolonialism and take their own tradition seriously.

#### Notes

I offer sincere gratitude to my wife, Grace, for reading and commenting on this paper.

1. In fact, bin Laden has consistently refused to acknowledge his responsibility for the 9/11 attack. He has praised the attack and praised those who carried it out, but he has never clearly confessed the responsibility of his group.

2. At different times, bin Laden has cited a whole host of grievances, which include, among others, the American military presence in the Gulf. Israel's treatment of the Palestinians, the embargo imposed against Iraq, the spread of Western culture and consumerism in Muslim countries, American support of autocratic and non-Islamic governments in the Middle East, the Shi'ite and Jewish conspiracy to destroy Islam, and the Western exploitation of Muslim wealth and natural resources. On bin Laden and his thought, see Peter L. Bergen, *Holy War Inc.: Inside the Secret World of Osama bin Laden* (New York: Free Press, 2001); Roland Jacquard. In *The Name of Osama Bin Laden: Global Terrorism and the Bin Laden Brotherhood*, trans. George Holoch (Durham, N.C.: Duke University Press, 2002); Rohan Gunaratana, *Inside Al Qaeda: Global Network of Terror* (New York: Columbia University Press, 2002). For a seemingly authentic and rather sad personal account of Al Qaeda by a disillusioned insider, see Aukai Collins, *My Jihad* (Guilford, Conn.: Lyons Press, 2002). For a thorough overview of the modern history of Islamic fundamentalism, the Taliban, and bin Laden, see Gilles Kopel, *Jihad: The Trail*

*of Political Islam*, trans. Anthony F. Roberts (London: I. B. Tauris, 2002).

3. In statements broadcast on the al-Jazeera satellite channel, bin Laden claimed that a few more strikes like the one that took place in 9/11 would cause the economic power of the United States to collapse.

4. This nihilistic bent was also noted by Niall Ferguson, "Clashing Civilizations or Mad Mullahs: The United States between Informal and Formal Empire," in *The Age of Terror: America and the World after September 11*, ed. Strobe Talbott and Nayan Chanda (New York: Basic Books, 2001), 115-41.

5. In this context, bin Laden used the expression "*maslubat al-iradah*" which literally means "of a robbed or stolen will."

6. On subaltern and postcolonial studies and the impact of colonialism on modern history, see Vinayak Chaturvedi, ed., *Mapping Subaltern Studies and the Postcolonial* (London: Verso Press, 2000); Dipesh Chakrabarty, *Habitations of Modernity: Essays in the Wake of Subaltern Studies* (Chicago: University of Chicago Press, 2002); Robert J. Young, *Postcolonialism: An Historical Introduction* (Oxford: Blackwell Publishers, 2001); Francis Barker, Peter Hulme, and Margaret Iversen, eds., *Colonial Discourse, Postcolonial Theory* (Manchester: Manchester University Press, 1996); Ania Loomba, *Colonialism and Postcolonialism* (London: Routledge Press, 1998); Gyan Prakash, ed., *After Colonialism: Imperial Histories and Postcolonial Displacements* (Princeton: Princeton University Press, 1995).

7. In the Muslim world, the most problematic and controversial promise of modernity is secularism. This is partly because, unlike values such as democracy, individual rights, and social justice, secularism is not an end in and of itself. It is seen as a possible means to an end as a preceding condition that facilitates the fulfillment of ultimate values. This has led many Islamic thinkers to contend that moral values such as democracy and individual rights can be achieved without secularism. In addition, secularism has been associated often with moral hedonism or a lack of religiosity, which is seen as destructive and undesirable. Some Muslim activists claimed that secularism was advocated to Muslims by colonizing powers as a means of destroying Islam or countering the Islamic influence. For a readerfriendly introduction to historical misunderstandings, and the apprehensions of



Muslims, see Rollin Armour Sr., *Islam, Christianity, and the West: A Troubled History* (Maryknoll, N.Y.: Orbis Books, 2002), esp. 167-82.

8. In nearly every recorded speech I have encountered by bin Laden, Ayman al-Zawahiri, and 'Umar 'Abd al-Rahman, they have emphasized the theme of the hypocrisy of the West in dealing with the Muslim world, especially as to the deference shown to Israel. They also emphasized the dependent status of Muslim leaders and described them as mere stooges of the West. These allegations are usually couched in highly conspiratorial language. For instance, 'Umar 'Abd al-Rahman claimed that Saddam Hussein is engaged in a conspiracy with the United States to destroy Iraq and Iran.

g. For the argument that the American government is, in fact, dealing with this crisis as a civilizational conflict, see As'ad AbuKhalil, *Bin Laden, Islam, and America's New "War on Terrorism"* (New York: Seven Stories Press, 2002). Some writers are shameless in accusing Islam of inherent inferiority. For example, see Paul L. Williams, *Al-Qaeda: Brotherhood of Terror* (New York: Alpha Books, 2002). The publishers sent me this book before publication, and I advised them that it is rabidly Islamophobic; they decided to publish it anyway. The FBI purportedly hired the author as a consultant on Muslim terrorism. To my dismay, in order to bolster its credibility, they listed me as the coauthor of the book on Amazon.uk. Of course, I authored no part of this book.

10. One of the sensitive points that is consistently mentioned in the Arabic - and Persian language press is the apparent callousness with which the United States and England treat Muslim casualties in Afghanistan, Palestine, and Iraq. No one knows the number of Afghans killed during the American bombardment of suspected Qaeda and Taliban sites. In addition, the American and British response to the suffering and killing of Iraqi and Palestinian civilians is quite mild, rarely exceeding the expression of general regret.

11. Tariq Ali, *The Clash of Fundamentalisms: Crusades, Jihads, and Modernity* (London: Verso Press, 2002). Ali argues that American and European imperialism has created the fundamentalism of bin Laden. Ali also characterizes American and European attitudes toward Muslims as no less fundamentalist than bin Laden.

12. See Roger Burbach and Ben Clarke, eds., *September 11 and the US. War: Beyond the Curtain of Smoke* (San Francisco: City Lights Books, 2002).

13. For this debate between me and several other commentators, including the Pakistani critic, see Khaled Abou El Fadl, ed., *The Place of Tolerance in Islam* (Boston: Beacon Press, 2002).

14. I am not claiming, however, that religious convictions do not play a role in American foreign policy. For a collection of articles examining the role of religion in U.S. foreign policy, see Elliott Abrams, ed., *The Influence of Faith: Religious Groups and US. Foreign Policy* (Lanham, Md.: Rowman and Littlefield, 2001). In fact, this book contains an article by Habib Malik titled "Political Islam and the Roots of Violence," 113-48, and a comment by Daniel Pipes, 149-51, that are rabid in their hostility to Islam and Muslims. These articles demonstrate the extent to which religious hate can motivate commentators seeking to influence the foreign policy of the United States. My point, however, is that in secular Western countries, religious motivations behind foreign policies normally function in a discreet and subtle fashion. Secular Western countries usually claim religious neutrality and do not openly herald the cause of God in the conduct of international relations.

15. For a discussion on the role that religion does play in terrorist attacks, see Bernard Lewis, *What Went Wrong?* (Oxford: Oxford University Press, 2002); John Esposito, *Unholy War* (Oxford: Oxford University Press, 2002). For Tariq Ali's views on this matter, see his article, "Theological Distractions," in Abou El Fadl, ed., *The Place of Tolerance in Islam*, 37-41.

16. There is a fairly huge corpus of literature on the sociology of religion and the effect of religious convictions on the behavior of human beings. Eric Hoffer's *The True Believer: Thoughts on the Nature of Mass Movements* (1951; reprint, New York: HarperCollins, 1989) remains among the best books published on the subject.

17. Some scholars have argued that most of Muslim society in the modern age is characterized by a cultural schizophrenia in which there are profound distortions in the self-consciousness of Muslims. See Daryush Shayegan, *Cultural Schizophrenia: Islamic Societies Confronting the West*, trans. John Howe (London: Saqi Books, 1989).

18. For example, Saudi Arabia responded to the increasing social and economic mobility of

women by banning women from driving cars. Egypt, however, responded very differently. Some Islamic doctrines, however, such as the man's exclusive power to initiate divorce, have proven extremely resilient against change. In large part, this is due to the perceived importance of a given matter to the Islamic faith.

19. For a valuable study on the duty to enjoin the good and forbid the evil in the Islamic tradition, see Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000).

20. Quran 4:135,5:8. 21. Interestingly, the expression "false universalisms" was used by Samuel Huntington in arguing that Westerners' belief in the universality of their values is both immoral and dangerous.

21. Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996), 310.

22. Sometimes, this accusation descends into vulgarity. For instance, because of my critical writings *post-9/11*, recently a Muslim professor in Texas accused me of prostituting myself and of "pimping" my students.

23. On this subject, see Khaled Abou El Fadl, *And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourse*, s (Lanham, Md.: University Press of America, 2001), 138-56.

24. On this subject, see Khaled Abou El Fadl, *Reasoning with God: Rationality and Thought in Islam* (Oxford: Oneworld, forthcoming). Also see George F. Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985).

25. Khaled Abou El Fadl, "Islam and the Theology of Power Islam," *Middle East Report*, no. 221 (winter 2001): 28-33.

26. On the hegemony of the United States and the West and Muslim reaction, see Simon W. Murden, *Islam, the Middle East, and the New Global Hegemony* (Boulder, Colo.: Lynne Rienner Publishers, 2002), esp. 43-128.

27. For a study on Muslims, the West, and the prevalence of siege mentalities, see Graham E. Fillier and Ian O. Lesser, *A Sense of Siege: The Geopolitics of Islam and the West* (Boulder, Colo.: Westview Press, 1995).

28. "Westoxification" is a derogatory expression used to describe self-hating Muslims who are in awe of everything Western to the point that they seem to be intoxicated on the West.

29. On this issue, see Huntington, *The Clash of Civilizations*; John Esposito, *The Islamic Threat: Myth or Reality?* rev. ed. (Oxford: Oxford University Press, 1995); Fred Halliday, *Islam and the Myth of Confrontation* (London: L B. Tauris, 1995); Colin Chapman, *Islam and the West: Conflict, Co-existence or Conversion?* (Carlisle, U.K.: Paternoster Press, 1998); Karim H. Karim, *The Islamic Peril: Media and Global Violence* (Montreal: Black Rose Books, 2000); Dieter Senghaas, *The Clash within Civilizations: Coming to Terms with Cultural Conflicts* (London: Routledge, 1998). For excellent studies on the historical misconceptions about Islam prevalent in Europe, see Franco Cardini, *Europe and Islam* (Oxford: Blackwell Press, 2001); Albert Hourani, *Islam in European Thought* (Cambridge: Cambridge University Press, 1991). The best work on the subject remains Norman Daniel; *Islam and the West: The Making of an Image* (1960, reprint Oxford: Oneworld, 2000). A particularly useful and sophisticated collection of studies is John Victor Tolan, *Medieval Christian Perceptions of Islam* (London: Routledge, 2000). For the impact of the Huntington thesis and misconceptions about Islam on American foreign policy, see Maria do Ceu Pinto, *Political Islam and the United States: A Study of U.S. Policy towards Islamist Movements in the Middle East* (Reading, U.K.: Ithaca Press, 1999).

30. Lawrence E. Harrison and Samuel R. Huntington, eds., *Culture Matters: How Values Shape Human Progress* (New York: Basic Books, 2000).

31. There are many works that document the influence of Islamic culture and thought on Europe. The following two are impressive: George Makdisi, *The Rise of Humanism in Classical Islam and the Christian West* (Edinburgh: Edinburgh University Press, 1990); Mourad Wahba and Mona Abousenna, eds., *Averroes and the Enlightenment* (New York: Prometheus Books, 1996). Even when preserving the Greek philosophical tradition, Muslim scholars did not act as mere transmitters; they substantially developed and built on Greek philosophy. In a fascinating text that demonstrates the level of penetration that Islamic thought achieved in Europe, Thomas Aquinas, in an attempt to refute Ibn Rushd (Averroes) - whom he labels a "perverter of Peripatetic philosophy" - and Ibn Sina (Avicenna), ends up quoting Abu Hamid al-



Ghazali in support of his arguments against Ibn Rushd's. Both al-Ghazali and Ibn Rushd were medieval Muslim philosophers and jurists. Thomas Aquinas, *On the Unity of the Intellect against the Averroists*, trans. Beatrice Zedler (Milwaukee: Marquette University Press, 1968), 46-47. For a collection of articles that demonstrate cross-intellectual influences, see John Inglis, *Medieval Philosophy and the Classical Tradition: In Islam, Judaism, and Christianity* (Richmond, U.K.: Curzon Press, 2002). For an awe-inspiring example of the contributions of medieval Muslim scholars to Greek philosophy, see Kwame Gyekye, *Arabic Logic: Ibn al-Tayyib's Commentary on Porphyry's Eisagoge* (Albany: State University of New York Press, 1979).

32. For an analysis of this process of projection and construction of an image of Islamic law, see Khaled Abou El Fadl, "Islamic Law and Ambivalent Scholarship," *Michigan Law Review* 100 (2002): 1421-43.

33. For a detailed study on the role of authorial enterprise, communities of interpretation, and Islamic law, see Khaled Abou El Fadl, *Speaking in God's Name: Authority, Islamic Law, and Women* (Oxford: Oneworld, 2001).

34. Not surprisingly, writers who clearly do not like Muslims very much have exploited Huntington's thesis. For an example of paranoid Islamophobia, a work that was unfortunately highly praised by various American politicians, see Anthony J. Dennis, *The Rise of the Islamic Empire and the Threat to the West* (Bristol, Ind.: Wyndham Hall Press, 1996). For another example of a work, written from the perspective of a Christian fundamentalist, that exploits Huntington's argument and that is hostile to Islam, see George Grant, *The Blood of the Moon: Understanding the Historic Struggle between Islam and Western Civilization*, rev. ed. (New York: Thomas Nelson, 2001). Typically, in this genre of literature, Christianity, Judaism, and Western culture are, rather jovially, all bundled up in a single unitary mass, placed in a corner, and then pitted against the fantasized concept of *Islam*.

35. This is the gist of Huntington's argument about the wrongfulness of believing in universal Western values; Huntington, *The Clash of Civilizations*, 308-12. This is also Lawrence Rosen's argument in his *The Justice of Islam: Comparative Perspectives on Islamic Law and Society* (Oxford: Oxford University Press, 2000), 153-75. See my critique of this book in Abou El Fadl, "Islamic Law and Ambivalent

Scholarship." Also, see Ann Mayer, *Islam and Human Rights: Tradition and Politics*, 3d ed. (Boulder, Colo.: Westview Press, 1999), 6-9; Khaled Abou El Fadl, "Soul Searching and the Spirit of Shari'a," *Washington University Global Studies Law Review* 22, vol. 1, nos. 1 and 2 (20-2): 553-77.

36. On the epistemology of Islamic law, see Wael Hallaq, *Authority, Continuity, and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001); Wael Hallaq, *A History of Islamic Legal Theories* (Cambridge: Cambridge University Press, 1997).

37. On this subject, see George Makdisi, *The Rise of Colleges in Islam* (Edinburgh: Edinburgh University Press, 1981).

38. Afaf Lutfi al-Sayyid Marsot, "The Ulama of Cairo in the Eighteenth and Nineteenth Century," in *Scholars, Saints, and Sufis*, ed. Nikki Keddie (Berkeley: University of California Press, 1972), 149-65.

39. Allan Christelow, *Muslim Law Courts and the French Colonial State in Algeria* (Princeton: Princeton University Press, 1985); J. N. D. Anderson, "Modern Trends in Islam: Legal Reform and Modernisation in the Middle East," *International and Comparative Law Quarterly* 20 (1971): 1-21, reprinted in *Islamic Law and Legal Theory*, ed. Ian Edge (New York: New York University Press, 1996), 547-67; William L. Cleveland, *A History of the Modern Middle East*, 2d ed. (Boulder, Colo.: Westview Press, 2000); Jasper Yeates Brinton, *The Mixed Courts of Egypt*, rev. ed. (New Haven: Yale University Press, 1968); Ruth Mitchell, "Family Law in Algeria before and after the 1404{1984 Family Code," in *Islamic Law: Theory and Practice*, ed. R. Gleave and E. Kermeli (London: I. B. Tauris, 1997), 194-204. Of course, at times, colonial powers took over the implementation of Islamic law, as in the case of the Anglo-Muhammadan law experience in India. Syed Ameer Ali, *Muhammadan Law* (New Delhi: Kitab Bhavan, 1986), 1-4; Joseph Schacht, *An Introduction to Islamic Law* (1964, reprint, Oxford: Clarendon Press, 1993), 94-97; N. J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 164-72. On the impact of colonialism on the institutions of Islamic law in India, see Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Delhi: Oxford University Press, 1998), 52-53, 60-70, 294-96, 300.

40. For an example of this in Muhammad Ali's (r. 1805-48) Egypt, see Afaf Lutfi al-Sayyid

Marsot, *Women and Men in Late-Eighteenth-Century Egypt* (Austin: University of Texas Press, 1995), 136, 141-42.

41. See J. N. D. Anderson. *Islamic Law in the Modern World* (New York: New York University Press, 1959); J. N. D. Anderson. *Law Reform in the Muslim World* (London: Athlone Press, 1976); Wael Hallaq, *A History of Islamic Legal Theories*, 207-11.

42. Muhammad Amin Ibn 'Abidin, *Hashiyat Radd al-Muhtar* (Cairo: Mustafa al-Babi, 1966), 6:413; Ahmad al-Sawi, *Hasruyat al-'Allamah al-Sawi 'ala Tafsir al-Jalalayn* (Beirut: Dar Iliya al-Turath al-Arabi, n.d.), 3:307-8. See also Ahmad Dallal, "The Origins and Objectives of Islamic Revivalist Thought, 1750-1850," *Journal of the American Oriental Society* 113, no. 3 (1993): 341-59.

43. On these events and others, see Cook, *Commanding Right and Forbidding Wrong*, 180-91.

44. Eleanor Dournato, "Saudi Sex-Segregation Can Be Fatal," *Providence Journal*, March 31, 2002, <http://www.projo.com/opinion/contributors/content/projo>. I confirmed this incident in a conversation with the father of one of the girls who was killed. Saudi Arabia initially said it would investigate, but a day later it denied that the incident had occurred.

45. On this process and on the use of *talfiq* and *maslaha* in modern Islam, see Coulson, *A History of Islamic Law*, 197-217.

46. For a critical, and similarly grim, assessment by a Muslim of the state of intellectual thought in the Islamic world, see Tariq Ramadan, *Islam, the West, and the Challenges of Modernity*, trans. Said Amghar (Markfield, U.K.: Islamic Foundation, 2001), 286-90. For an insightful analysis of the role of apologetics in modern Islam, see Wilfred Cantwell Smith. *Islam in Modern History* (Princeton: Princeton University Press, 1977).

47. Two of my books, *And God Knows the Soldiers* and *Speaking in God's Name*, are primarily concerned with this phenomenon.

48. Examples of this are not hard to find. Unfortunately, in his *Al Qaeda: Brotherhood of Terror* (New York: Alpha Books, 2002), 184, Paul Williams approvingly misquotes me; this book aims to convince the reader that Islam is inferior to Christianity and that it is an inherently violent and hate-filled religion. Another example of an author who unscrupulously quotes and misquotes the internal self-critical discourses of

Muslims to promote a rabid type of Islamophobia is Steven Emerson, *American Jihad: The Terrorists among Us* (New York: Free Press, 2002), 159-75. In his chapter on "unsung heroes," Emerson primarily relies on the statements of Shaykh Kabbani and Hasan Ashmawi in support of his argument that most Muslim organizations in the United States are nothing but fronts for terrorist organizations. Effectively, this book incites non-Muslim Americans to be suspicious and even hate American Muslims. Unfortunately, I have seen this book in every bookstore I have visited in the United States.

49. On the searing criticisms of Islam by Orientalists, see Edward Said's *Orientalism* (New York: Random House, 1979) and *Culture and Imperialism* (New York: Vintage Books, 1994).

50. Quran 4:135, 5:8.

51. The Quran identifies balance (*mizan*) with godliness. See Quran 6:152, 7:85, 11:84-85, 42:17, 55:7-9, 57:25. God's perfection is manifested in the fact that God can maintain the balance - a state of perfect equanimity between all things. The maintenance of the balance is crucial for the achievement of justice, which among human beings means that no one is made to suffer because of the transgression of the other. This idea is exemplified in the Islamic expressions *la darar wa la dirar* and *la tazir wazira wizra ukhra* (no one

should suffer for the faults of the other); see Quran 6:164, 17:15, 35:18, 39:7, 53:38.

52. There is a large body of Western literature on the notion of the sublime and its relationship to aesthetics, morality, and culture. See, for instance, Paul Crowther, *The Kantian Sublime: From Morality to Art* (Oxford: Oxford University Press, 1991); Stanford Budick, *The Western Theory of Tradition: Terms and Paradigms of the Cultural Sublime* (New Haven: Yale University Press, 2000); Clayton Crockett, *A Theology of the Sublime* (London: Routledge, 2001); Peter De Bolla, *The Discourse of the Sublime: Readings in History, Aesthetics, and the Subject* (Oxford: Blackwell Publishers, 1989); Frances Ferguson, *Solitude and the Sublime: Romanticism and the Aesthetics of Individuation* (London: Routledge, 1992); Jean-Francois Lyotard, *Lessons on the Analytic of the Sublime*, trans. Elizabeth Rottenberg (Stanford: Stanford University Press, 1994); Immanuel Kant, *Observations on the Feeling of the Beautiful and Sublime*, trans. John T. Goldthwait (Berkeley: University of California



Press, 1991); Bjorn K. Myskja, *The Sublime in Kant and Beckett: Literature, Aesthetic Judgment, and Ethics* (London: Walter de Gruyter, 2001); Martin Ryle, *To Relish the Sublime: Culture and Self-Realization in Postmodern Times* (London: Verso, 2002); Lap-Ghuen Tsang, *The Sublime: Groundwork towards a Theory* (Rochester: University of Rochester Press, 1998); Slavoj Zizek, *The Sublime Object of Ideology* (New York: Verso, 1997). This is not the place to engage these theoretical debates, but I do note that I tend to lean toward the Kantian tendency to connect aesthetics to morality. The vast classical debate on *husn* (beauty) and *qubh* (ugliness) was, in essence, a discourse on the aesthetics and morality of the sublime, but the subject has been thoroughly ignored by contemporary Muslims. For an intriguing premodern work, which is one of the very few works related to the subject that have been translated to English, see Shaykh 'Abd al-Qadir al-Jilani, *The Sublime Revelation*, trans. Mukhtar Holland (London: al-Bazz Publications, 1993).

53. Muslim jurists would typically list life, intellect, religion, lineage, and property. I would argue that religion is subsumed under intellect and that the issue of lineage is better guarded by dignity and reputation. For a discussion on this, see Khaled Abou El Fadl, "Constitutionalism and the Islamic Sunni Legacy," *UCLA Journal of Islamic and Near Eastern Law* 1 (2001): 67-101.

54. Confronted by the same type of moral dilemma, Dieter Senghaas "pleads" for a major reorientation in intercultural dialogue; Senghaas, *The Clash within Civilizations*, 105-17.

55. The idea of a collective enterprise of goodness does not mean that acts of self-defense are illegitimate. It only means that responses to aggression must be measured, proportional, and necessary. This means that resistance might be necessary, but it must avoid injury to the innocent and must aspire to ending the hostilities and returning once again to the collective enterprise.

56. Quran 22:40.

57. Quran 5:64.

58. Quran 5:91.

59. Quran 41:34.

60. For instance, see Quran 2:27, 2:205, 5:32, 13:25. 61. Quran 2:27, 13:25.

61. Quran 2:27, 13:25.

62. For a detailed study on this subject, see Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge: Cambridge University Press, 2001).

63. Quran 8:60 advises Muslims to maintain their military strength so that their enemy will fear them. Various Islamophobes gleefully jumped on this verse to prove that the Quran supports terrorism. This verse emphasizes the importance of deterrence, in the hope of avoiding war. It does not endorse terrorizing people. However, the fact that bin Laden has cited this verse in support of the morality of terrorism has definitely contributed to the misunderstanding.

64. The Quran repeatedly emphasizes the importance of observing one's treaty obligations and all other contracts; see 2:177. 6:152, 9:4, 17:34.

65. It is reported that the Prophet used to instruct his armies not to hurt a noncombatant or needlessly destroy property or vegetation. It is also reported that, on finding the corpse of a woman after a battle, the Prophet became very upset and reproached his army for killing a noncombatant. On this subject, see Khaled Abou El Fadl, "The Rules of Killing at War: An Inquiry into Classical Sources," *Muslim World* 89, no. 2 (1999): 144-57; Khaled Abou El Fadl, "Holy War versus Jihad: A Review of James Johnson's *The Holy War Idea in the Western and Islamic Traditions, w Ethics and International Affairs* 14 (2000): 133-40.

66. Quran 2:62, 5:69.

67. Quran 11:118.

68. Quran 29:46.

69. Quran 5:48.

70. Quran 49:13.

71. Quran 5:2.

72. Qur'an 5:2, 5:8.

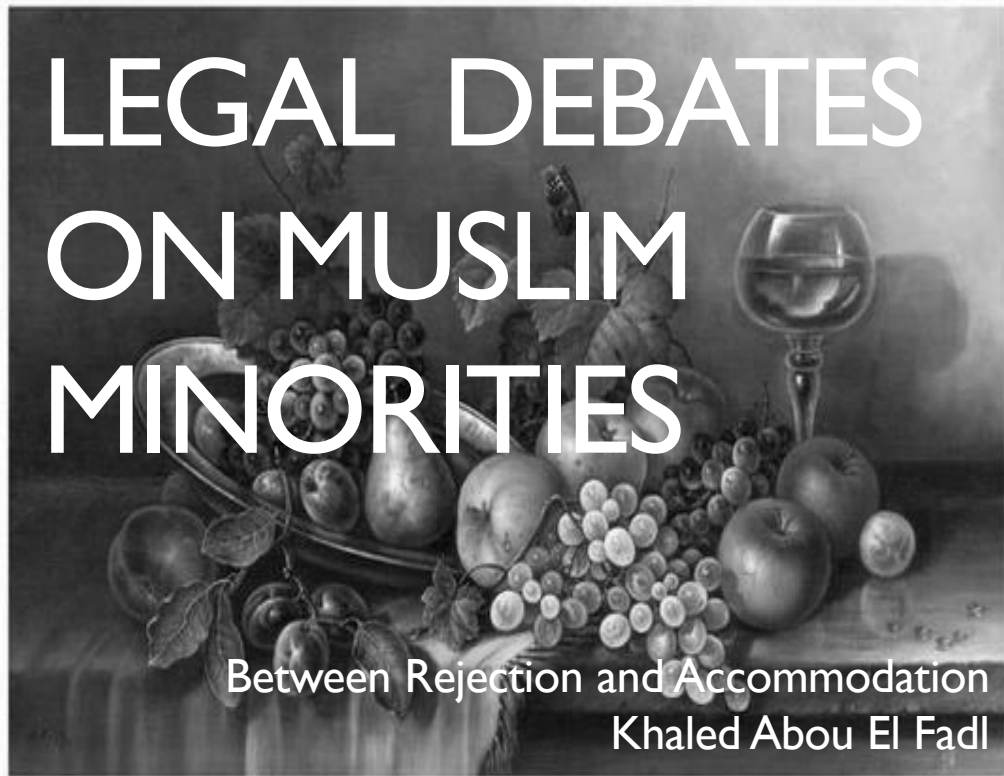
73. Tariq Ramadan contends that with the onslaught of secularism the West lost the moral meaning in life. He argues that Muslims should assist the West in returning to an ethical and purposeful modernity. Ramadan, *Islam, the West, and the Challenges*, 296.

74. On this subject, see Khaled Abou El Fadl, "Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries," *Islamic Law and Society* 1, no. 2 (1994): 141-87.

75. Quran 22:39, 60:8, 2:246.

76. Quran 2:190, 2:194, 5:87.

77. Quran 4:90.



**A** growing discourse in Europe and North America focuses on questions of the religious and political status of Muslim minorities. This essay tries to bring some historical perspective to current discussions, surveying the ways premodern Muslim jurists approached issues pertaining to Muslims living in non-Muslim territories. As the historical material indicates, Muslim juridical opinion on these matters is very diverse. Individual jurists, while working within one or another of the broad traditions of Islamic jurisprudence (Shafi'i, Hanafi, Hanbali, Maliki, or Shi'i), have felt free to craft opinions designed to fit specific situations. Given such variety, I conclude by echoing the judgment given by Rashid Rida earlier in this century. In the final analysis, specific Muslim minorities are the best judges of their own particular situations.

#### **Introduction**

This essay describes positions taken by Muslim jurists concerning the status and

obligations of Muslim minorities—that is, communities of Muslims who do not live in Islamic states or in societies where Muslims are a majority. As such the focus is historical. I shall discuss the positions of various jurists on questions concerning Muslim minorities, with special attention to the diversity of their pronouncements in specific historical, political and social contexts.

A different and expanded version of this essay will appear in a future issue of the *Journal of Islamic Law and Society*, a new journal published by E. J. Brill. The research for this essay began when Professor Hossein Modarressi asked me to analyze the arguments of four legal texts taking inconsistent position on the status of Muslim minorities. I am grateful to him and to Professors Michael Cook and John Kelsay for many insights; I am grateful to Wanjiku Barrington for research. I am also, and especially, grateful to 'Afaf al-Nimr, my mother, who continues to search the streets of *khan al-*

*khalili* and *suq al-asbakiyya* for rare Islamic legal sources.

Given this focus, readers should not expect to see an argument crafted to resolve contemporary questions. It would, however, be irresponsible to fail to indicate the connections between the historical material discussed here and a number of issues that press on Muslim minorities today. Perhaps one-third of the world's Muslims currently live in countries where Muslims are not the majority (Kettani 1986, 18). Especially in Western Europe and the United States, these Muslims have become the subject of a growing discourse. In the wake of "the Rushdie affair," the indictment of a number of Muslims in connection with the bombing of the World Trade Center, and the ongoing tragedy in Bosnia-Herzegovina, scholars and policymakers alike have expressed concern about the potential for conflict focused in fast-growing communities of Muslims in the West. Among scholars, Daniel Pipes warns of an impending cultural invasion by Muslims (Pipes 1990, 1992); some of Bernard Lewis's discussions of historic conflicts between Islam and the West are cited in connection with similar worries (Lewis 1993, 43-57). As to policymakers, the 1992 report published by the House Republican Research Committee's Task Force on Terrorism and Unconventional Warfare expresses great concern at the potential for terror activity on the part of Muslim immigrants, arguing that Islam is a communal way of life and the vast majority of emigrants and their European born children live together isolated from, and hostile to, the society around them. The Muslim communities demand to be allowed to retain *all aspects of Islam* including laws unacceptable in the West and argue for making Islamic law superior to the civil law of the land. For Muslims, the mere acceptance of the Western law of the land means a contradiction of Islam's tenet that the *Sharia* is the world's supreme law [House 1992a, 11, emphasis original].

Interestingly, when the American Muslim Council, a prominent organization of U.S. Muslims, responded with letters to the committee chair arguing that the report's authors either misunderstood or misrepresented Islamic law since nothing in the *Shari'a* precludes a Muslim from being a good citizen in a Western democracy, the authors answered that it was not they, but the Muslims who had misunderstood Islam. If Muslims obey Western

However, like other minority communities, Muslims in Europe and the United States have their own media, organize conferences, and discuss numerous issues about which they are specially concerned

laws, the authors wrote, they do so not because of choice or religious conviction but in accordance with "the tradition that the powerful must be obeyed" (House 1992b; for responses, see Jobain 1993; Amin 1993).

Amidst all the concern expressed by Western scholars and policymakers, one rarely sees any indication that the status and obligations of Muslim minorities is a topic of debate among the Muslims themselves. However, like other minority communities, Muslims in Europe and the United States have their own media, organize conferences, and discuss numerous issues about which they are specially concerned. Not the least of these is their status as minorities vis-à-vis the religious law of Islam, the *Shari'a*, and its judgments about states that do not recognize the primacy of Islamic values.

In my judgment, Muslims in the West are far from consensus on the role of the *Shari'a* in a non-Islamic state. With respect to the question

The Quran  
does not  
specifically  
command  
Muslims to live  
in an Islamic  
territory  
(*dar al-islam*).

of their religious status as Muslims living in modern, religiously diverse polities, the situation is similar: as yet, there is no Islamic consensus on this issue. What is often overlooked by both Muslims and non-Muslims is this: Diversity of opinion on the status and obligation of Muslim minorities is characteristic not only of the contemporary Muslim community but for the history of Islamic juridical debate; it is not as if some previous clarity or unity of opinion has been lost. In what follows, I shall summarize the form and content of the historical debate, drawing on examples spanning the period from the eighth to the seventeenth centuries. The discerning reader will easily see that the political and other contexts from which these examples are taken do not correspond to the context of contemporary Muslims in any simple way. Nevertheless, the history of the debate, discussion and disagreement among scholars whom most Muslims regard as faithful and wise exemplars of Islamic juridical thinking may provide Muslims and others with resources for thinking about contemporary problems. If nothing else, the recognition of a tradition of

diversity ought to temper the dogmatism of some contemporary writers.

In general, there are three large questions raised by jurists discussing the status and obligations of Muslim minorities. First, *are Muslims permitted to reside in non-Muslim territory?* As we shall see, this question raises a number of issues, particularly with respect to the definition of Islamic and non-Islamic territories. It remains distinguishable, however, from a second great question which jurists ask concerning the relation of Muslim minorities to the Muslim community at large: *Are Muslim minorities part of an "international" community, or are they a special class of Muslims?* Finally, jurists ask: *What are the obligations of Muslims residing in non-Muslim territory with respect to both the host state and Islamic law?*

In what follows, I shall describe juridical opinion on each of these questions. All juridical opinion is formed, however, in connection with the approved sources of fiqh especially the Quran and the traditions relating the practice (*sunna*) of Muhammad - so it is worth spending a few lines describing pertinent aspects of these basic sources.

#### Basic Sources

The Quran does not specifically command Muslims to live in an Islamic territory (*dar al-islam*). In fact, the terminology of "Islamic territory" and the "territory of unbelief" (*dar al-kufr*) or "of war" (*dar al-harb*) is not Quranic. The word *dar* (in the sense of territory or "abode") is most often used in the Quran to refer to the hereafter (*dar al-akhira*, the abode of the Hereafter), rather than to any political entity. After the Prophet migrated to Medina in 622 and especially after the pact of Hudaibiyya (which granted the Muslims access to the Ka'ba at Mecca in 628-30), the Quran repeatedly emphasized the principle that all Muslims are obligated to perform migration (*hijra*), that is, to move to be with the Prophet at Medina (2:218, 4:89, 4:100, 8:72, and 16:41). For instance, at 59:9, the Quran praises those who embrace "the abode and the faith"; in this context, the abode is Medina, the geographical space in which the Prophet exercised hegemony.

The Quran reinforces the idea that those Muslims who migrate to Medina (and thus join the Prophet) are distinct from those who do not: "You [Muhammad] are not responsible for protecting those who embraced the faith but did



not migrate, until they do migrate.” There remains some identity between the two groups, however, since the same verse goes on to indicate that “if they [the Muslims who did not migrate] ask you for help you [Muhammad] are duty bound to help them.”<sup>3</sup> In general, the Quran indicates that communities that have received revelation ought to govern themselves by what God has decreed - in other words, believers ought to seek social and political arrangements that provide for their security and freedom in obeying God’s directives (Quran 5:44, 49). Nonetheless, much remains ambiguous. For example, it is not clear whether the Quran verses cited above should be understood as establishing a general principle obligating Muslims to move from territory governed by non-Muslims to territory governed by Muslims, or whether these verses are best interpreted as situation-specific and therefore limited to the historical circumstances of the Prophet and the Medina community. Furthermore, the Quran does not make clear whether the directive to emigrate to the Prophet at Medina is based primarily on considerations of personal security and communal solidarity, or on a judgment that Muslims living in the midst of non-Muslims will not be able to live by the decrees of God.

For subsequent juridical opinion, the most important verses of the Quran are those that command Muslims to avoid or flee from oppression in unjust lands: As for those whose souls are taken by the angels (at death) while in a state of injustice against themselves, they will be asked by the angels: “What state were you in?” They will answer: “We were oppressed in the land.” And the angels will say: “Was not God’s earth large enough for you to migrate?” . . . Whosoever migrates in the cause of God will find many places of refuge and abundance (4:97-100).

In this connection, it is interesting to note the tradition that, prior to the Prophet’s migration to Medina in 622, a group of Muslims sought to escape the persecution of the Meccans by seeking sanctuary in Abyssinia, that is, in a Christian state. If, as some jurists insist, “oppression” is equivalent to “living in a non-Muslim state,” then these Muslims were mistaken in their reasoning. But if “oppression” has another meaning, connected, for example, to the freedom to practice one’s religion, then “oppression” might be experienced even in a (nominally) Muslim state, and migration might

involve moving to an area governed by non-Muslims. After all, the Quran verses just cited refer to the whole earth as presenting opportunities to find safe haven; at the time these verses were first recited, the entire earth was hardly dominated by the Muslims.

Further complicating the issue are a number of seemingly contradictory *hadith* reports. Several reports forbid Muslims from associating with or living among unbelievers; in a similar vein, there are reports reaffirming the duty to migrate (to territory under Muslim control) as an obligation that will hold until Judgment Day. At the same time, other reports assert that the obligation to migrate ended with the conquest of Mecca and argue that it is better to live under a ruler who is just (though not Muslim) than under a Muslim ruler who is unjust (Abu Dawud 1988, 3:3-4, 93; al-Hindi 1985, 16:654-55; al-Nawawi n.d., 19:262-63).<sup>4</sup> Also integral to juridical discussion of migration were reports concerning certain nomads who converted to Islam but refused to join the Prophet’s state in Medina; similarly there are reports of Muslims residing in Mecca who did not migrate to Medina. Juridical discussion focused on the question of whether these should be considered Muslims despite their refusal to move to Muslims dominated territory; the reports themselves are unclear on this matter.<sup>5</sup>

The Quran verses and *hadith* reports mentioned here were used by various parties in certain political and theological controversies in early Islam. Reports affirming the continuing obligation of Muslims to migrate, for example, were used by the Umayyad rulers as a way of mobilizing political support; the same rulers invoked reports concerning the nomads who failed to migrate to Medina (Madelung 1986, 227; see also al-Mawardi 1985, 163-64). Various sects, including the Mutazila, Zaydiyya, Ja’fariyya, and Khawarij developed well-formulated doctrines requiring migration from lands formally ruled by Muslims to lands ruled by “true” Islam. Some of these arguments and/or uses of Quran and *hadith* reports are reflected in juridical discourse (al-Ashari 1990, 2: 154-55f.; al-Badawi 1971, 324-37; on Zaydi thought, see al-Sayyid 1991).

Similarly reflected by jurists are the shifting historical contexts in which Muslims have lived. Since the eighth century, significant Muslim populations have lived in non-Muslim territories, especially coastal India and China. In fact, during the late Umayyad period, Muslims reportedly

fled the tyranny of the Muslim ruler al-Hajjaj b. Yusuf (661-714) by taking refuge in Malabar, India. The problem of the status of Muslim minorities became more pressing during the eleventh century when large Muslim populations came under non-Muslim rule in Messina and Sicily; concern was further intensified in the thirteenth century when vast amounts of Muslim territory were conquered by Mongols in the east, and by Christians in the west (Mu'nis 1957, 135-36; Hamidullah 1950, 33-35; Hamidullah 1977, 121-29; Lewis 1988, 104-5). It is in the context of these historical challenges that one finds the most extensive juridical discussions concerning Muslim minorities.

### **Are Muslims Permitted to Reside in Non-Muslim Territory?**

#### *3.1 Early positions*

With this brief description of basic sources, we can now consider the opinions of Muslim jurists on the status and obligations of Muslim minorities. The first general question for juridical discussion, as indicated above, has to do with the permissibility of Muslims residing in territory that is not controlled by Muslims.

The Prophet and his companions set a powerful precedent by establishing their own polity in Medina. Following the Prophet's death in 632, the Muslim community rapidly built an empire; naturally enough, this brought Muslims into conflict with non-Muslims and many jurists simply assumed that for reasons of security and freedom of worship, anyone converting to Islam would want to live where Muslims could be dominant. During the first four centuries of Islamic history, one rarely finds jurists discussing actual cases of Muslim minorities. Instead, one finds a debate on a hypothetical case: Suppose a person residing in non-Muslim territory converts to Islam. Does that person commit sin by failing to migrate to an area controlled by Muslims?<sup>6</sup>

Discussions of this question indicate that, for a variety of reasons, migration to Muslim territory is recommended; nevertheless, jurists do not consider that continued residence in non-Muslim territory is prohibited.

Among the early jurists, the strongest arguments against continued residence in non-Muslim territory are expressed by scholars associated with the Maliki *madhhab* or "school." Abu Said Sahnun (d. 854) reports that Malik (d. 796) strongly disapproved of Muslims traveling to non-Muslim territory even for purposes of

trade. As Sahnun has it, the judgement of Malik was based on the worry that Muslims might become subject to non-Islamic law – for example, in the negotiations of contracts (Sahnun n.d., 3:278)

In contrast, early Hanafi jurists did not oppose temporary sojourns in non-Muslim territory for purposes of trade or diplomacy. Abu 'Abd Allah al-Shaybani (d.804) reports that the founder of this *madhhab*, Abu Hanifa (d.768), argued that non-Muslim territory should not become a place of permanent residence for Muslims, and that Muslims should not have children there. Nonetheless, Al-Syaibani argues, the obligation to migrate has been abrogated; citing the precedent of the nomads of Medina, he concludes that it is not forbidden for Muslims to reside in territory controlled by non-Muslims (al-Syaibani 1966, 187).<sup>7</sup> Following al-Syaibani, other Hanafi jurists either do not comment on this issue or content themselves with general expressions of discomfort about the potential difficulties of Muslims who reside outside Muslim territory. For example, Abu Bakr al-Sarakhsi (d.1090 – 91) worried that a Muslim who has children in non-Muslim territory might find them acquiring the mannerisms of non-Muslims and that (in a situation of war) such children might be enslaved by non-Muslims. Nevertheless, al-Sarakhsi followed his Hanafi forbears in arguing that, from a strictly legal perspective, the duty to migrate has lapsed and that certain encounters with non-Muslims (trading, for example) are a necessity (al-Sarakhsi 1986, 10: 6–7, 74, 94–95). Unlike their Maliki counterparts, the early Hanafis based their objections to Muslims residing outside Muslim territories on practical rather than theological or strictly legal grounds. Thus, one could summarize the Hanafi position as follows: Practically, Muslim minorities are exposed to many dangers which it is better to avoid, but legally, the members of these minorities are not required to migrate.

Abu 'Abd Allah al-Shafi'i (d.819 – 820) and his followers shared with the Hanafis a worry about practical dangers. For them, however, the strictly legal issue of a duty to migrate depended on factors specific to each situation. Thus al-Shafi'i could agree with the Hanafis that the general duty to migrate had been abrogated. Along these lines, he noted that in the case of the nomads of Medina and the Muslim converts in Mecca, it would have been odd for the Prophet





to give believers a choice in the matter of migration if by choosing against migration they would have committed a sin. Al-Shafi'i's argument is that Muslims may reside in the abode of non-Muslims unless situational factors lead to a well-grounded fear that such Muslims will be enticed from Islam (al-Shafi'i n.d., 4:161)

Maliki, Hanafi, and Shafi'i stand for ongoing "schools" or traditions of reasoning on this, as on other matters. As we shall see, the developed opinions of jurists associated with each of these schools relate to the precedents set by their early forebears. However, not all early jurists were associated with such schools. Abu Ja'far al-Tabari is such a jurist; though not identified with anyone of these schools, his opinion is nevertheless very important because it was adopted by various schools in later juridical discourse. Commenting on the report concerning Muslims living in Mecca who did not migrate to Medina, al-Tabari agreed with al-Shafi'i and his followers: the ability to practice Islam should be an operative cause in determining the legality of residence in non-Muslim territory. Yet, al-Tabari added, it would be improper for the Muslims in question to prefer

non-Muslim lands over the Muslim territory since in doing so they would contribute to the strength of non-Muslims at war with the Prophet (al-Tabari 1986, 4:147-51).

Early Shi'i jurists cited the same traditions as their Sunni counterparts, in particular those traditions in which the Prophet is said to condemn Muslim residence outside the territory of Islam. For the Shi'a, however, the basis of this condemnation lay in the possibility that residence outside Muslim territory might lead to ignorance of one's religious obligations. Considering that the Shi'a were frequently persecuted in territories formally controlled by Muslims, it is not surprising that their jurists concluded that, at least in certain cases, residing in Muslim territory placed more restrictions on Islamic practice than residing outside it (al-Razi A.H. 1377-79, 5:43; al-Majlisi A.H. 1406,9:402; al-Amili n.d., 11:75-76). For example, the following report indicates an opinion of Ja'far al-Sadiq (d. 765; the sixth Imam of the Shi'a): [An inquirer asked,] "I enter the lands of unbelievers and some of our people say that if I die I will die one of them." Al-Sadiq asked: Hamad, when you are there [in the land of unbelievers] do you mention

our message and invite to it?" I said: "Yes". He [al-Sadiq] asked, "when you are in these cities, the cities of Islam, do you mention our message and invite to it?" I said: "No." He [al-Sadiq] said: ".if you die you will be resurrected a nation unto yourself your light between your hands" [al-Amili n.d., 77].<sup>8</sup>

By comparing the ability to fulfill the Islamic covenant in Muslim lands and non-Muslim lands, al-Sadiq makes the quality of Islamic life a material issue. Interestingly, this point is not unique to the Shi'a, even in the early period. The Mu'tazila, for example, believed that the focal point for any judgment concerning residence should be the ability of Muslims to fulfill the religious obligation of enjoining good and forbidding evil.

### 3.2 *Developed positions*

During the first four centuries of Islam (to ca. 1050), juridical opinions regarding Muslim minorities, while interesting, were not systematically developed. By the twelfth century, by contrast, the modes of reasoning characteristic of the various schools of *fiqh* were well developed. In addition, by this time, the question was no longer hypothetical since Muslim jurists could point to various territories that had once been ruled by Muslims but were now under non-Muslim control.

Responses of Muslim jurists to the question of the permissibility of Muslim residence in non-Muslim territories in this period frequently depended on the geographic location of the jurists, as well as on their own perceptions of the relations between Muslim and non-Muslim polities. In general, jurists of the Maliki school, which was predominant in the western parts of the Muslim empires (including Spain and Sicily), were most hostile to the idea of Muslims residing outside the territory of Islam. Hanbali and Shii schools took intermediate positions. The Shafii and Hanafi jurists, in the meantime, proposed new criteria by which the issue of Muslim minorities might be judged.

The foremost Maliki jurist of his time, Abu al-Walid Ibn Rushd (d. 1122), the grandfather of Averroes, responded to the loss of Muslim territory in the Iberian peninsula by demanding that Muslims immediately migrate to Muslim territory. Ibn Rushd's position was unequivocal; any entry into non-Muslim territory, even for purposes of trade, is prohibited. Only immoral and corrupt Muslims would accept subjection to the law of unbelievers. Those who do so by

engaging in trade or continuing to reside in the lost territory, for example-should be regarded as suspect, and their testimony (in court, for contracts, and the like) should not be accepted for legal purposes. Only if the lost territory is restored is it permitted for Muslims to return to their former residences (Ibn Rushd 1988b, 2:151-54; Ibn Rushd 1988a, 4:170-71).

Such hostility to the notion of Muslims residing in non-Muslim areas was common in Maliki reasoning. Not all jurists associated with the school took this as far as Ibn Rushd, however. For example, 'Abd al-Barr al-Qurtubi (d. 1071) argued that while it is forbidden for a Muslim to reside in non-Muslim lands, Muslims may reside there temporarily if they feel secure-provided that they hope to prevail over the non-believers (al-Qurtubi 1987,210). Al-Imam al-Mazari (d. 1141) went even further in this direction. Conceding that under the best of circumstances Muslims should not be allowed to reside in non-Muslim territories, al-Mazari refused to concede that those who do not migrate should be regarded as suspect. According to al-Mazari, the motive of those who reside in non-Muslim lands is crucial. It is proper for Muslims to live in non-Muslim areas if they hope by doing so to eventually restore the lost territory to Islam or to spread the Islamic message.<sup>9</sup>

Challenged by the plight of the Mudejars of Spain, the Maliki position hardened. In its most developed form, the Maliki position on minority status is well represented in the famous response of Ahmed al-Wansharisi (d. 1508). This jurist insisted that the Mudejars must immediately migrate to Islamic territory, and he argued that those refusing this obligation should be regarded as hypocrites and defectors from Islam (al-Wansharisi 1981, 2:119-32,137-40). He refused to exempt even those who would remain due to a motive of serving the interests of Muslims. The only excuses for failure to migrate were poor health and financial hardship.

Al-Wansharisi supported his position with a variety of Quranic and other sources. Nevertheless, his argument was fundamentally political. He expressed outrage at a certain group of Muslims who, having migrated from Spain to North Africa, complained of economic losses. According to al-Wansharisi, this group expressed regret that they had migrated, asserting that their duty to migrate should be restated so that North African Muslims would be required to move to Christian Spain! The emotional language



employed by al-Wansharisi in this regard reveals something of the intensity of competition between Christian Spain and Muslim North Africa at this time, as well as revealing something of the jurist's own feelings of humiliation at the defeat of Muslims in Spain (al-Wansharisi 1981, 2:121-24, 130-32). Al-Wansharisi argued that history proves that Christians will never honor their pacts with Muslims and that those who study history will find that Christians in fact violate all treaties, specializing in the exploitation of Muslims. He contended that Christian authorities in Spain were imposing heavy taxes on Muslims and that the honor of Muslim women was being violated. Finally, citing the case of the Muslims of Avila, al-Wansharisi claimed that Muslims living under non-Muslim rule invariably would lose their language and culture; Muslims remaining in Spain would end up adopting the customs and habits of Christians, and they would eventually lose their religion (al-Wansharisi 1981, 2:140-41).<sup>10</sup>

Al-Wansharisi represents the culmination of Maliki hostility toward the notion of Muslims residing in non-Muslim lands. Despite his precedent, however, the nature of Maliki reasoning and judgments in particular cases continued to reflect diverse historical and political circumstances.<sup>11</sup> Thus 'Ali

al-Sa'idi al-Adawi (d. 1775) of Egypt, did not reiterate al-Wansharisi's polemics on this issue.

Rather, he simply stated that a Muslim who fails to migrate from non-Muslim lands is a sinner but not an apostate (al-Adawi 1952, 2:4). Unlike the majority of Maliki jurists, Hanbali and Shi'i jurists did not assume that Muslims are invariably less able to practice their religion in the territory of non-Muslims (than in Muslim territory). They argued that those Muslims able "to practice or manifest" Islam in non-Muslim territory are not obligated to migrate, assuming they also feel secure from harm and are not worried about losing their religion. Migration is still recommended for Muslims; this is so that they will not be exposed to betrayal by the non-Muslim rulers, and also in order that the Muslims strengthen Islamic polities. Those who suffer some physical or financial constraint are excused even from the recommendation to migrate, at least until their impediment is removed.<sup>12</sup> Hanbali and Shi'ijurists do not make themselves clear on the question of how much freedom for Muslims is necessary to satisfy the requirement that they be

able "to practice or manifest" Islam.<sup>13</sup>

Expressions used include '*iqamat amr al-din*, '*izhar al-din*, '*izhar shara'i al-Islam*, and '*al-qiyam bi wajibat al-Islam*, Al-Khatib (1958, 4:239)

During the first four centuries of Islam, juridical opinions regarding Muslim minorities, while interesting, were not systematically developed. By the twelfth century, by contrast, the modes of reasoning characteristic of the various schools of *fiqh* were well developed.

focuses on *'ibada* ("worship"), Ibn Qudama (n.d., 10:381, 513-15) uses the term *wajibat* ("duties"). As a demonstration of his meaning, Ibn Qudama argues that Ibn 'Abbas (a companion of the Prophet) was able to reside in Mecca prior to its conquest by the Prophet. Some speak in terms of *iqamat al-din*, which probably means to fulfill the obligations of religion; see, e.g., Ibn Kathir 1988, 1:427; also al-Nasafi 1989, 1:342. The essential characteristic of their reasoning is clear, however, as is the flexibility that comes from allowing a case-by-case evaluation of the status and obligations of Muslim minorities.

Shafi'i and Hanafi jurists took a very different approach. Both of these schools were strong in the eastern empire, which was overrun by the Mongols in the thirteenth century. In response, jurists of these two schools changed their method of analyzing the issues. The Hanafis argued that conquered Muslim territory remains a part of the territory of Islam unless three conditions obtain: (1) the laws of non-Muslims are applied; (2) the conquered territory is separated from the rest of *dar al-islam* by non-Muslim territory; (3) no Muslim or *dhimmi* remains protected according to agreements made by the previous government (Ibn 'Abidin 1987, 3:252; al-Kasani 1986, 7:130-31). On this basis, Hanafi jurists argued that territories conquered by Christians or Mongols remain Muslim territory so long as Muslims are allowed to practice their religion. Indeed, some Hanafis argued that so long as a single Muslim law remains in force, the "conquered" territory remains a part of the territory of Islam. Practically speaking, jurists such as 'Ala al-Din al-Kasani (d. 1191) argued that the central issue is the safety of Muslims; if Muslims feel secure, then the conquered territory is actually part of *dar al-islam*. In this case, the Hanafis argued that Muslims are under no obligation to migrate. In fact, they should be encouraged to stay where they are ('Alamgiriyya n.d., 2:232, 311-12).<sup>14</sup> As to cases where the territory in question is legally "non-Muslim," the Hanafis judged that Muslims do not have a duty to migrate though it is recommended that they do so (Ibn al-Humam 1970, 5:445).

In their most developed position, Shafi'i jurists argued that territory held by Muslims never actually becomes part of "non-Muslim territory" even if it is conquered by their enemies. Conquered territory is "non-Muslim" in

appearance only; for legal purposes it remains Islamic.

Nevertheless, Shafi'i jurists considered migration the preferable course for Muslims living in such territory, reasoning both that there was some risk that such Muslims might unwittingly add to the strength of their enemies and also that there was some danger of oppression. So long as Muslims were free to practice Islam, however, migration remained the preferred, but not the required course of action. Indeed, if Muslim minorities judged that they were free enough (under non-Muslim rule) to spread the Islamic message and thus strengthen the Muslim cause, then Shafi'i jurists expressed a preference *against* migration. Beyond this, if the conqueror granted Muslims autonomy, Shafi'i jurists argued for an obligation to *stay - after all*, from the perspective of this school, the territory in question was still legally a part of Muslim territory, Muslims should not abandon it too easily (al-Ramli 1967, 8:82; al-Shirbini 1958, 4:239; al-Qalwubi and 'Umira n.d., 3:226-27).<sup>15</sup> The full development of this Shafi'i position waited until the sixteenth century; it was first developed, however, by Abu al-Hassan al-Mawardi (d. 1058) who is reported to have said, "If [a Muslim] is able to manifest [his] religion in one of the unbelievers countries, this country becomes a part of *dar al-Islam*. Hence, residing in it is better than migrating because it is hoped that others will convert to Islam [through him]" (reported in al-Nawawi n.d., 19:264).

In effect, the Shafi'is represented the opposite of Maliki reasoning on these issues. Readers will recall my earlier description of Maliki hostility to Muslims residing in Spain following the Christian conquest. For a Shafi'i response to the same situation, one turns, among others, to Shams al-Din al-Manufi al-Ramli (d. 1596-97), who was asked to advise the Muslims of Aragon on their religious situation. The Aragon Muslims lived under the authority of a Christian king who allowed them to practice their religion. However, he also collected taxes from them, and they had no guarantees that they would not eventually be forced to convert to Christianity. Al-Ramli took the position that the Aragon Muslims were *forbidden* to leave their homes. They might be the mechanism by which Islam would be spread, and the territory in which they resided was a part of Muslim territory, even though it was currently under Christian rule (al-Ramli n.d., 4:52-53). A similar judgment was given by Ibn Hajar al-Haytami (d. 1566-07) in connection with a



complaint from the Muslims of Malibar concerning their inability to fully execute their religious obligations. In this case, the power of the Christian authorities prevented the Malibar Muslims from providing protection to Christians wishing to convert to Islam. The problem, as these Muslims expressed it, was that there would be repercussions (that is, repression) for the Muslim community should it provide such protection. Ibn Hajar argued that when protecting Christian converts means that Muslims will be expelled, the Muslims must not provide protection (Ibn Hajar n.d., 4:249). Even though the Malibar Muslims could not fully execute their religious obligations, migration was not regarded as a desirable course.

One of the issues raised by Hanafi and Shafi'i reasoning about the duty (or lack thereof) to migrate has to do with the definition of Muslim territory. It has already been noted that the Quran and early Islamic sources do not speak unambiguously about the meanings and relations of such terms as "territory of Islam" (*dar al-Islam*), "territory of war" (*dar al-harb*), "territory of unbelief" (*dar al-kufr*), "territory of associationism" (*dar al-shirk*), and other terms used in juridical discourse. When Hanafis and, even more decisively, Shafi'is suggest that geographic territory can still be considered part of the territory of Islam even though ruled by non-Muslims, the elusive nature of these terms becomes clear; this ambiguity presents a critical challenge for judgments on the status and obligations of Muslim minorities.<sup>16</sup> The definitional issue is multifaceted and needs exploration in a separate essay. For now, I would like to present the following points:

Pre-modern jurists tried to find a way to distinguish between lands belonging to Muslims and lands belonging to others; for them, the question was largely one of jurisdiction. Reflecting their sense of political realities, jurists expressed an "us" versus "them" mentality, especially with reference to the dichotomous terms mentioned above.

The difficulty, of course, is how one provides content to a term like *dar al-Islam*. Most jurists did not discuss the issue and simply used the term as though its definition were self-evident. Those who did explicitly engage the definitional issue provided a great variety of opinions. Some held the distinguishing feature of *dar al-Islam* to be the application of Islamic religious law. Others took the existence of a Muslim majority to be

definitive. Still others argued that *dar al-Islam* required a Muslim head of state. Such disagreement in the abstract carried over into concrete cases; at various times we find jurists disagreeing over the classification of particular territories (see 'Alamgiriyya n.d., 6:310). Some took the option of judging that, in particular cases, an area might be neither part of the territory of Muslims nor of non-Muslims, but "something in between" (Ibn Taymiyya 1988, 3:532-33).

At the theological level, such difference of opinion became even more prominent. Here one must deal with the claims of various groups concerning what the term "Islam" signifies. Thus some jurists, particularly Shi'i and Mu'tazili, distinguished the "land of true faith" (*dar al-iman*) or of "true justice" (*dar al-'adl*) from the land of formally Islam. Others spoke of formally Islamic territory as the "land of corruption" (*dar al-fisq*) or "of hypocrisy" (*dar al-nifaq*); still others spoke of the land in which neither true Islam nor its opposite prevailed (*dar al-wa'qf*, *dar al-ikhtilat*, *dar al-ikhtilaf*) (al-Mufid n.d., 70-71).<sup>17</sup> Partly in response to such ambiguity, some jurists argued that the duty of migration refers to the obligation of Muslims to seek a place where they can perfect their religion-regardless of any formal classification of territory. Perhaps these differences in juridical opinion relate to a more widespread uncertainty about the possibility of making neat territorial distinctions and thus help to explain why, despite the opinions of many jurists, large numbers of Muslims have continued, throughout the history of Islam, to reside in territory controlled by non-Muslims.

### **The Relation of Muslim Minorities to the Muslim Community**

Thus far I have focused on questions about the duty of Muslims to migrate. I now turn to a second central question of jurists addressing the status and obligations of Muslim minorities: What is the relation of such minorities to the Muslim community as a whole? As we shall see, answers given on this question affect very important matters of international relations - for example, issues connected with the extraterritorial jurisdiction of states. As jurists have conceived it, the first issue is the nature of Muslim unity. Jurists have often asserted that all Muslims belong to a single community and that they are united by - the sacred bond of Islam (for

example, al-Sarakhsi 1986, 10:61; Ibn Qayyim 1983, 1:367). A number of questions follow, however: Is this bond “moral” or “legal”? Is it the duty of Muslim rulers to protect the lives and property of Muslims everywhere, regardless of whether they live in Muslim territory or not? Or should such rulers only consider themselves legally obligated to protect Muslim life and property in the territories actually under Muslim control?

Despite their hostility to Muslims residing in non-Muslim territory, Maliki jurists argued for a legal obligation to protect Muslim minorities. Noting that the inviolability of Muslim lives, in particular, rests on the identification of a person with Islam, Malikis judged that the place of residence was indifferent to Muslim claims to protection. For Malikis, one who murders a Muslim in non-Muslim territory may be prosecuted in a Muslim tribunal, and Muslims found in conquered non-Muslim territory (for example, during time of war) may not be killed or enslaved by Muslim armies. The spouses or adult children of such Muslims should be treated according to their own religious affiliation, since legally they are responsible for their own convictions. Maliki jurists disagreed on the question of extending the obligation to protect Muslim life to include property held by Muslims residing in non-Muslim lands (al-Wansharisi 1981, 2:128; Ibn Rusd [II] 1981, 1:400).

From the Maliki point of view, there are, however, cases in which Muslims residing in non-Muslim territories can forfeit their right of protection. One may recall here the Maliki tendency to regard such Muslims as “compromised.” Their standing as witnesses in courtroom settings or in contractual negotiations may be questioned. In some cases, they are compared to criminals or illegitimate rebels (on the law of rebellion, see Abou El Fadl 1990; Kraemer 1980).<sup>18</sup>

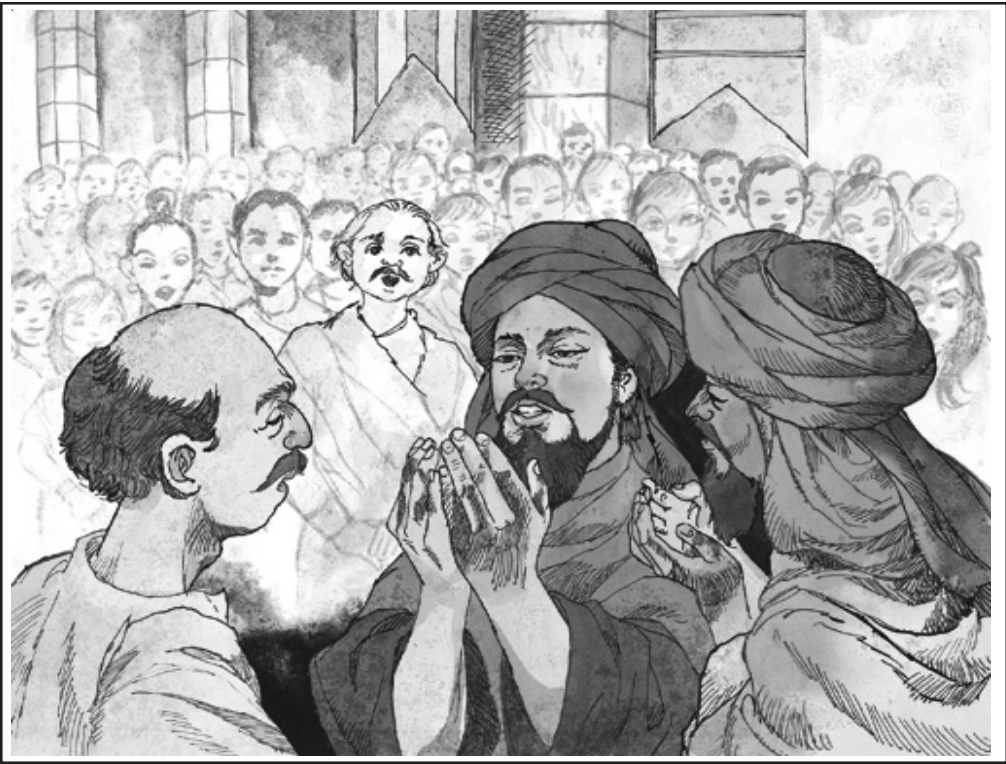
If Muslims living in non-Muslim territory use their wealth to assist non-Muslims against Muslims, then their property can be confiscated by a Muslim authority; if they assist non-Muslims “with their persons,” they may be killed. Hence actions taken against the pursuit of Muslim interests can compromise one’s inviolability. A jurist like al-Wansharisi could even argue that the children of Muslims who serve non-Muslim interests can be captured and returned to the territory of Islam, to be raised as proper Muslims

(al-Wansharisi 1981, 2:129-30; ‘Ulaysh 1958, 2:380-81).<sup>18</sup>

Hanafi jurists took a different approach. For them, there is a crucial distinction between “moral inviolability” (*‘isma mu’athima*) and “legal inviolability” (*‘isma muqawwima*). All Muslims enjoy moral inviolability; they do not necessarily enjoy legal inviolability. For example, if a Muslim kills his co-religionist while residing in non-Muslim territory, he does wrong and will be fully liable before God in the hereafter. Nevertheless, no Islamic tribunal has jurisdiction in the case, since the act takes place outside Muslim-controlled territory. In general, Hanafis argued that Islamic courts have no jurisdiction with respect to extraterritorial crimes because protection (*hirz*) emanates not strictly from religious identity, but from territory.<sup>19</sup> In response to Shafi’i arguments that the source of inviolability is religion (see below), Uthman bin ‘Ali al-Zaylai (d. 1343) responded that the real source of moral inviolability is that a person is a human being; religion is not the key (*la nusalinu anna asl al-ismati bil Islam bal bi kawnihi adamiyya*). This “human” inviolability can be compromised only if the person engages in certain types of wrongful activity. That is why, al-Zaylai argued, Muslims are not allowed to kill non-Muslims who are not at war with the Muslim community, while those who cause corruption on earth, whether they be Muslims or not, lose their moral inviolability because of their crimes. Territory is necessary to establish legal inviolability; consequently, non-Muslims or Muslims who reside in territory controlled by Muslims are protected. Moral inviolability belongs to human beings as such; legal inviolability belongs to those who live in a Muslim territory; in neither case is religion the determining factor (al-Zaylai n.d., 3:268).

It is somewhat inconsistent, then, that Hanafi jurists argued that Muslims found in the territory of non-Muslims have special protections in time of war (for example, they may not be killed or enslaved, and property in their possession may not be taken by the Muslim armies). Nevertheless, Hanafis did go on to articulate hypertechnical rules concerning the extension of protection to Muslim children or property, depending on where the act of conversion took place - whether Muslims are physically separated from their property or children when their non-Muslim homeland is conquered is considered by Hanafis to be relevant with respect to legal





inviolability (‘Alamgiriyya n.d., 3:585-86; Ibn ‘Abidin 1987, 3:252; Ibn Qudama n.d., 10:475-76; al-Murtada 1949, 6:409-10).<sup>20</sup>

In contrast to the Hanafi school, the Shafi’i, Hanbali, and Zahiri schools insisted that Muslims, their minor children, and their property should be immune regardless of residence and regardless of whether Muslims are physically separated from their property and minor children. A Muslim state is obligated to prosecute crimes against Muslims regardless of location and is obligated to protect the persons and property of Muslims wherever they may be. The Shafi’i jurist Ibn Hajar al-Haytami goes so far as to say that a Muslim state is obligated to defend and protect a territory controlled by non-Muslims if Muslims live there. In other words, a Muslim state has an interest in the security of a non-Muslim territory in which Muslims are permitted to reside (al-Haytami 1971, 2:2. 346; al-Shafi’i n.d., 4:278. 7:361-62, 7:367-Q8; Ibn Qudama n.d., 10:475-76; Ibn Hazm n.d., 7:309).

Shi’i and Zaydi jurists agreed that the life and property of Muslims residing in non-Muslim territory should be inviolable. Furthermore, they agreed with most other schools that crimes

against Muslims maybe prosecuted in a Muslim tribunal regardless of where the offense took place. These schools did, however, distinguish between movable and immovable property. Immovable property is not protected because it derives its status from location rather than from who owns it. Movable property is protected by the fact of the Muslim identity of the owner (al-Tarabulsi A.H. 1406, 1:311; al-Hilli al-Suyuri A.H. 1404, 1:588; al-Majlisi A.H. 1406, 9:4011-12; al-Murtada 1949, 6:409-10).

Jurists of all schools agreed that there is a certain bond that unites Muslims, and that the life and property of Muslims is, in principle, inviolable. They disagreed, however, concerning the basis and nature of inviolability, with some arguing that Muslim identity is the crucial issue, others arguing that moral inviolability, in principle, extends to human beings as such. Similarly, some argued that territory is irrelevant to the question of legal inviolability and the protection of Muslims by Muslim governments, while others argued that a Muslim state has no jurisdiction outside the territory of Islam, so that legal inviolability with its accompanying protections only takes effect in the context or a



territory under Muslim control. Further, jurists disagreed on the extent to which protection extends to property, as well as life. Finally, it is important to state that this summary presentation does not exhaust the juridical discussion concerning protection. To cite one example: even if a Muslim government is not obligated in general to protect the lives and/or property of Muslims or non-Muslims living in non-Muslim territory, it might become so under a treaty arrangement or an agreement regarding safe conduct for Muslims.

### **The Obligations of Muslim Minorities**

I now turn to the third and final general question addressed by jurists. What are the obligations of Muslim minorities with respect to their “host state”? This general question seems to be closely connected with another, previously discussed: To what extent are Muslims residing in non-Muslim territory bound by Islamic law, and how does that affect their obligations to their country of residence? As noted above, most jurists argued that Muslim minorities must at least feel that they can practice their religion.

Indeed, some argue that freedom to practice Islam makes the territory in question a part of the territory of Islam. However, it is not clear how much freedom must be allowed for Muslim residence to be religiously legal. As we shall see, there are quite a number of issues to explore.

The majority of Muslim jurists are unequivocal: Muslims are bound by Islamic law regardless of their place of residence (al-Shafi’i n.d., 7:354-55; al-Shirazi 1971,2:310; al-Nawawi n.d., 19:338; Ibn Qudama nod., 10:162; Sahnun n.d., 4:425). According to al-Shafi’i, whatever is prohibited in the territory of Islam is also prohibited in territory controlled by non-Muslims (al-Shafi’i n.d., 7:354-55). For al-Shafi’i, the application of Islamic law to Muslim minorities is not simply a matter of moral obligation. The Islamic state has power to enforce Muslim obligations; thus, Muslims who violate Islamic law while residing in non-Muslim territory can be prosecuted when they return to Muslim lands. For example, a Muslim who fornicates or consumes alcohol may be punished in a Muslim state, even if he or she committed these acts while residing in a non-Muslim state that permitted them. The Shafi’i



jurist al-Shirazi (d. 1414-15) argued: “since the prohibitions are the same in both territories [i.e., from the Shafi’i point of view], there is no reason for the penalties to be different in any sense” (al-Shirazi 1971, 2:310).

This Shafi’i point - that an Islamic state can punish Muslims for acts committed in non-Muslim territory - was affirmed by most other juridical schools. That does not mean, however, that jurists considered that Islamic law in its totality must be applied in a non-Muslim territory. As previously indicated, the Shafi’i jurist Ibn Hajar advised Spanish Muslims to remain in their place of residence even though they were prevented from offering protection to converts. Muslim jurists realized that residence in non-Muslim territory inevitably involves tensions between the religious obligations of Muslims and the law and/or customs of the host state. Some (for example, the Malikis) concluded that Muslims should not dwell in non-Muslim lands, but most argued that there are cases in which residence in non-Muslim lands is permitted. The difficulty lies in drawing lines concerning the Point at which continued residence in a non-Muslim territory involves an unacceptable compromise of Muslim religious obligations. Most juridical opinion is ambiguous on this issue.<sup>21</sup>

In a way, this is not surprising. The claim that Islamic law applies to Muslims wherever they live is itself ambiguous. Islamic law is not only a prodigious body of specific judgments, but also, and more importantly, a methodology in which certain agreed upon sources and modes of interpretation create the possibility of a shared discourse across space and time. The methodology itself, however, suggests that judgments specific to one situation might be irrelevant to another. In the case of Muslim minorities, jurists were concerned that all Muslims should enjoy circumstances that satisfy what Islamic law considers the necessities (*daruriyyat*) of life (for example, food, shelter, health) and the needs (*hajiyyat*) of life (for example, education). Jurists argued that in specific situations, established obligations might be altered in the service of fulfilling these requirements. Thus, Abu al-Maali ‘Abd al-Malik al-Juwayni (d. 1085) argued that Muslim minorities that cannot enjoy the necessities or satisfy the needs of life without violating Islamic law should migrate to lands where such things are readily available. At the same time, he noted

that there may be conditions in which the large size of a Muslim minority makes migration difficult. In that case, the Muslims must not wait passively for their situation to improve, but should meet the necessities and needs of their own community and maintain their strength. This is not a matter of saying that, in some situations, Muslims are excused from fulfilling their religious obligations. Rather, al-Juwayni’s argument is that the obligations themselves change according to the situation. Other jurists, while agreeing with al-Juwayni’s general point, argued that established obligations can only be altered to meet necessities of life-not needs. Still others disagreed as to what constitutes a necessity and what constitutes a need. Finally, some disagreed on the extent to which obligations can be altered - in effect, arguing that while the notion of alteration applies with respect to some obligations, others are immutable (al-Juwayni A.H. 1401,476,486,488; al-Ghazali 1971, 245-46; al-Shatibi 1988,2:361; al-Salami 1980, 188; Mahmasani 1987, 152-56). In the face of such diversity of opinion, the claim that Islamic law applies to all Muslims everywhere can only call forth the question: Which Islamic law?

Part of the difficulty with claims about the universal applicability of Islamic law has to do with the nature of juridical writing. When jurists make such claims, they are usually not speaking specifically about cases involving Muslim minorities. Instead, such claims - which are typical of Shafi’i, Hanbali, and Maliki jurists generally occur in polemics against the Hanafis, who argue that the totality of Islamic judgments does not apply outside Muslim territory. Specifically, these polemics concern the Hanafi judgment that Islamic commercial regulations do not apply, even as a moral ideal, to Muslims outside Muslim territory. From the Hanafi point of view, a Muslim residing in non-Muslim territory may deal in usury and may sell or buy such prohibited items as alcohol or pork. Such Muslims may also gamble or engage in such questionable practices as selling insurance, provided that such acts are allowed by the host state. The Hanafis differ on the question of whether such activities are permissible among Muslims or only in relations with non-Muslims (al-Shaybani 1971, 5:1851; al-Kasani 1986, 7:132; Ibn ‘Abidin 1987, 3:248).<sup>22</sup> In general, however, Hanafi jurists argue that money and property are protected by territory, not religion; if a non-Muslim state does not protect the money and

**As a result  
of a safe  
conduct  
agreement, a  
Muslim may not  
commit acts of  
treachery,  
betrayal, deceit,  
or fraud, and  
may not violate  
the honor or  
property of  
non-Muslims  
while residing  
in the host  
country.**

property of its residents from such exploitative activities (as usury and the like), a Muslim state should not present itself as protector (Kasani 1986, 7:132).<sup>23</sup>

Similarly, Hanafi jurists argued that Islamic courts have no jurisdiction over crimes committed in non-Muslim territory. A Muslim who commits forbidden acts while residing in non-Muslim territory will be punished by God in the hereafter. He or she may, of course, be punished by the host state for any acts that transgress its laws, but Muslim states lack jurisdiction to punish acts committed outside their borders.

The other juridical schools reject this Hanafi position, and it is in this context that claims about the universal applicability of Islamic law are made (al-Shafi'i n.d., 7:358-59; al-Buhuti 1982, 5:108; al-Shaybani n.d., 96; Ibn Qudama n.d., 4:162; Ibn Rushd m 1988b, 2:10-11; Sahnun n.d., 3:279). In the specific case of Muslim minorities obligations towards a host state, most jurists are more interested in the nature of agreements (*aman*) which guarantee "safe conduct." As jurists see it, safe conduct is a contract made between the host state and the resident Muslim; the non-Muslim state promises security, and the resident Muslim promises to refrain from actions detrimental to the host state and also to obey its laws. As a result of a safe conduct agreement, a Muslim may not commit acts of treachery, betrayal, deceit, or fraud, and may not violate the honor or property of non-Muslims while residing in the host country. The Muslim's obligations include fulfillment of contractual obligations, payment of debts, and refraining from fraudulent practices. The safe conduct is considered void if the non-Muslim government or its agents violate the terms of the contract. Violations by non-Muslims acting in the capacity of "private persons" do not constitute an abrogation of the agreement (al-Shaybani 1971, 2:507-11, 4:1486; al-Marghiriani n.d., 2:152; Ibn al-Humam 1970, 6:17; al-Shiragi 1971, 2:338; al-Nawawi n.d., 19:453; al-Ansari 1948, 2:177; al-Buhuti 1982, 5:108-9; Ibn 'Abidin 1987, 3:247; al-Sarakhsi 1986, 10:65, 95-96; Ibn Qudama n.d., 10:515-16; 'Alamgiriyya n.d., 2:232; al-Shafi'i n.d., 4:248).

Pursuant to a safe conduct agreement, Muslims may not engage in military acts against the host state. They are expected to maintain a rule of strict neutrality, even in situations where the host state is engaged in war with a Muslim state. Muslims may, however, join in the defense of their host state if it is attacked by another non-Muslim state (al-Shaybani n.d., 193; al-Shaybani.1971, 4:1294; Thn al-Humam 1970,6:18;





al-Sarakhsi 1986, 10:97-98; 'Alamgiriyya n.d., 2:233).<sup>24</sup>

It is important that the safe conduct agreement need not be explicit. The mere permission to reside is considered an implicit contract. For example, the Muslims of Malibar in Spain advised the Shafi'i jurist Ibn Hajar that, although they were living under the authority of a Christian government to which they paid taxes, they did not do so under any specific agreement. That being the case, they asked whether it would be permissible to deal with Christians "in usury and cheat them in measures and weights"? Ibn Hajar's response was negative (al-Haytami n.d., 4:24.5-6).

According to most jurists, Muslims who violate safe conduct agreements are liable in the hereafter and in an Islamic court. For example, if the violation involves non-payment of debt or usurpation of property, a Muslim court may compel payment or restitution. Hanbali and Shi'i jurists argued that compensation may be handed to a representative of the non-Muslim state in Muslim territory or may be sent to the non-Muslim state by emissary (al-Buhuti 1982, 5:108;

al-Hilli Fakhr al-Muhaqqiqin A-H. 1387, 1:379; al-Tarabulsi A-H. 1406, 1:311; al-Hilli al-Muhaqqiq 1983, 1: 315; al-Hilli al-Allama 1990, 257. On the other schools see at-Shirazi 1971, 2:338; al-Nawawi n.d., 19:453; Ibn Qudama n.d., 10:515-16). Hanafi jurists, by comparison, argued that although a violation of safe conduct by a Muslim would be sinful, no Muslim court has jurisdiction to enforce the agreement or punish the offense. A Muslim who usurps property while residing in non-Muslim territory should be advised to fulfill his or her obligations, but no Muslim government can legally compel obedience unless the safe conduct was obtained in the territory of Islam or through its auspices. In such a case, one might say that the Muslim state had implicitly or explicitly guaranteed compliance and is therefore responsible for enforcing the agreement on the Muslim side (al-Shaybani 1971, 4:1117-20, 1125, 1276-79; also 5: 1880, 1884-85; al-Marghinani n.d., 2:152-53; Ibn al-Humam 1970, 6:17-19; al-Kasani 1986, 7:132-33; Ibn 'Abidin 1987, 3:248; al-Sarakhsi 1986, 10:61, 95-96; 'Alamgiriyya n.d., 2:232-33).<sup>25</sup> Unlike the discussions of migration and legality of



residence, the juridical discussion of the obligations of Muslim minorities toward a host state does not appear to undergo much historical development. The general statements made by jurists in the eighth century are repeated by their successors in the seventeenth century. Perhaps this indicates that the only real issue is in fact the legality of Muslims residing in a non-Muslim land. Once one allows that such residence is legally valid, then the numerous difficulties and challenges that will follow must be adjudicated case by case. When the question has to do with the extent of freedom enjoyed by a Muslim minority to practice its religion, there is a sense in which lines cannot be drawn in the abstract; knowledge of many specific facts connected with the life of Muslims in a particular area is necessary, and perhaps it is only those Muslims actually experiencing minority status who can adjudicate their case.

### **Conclusion**

Our review of premodern juridical discussion on the status and obligations of Muslim minorities primarily establishes that there is a diversity of opinion. The various jurists and schools discussed attempted to apply the

methods of Islamic jurisprudence to diverse historical realities. Most jurists assumed the presence of some territory in which Islamic values had a prominent position. For most, residence in such a territory should be considered preferable to residence outside it. Malikis expressed this preference most strongly, arguing that Muslims who do not reside in Muslim territory are of questionable integrity. Shafiiis and Hanafis took a different approach, arguing that territory under the control of non-Muslims might nevertheless be considered “Islamic,” provided that Muslims are secure and have freedom to practice their religion. For these jurists, the difficulty comes, as we have seen, in determining when the security and freedom of Muslim minorities is so compromised that migration becomes not only advisable, but obligatory.

In all this, it is important that we recognize those who argued that one may confront issues of security and freedom of religion in (so called) Muslim territory, as well as in non-Muslim lands. For these jurists and the Muslims they represented, Muslim territory could be just as oppressive as (perhaps even more oppressive than) non-Muslim territory; one notes especially

the opinions of jurists of the Shi'i school.<sup>26</sup> Such reasoning is also a part. However, of many rebel movements throughout Islamic history. In the contemporary period, the notion of migration has served as a rationale for resistance and rebellion against colonial powers or against Muslim

governments whose behavior is believed to show the continuing influence of colonial powers—as in the case of the writings of Sayyid Qutb (d. 1965) in Egypt. In this case, one calls for migration, not so much from one geographic territory to another, but to true (activist) Islam (Voll 1987; Wilks 1980, esp. 148-52; Smith 1980; on Qutb and *hijra*, see Kepel 1986).

The reasons  
for the  
historic  
diversity of  
juridical  
opinion, tied  
to the variety  
of contexts in  
which Muslim  
minorities  
lived, still hold  
today.

The reasons for the historic diversity of juridical opinion, tied to the variety of contexts in which Muslim minorities lived, still hold today. Thus, it is not surprising to find diversity of opinion among contemporary Muslims concerning the best course for Muslim minorities to follow. Some Muslims continue to insist that Muslims residing in non-Muslim territory can do so only for a limited time and for a specific purpose (Hassan n.d., 161). Others refuse to tie Islam to a geographic territory and try to respond to questions on a case by case basis (Shaltut 1980, 43a-34; Mutahhari 1987; Huwaidi 1985; al-Mahmasani 1982.76-88). Thus, when Rashid Rida (d. 1935) was asked about the obligations of Muslims remaining in Bosnia following Austria's annexation of that territory, he argued that there was no reason for the Bosnian Muslims to migrate so long as they were able to practice Islam. "The essential point," he asserted, "is that, as demanded by their religion, Muslims must establish justice and do good, and if they are unable to do so in [certain] countries, then they should migrate." (Rida 1971, 2:777). In a different context, Rida argued that Islamic commercial laws have no application in non-Muslim lands. Muslims residing in such lands are bound only by the portion of Islamic law dealing with worship (*'ibadat*) (Rida 1971,5:1918-19; also 2:406-8,4:1521-22 on depositing funds in banks in a non-Muslim country).<sup>27</sup>

Unquestionably, most jurists thought (and think) that, all things being equal, Muslims should live in a polity that recognizes the primacy of Islamic values. However, all things are rarely equal, and the same jurists usually articulated (and articulate) a compromising approach in which they try to steer Muslim minorities on a path between rejection and accommodation.<sup>28</sup> Rather obviously, contemporary political and legal realities impose a set of issues different from those confronting Muslims during the age of great empires. Again rather obviously, life in a secular democracy raises issues that earlier generations of jurists did not have to deal with.<sup>29,29</sup>

See *U.S. v. Board of Education of School District of Philadelphia*.

911 F. 2d 882 (3d Cir. 1990), involving a Muslim woman fired for wearing the *hijab* in a public school; *Abdush.Shahid v. N.Y. State Narrotic Addiction Control Com.*, 34 N.Y. 2d. 538, 354 N. Y.S. 2d 102.309 N.E2d 813 (1974). involving a Muslim drug addiction counselor fired for wearing Muslim garb; in *Re A.C.* 573 A.2d 1235 <D.C. App. 1990), involving a Muslim arguing that a forced caesarian violates her Islamic ethics; also see Moore 1992.

In this context, Muslims looking to the juridical tradition for guidance will occasionally find analogies to their own situation. For example; the similarities between the juridical notion of safe conduct and the contemporary notion of a visa or permanent residency application are obvious. In the end, though, contemporary Muslims may well find the words of Rashid Rida most appropriate. Dealing with the status of the Bosnian Muslims, this important jurist commented finally that “they are the best judges of their own affairs” (Rida 1971, 2:777). It is those Muslims living as minorities who will, in the end, identify the special problems of their residency and will judge the question of their relationship to the principles and methods of Islamic law. There is no need to foreclose debate. In this context, as in others, the saying attributed to the Prophet witnesses to the place of diversity in Islam: “Difference of opinion in my community is a source of blessing.”

#### (Footnotes)

1 Most Islamic discussion of these matters takes place in Islamic conferences or on the pages of journals like *The Minaret*, *Islamic Horizons*, *The Message*, and *Khalifornia*. For a summary of the discussion, see Balbale 1992. For an example, see Doi 1987 followed by Kettani 1987 and Sherwani 1988. See also Haddad 1991.

2 See Quran 2:94, 6:32, 16:30, 40:39, 40:52. In discussing the tablets given to Moses (7:145), the Quran indicates that those who rejected Moses’s message will see the abode of corruption (*dar al-fasiqin*); in 10:25 God invites people to the abode of peace (*dar al-salam*). This last should not be confused with *dar al-islam*.

3 Quran 8:72. All renderings of verses from the Quran are inspired by Ahmed Ali’s published translation, but I have altered most of Ali’s translations to reflect my sense of the original.

4 For discussion of these *hadith* reports, see Masud 1990. For a discussion of those reports indicating that a just, non-Muslim ruler is better than an unjust Muslim ruler, see Sadan 1980.

5 On the nomads of Medina, see al-Shafi’i n.d., 4:161; on the Muslim group in Mecca, see al-Tabari 1986,4:147-51. There are conflicting reports about the motives of the Muslim group that refused to join the Prophet. Most sources agree that members of the group joined the armies of the Prophet’s opponents and that some of them were killed. The question then arose whether they should be buried as Muslims. Some reports claim that they were hypocrites who never truly converted to Islam, while others claim they were sincere Muslims who were forced to join the army of the non-believers. Al-Tabari records most of these conflicting reports, but one should also see al-Zamakhshari n.d., 1:292-93; Ibn Kathir 1988, 1:513-15; al-Alusi 1985,5:125-26; al-Tusi n.d., 3:302-3; al-Razi 1990, 2:12.

6 On the centrality of migration (*hijra*) in Muslim theology, see Watt 1971; Masud 1986; 1990; 1989, 120; Ibn Fudi 1978. On the sometimes tragic consequences of the *hijra* doctrine, see Minault 1982; Qureshi 1979.

7 However, al-Sadiq is also reported to have said: “The true expatriate [*a .gharib*] is that who is in the land of unbelief (*dar al-shirk*). This need not imply disapproval of such person, of course.

9 Mazari’s *fatwa* is recorded in al-Wansharisi 1981, 2:133-34. On Mazari and his *fatwa*, see Turki 1984; Munis 1957. Another *fatwa* that relies on the logic of necessity in accepting the judgment of Muslim judges appointed by non-Muslims in the Sudan is recorded in al-Wansharisi 1981, 10:135.

10 Kassis 1990 is informative on the types of concerns that might have affected al-Wansharisi. The risk of apostasy and assimilation was very real, and many Muslims responded to this threat



with a rigorous orthodoxy; see also Abun-Nasr 1987:142-43.

11 For example, see a *fatwa* from the Maliki school, reproduced and studied in Harvey 1964. This *fatwa*, issued by 'Ubaydallah al-Maghrawi al-Wahrani in 1504, advises the Muslims in Granada on ways to practice their religion in complete secrecy in order to avoid persecution. The most notable aspect of the *fatwa* is the absence of advice to migrate; al-Wahrani does not even mention migration as an option. Also interesting is a *fatwa* of Shaykh Abu 'Abd Allah 'Ulaysh (family of Moroccan origin but born and lived in Egypt, d. 1882). In this opinion, we are told that a Muslim country has been defeated and occupied by unbelievers. Many people have fled to nearby mountains that remain under Muslim control. An argument has arisen among jurists who fled to the mountains and those who remained behind. The mountain people insist that migration is obligatory; the others disagree and refuse to migrate. Shaykh 'Ulaysh supports the mountain people and otherwise responds by copying al-Wansharisi verbatim ('Ulaysh 1958, 1:375-89).

12 For the Hanbali position. see al-Barakal n.d., 2:170; Ibn Qudama n.d., 10:380-82; al-Buhuti 1982, 5:43-44; for the Shii position, see al-Hilli al-Muhaqqiq 1983, 1:308; al-Hudhali 1990, 236; al-Amili al-Shahid A.H. 1398, 2:383; al-Hilli Fakhr al-Muhaqqiqin A.H. 1387, 1:352. Ahmed b. Yahya b. al-Murtada (d. 1437), a Zaydi jurist, reports the opinion of some Zaydis that migration is not obligatory so long as Muslims are able to distinguish themselves from the unbelievers. Ahmed himself does not agree and says that a person should migrate if he or she is subjected to non-Muslim laws. He does not explain what is meant by the phrase 'distinguish themselves (*yatamayyazu 'anhum*)' (al-Murtada 1949, 6:469).

14 Alamgiriyya nd, 3:584 specifies that territory conquered by Mongols remains Islamic territory; Ibn 'Abidin 1987, 3:252-53 makes the same point. The idea that conquered territory remains Muslim is typically a Hanafi and Shafi'i position, but see al-Sawi 1952, 1:361, a Maliki jurist, who argues that conquered Muslim land remains Muslim as long as the laws of Islam, as applied to Muslims, continue to be respected.

15 Shafi'i jurists also contend that Muslims should be in a constant search for lands where they can better perfect their religious practice. This means that Muslims should migrate from Muslim territory where corruption is widespread. Al-Shirbini asserted that if all territories become equally corrupt, as had already taken place in his time, then the duty to migrate drops entirely.

16 Shafi'i, Hanafi, and even Hanbali jurists add to the terminological diversity by speaking of *dar al-hudna* or *dar al-muwadaa* (\*land or treat\*). See al-Kasani 1986, 7:109; 'Alamgiriyya n.d., 2:197; al-Buhuti 1982, 5:96; al-Shafii n.d., 4:182.

17 Abu Mansur al-Tamimi al-Baghdadi discusses *dar ai-islam*, *dar al-iman*, *dar al-shirk*, *dar al-llsq*, and *dar al-kufr* (1980, 270); Abu Hasan al-Ashari (1990, 1M) discusses six different positions on *dar ai-Islam*, mentioning *dar kufr nima* and *dar al-hudna*; IG1amis al-Shaqasi al-Rustati, an Ibadī IG1arijjurist, discusses six positions on *dar ai-Islam*, mentioning *dar al-khilaf*, *dar al-adl*, *dar al-ikhtilat*, *dar al-nifaq*, and *dar 'ahl al-iqrar* (1979); al-Murtada adds from the Zaydi perspective the terms *dar al-llaqfand daral-iman* (1949, 6:46-9); al-Makki al-Amili mentions *bilad al-khilaf* (A-II-1398, 2:383). On Zaidi perspectives. see al-Sayyid 1991. For a valuable modern perspective, see Rida 1971, 1:372, 5:1966-67, 6:2302, 2589.

18 For a similar but less polemical view see the Shi'i jurist Abu Salah Taqi al-Din al-Halabi's opinion in *Al-Kafii fi al-Fiqh* (1990, 38). Nevertheless, al-Halabi argues that children cannot be enslaved, regardless of circumstances.

19 Hanafi jurists after a variety of justifications for this position; see Ibn al-Humam 1970, 6:20; Kasani 1986, 7:105; Ibn 'Abidin 1987, 3: 248; Sarakhsi 1986, 10:90; 'Alamgiriyya n.d., 2:232-33. If the killer is Muslim, he or she must still pay a sum or money in atonement (*kaffara*) in cases of intentional murder and must pay reparations in cases of unintentional murder. Keeping to their tradition of diversity, not all Hanafis agree on this. Abu Yusuf, for example, argues for holding the killer liable in the criminal sense.

20 One must keep in mind that what Hanafis consider *dar al-Islam* is not necessarily confined to territory ruled and controlled by Muslims. This is an important consideration; if a territory is legally part of *dar al-Islam*, legal inviolability might be claimed by vast Muslim populations who otherwise live under non-Muslim rule.

21 Some Hanafi jurists advised Muslims who we are living among non-Muslims to establish congregational prayers and to demand the appointment of Muslim judges and governors. This does not resolve the issue, however, since it leaves unclear what the Muslims should do if their demands are not met.

22 See Ibn 'Abidin 1987, 3:253; 'Alamgiriyya n.d. 6:3112 Abu Yusuf, also from the Hanafi school, strongly disagrees with this position.

23 Other, less popular justifications are that this is a way to spite non-Muslims (Sarakhsi 1986, 10:21-22), or that this is a way to accommodate the ignorance of Muslims residing in *dar al-Mrb* concerning the prohibitions of Islamic law (Kasani 1986, 7:132).

24 Al-Shaybani and al-Sarakhsi argue that while Muslims residing in non-Muslim territory should remain neutral even in conflicts between their territory of residence and Muslims, there are limits. If the host government enslaves Muslims (e.g. Muslim prisoners of war), resident Muslims must formally renounce their *aman* and fight to liberate the captive Muslims.

25 The Hanafis allow other hypertechnical exceptions; for instance, a Muslim court does have jurisdiction in case of a debt between one Muslim and another, but does not have jurisdiction if one Muslim usurps the property of another. There are other exceptions based on possession, and on when ownership invest in property.

26 Al-Tabrisi does not mention the duty to migrate from non-Muslim territory, limiting himself to reporting that one should leave the land of corruption (1986, 3:151). As indicated earlier, this line of thought is most common among the Shi'i scholars, but arguments of other schools reflect similar thinking. The Hanbali jurist al-Buhuli argues that migration from the

land of sin is not required (1982,5:44); the Shafi' jurist al-Shirbini al-Khatib says migration from the land of sin is required and a Muslim should always migrate to the land where he or she can worship best (1958, 4:239). Various opinions are reported in Qalwubi and 'Umira n.d., 3:227; al-Qurtubi 1967,5:34&-47, 349; al-Shawkani n.d., 8:27. Abu Bakr Ibn al-Arabi sets out six different categories of hijra (1957, 1:484-56); one of these involves leaving non-Muslim territory, but he explains that a person should migrate from areas in which his or her money or person is not secure and from places of widespread corruption even if such territory is (formally a part of *dar al-Islam*. Al-Zamakhshari (d. 1144), writing in the Hanafi Muftazali perspective, states that the duty to migrate is abrogated, but one should escape to lands where one can attain greater religious fulfillment (n.d., 1:292-93).

27 Rida vehemently opposed Muslims accepting French citizenship or joining non-Muslim armies (1971, 7:1750-59). The problem of citizenship in Tunisia and Algeria was an intensely debated issue in the colonial period (see Peters and De Vries 1976-77, 1-4, 12).

28 Some suggest ways by which Muslim minorities may preserve their culture; e.g., not martyring non-Muslims, or maintaining a distinctive form or appearance (al-Shaybani 1971, 5:1838; al-Sarakhsi 1986, 10:965; Ibn Qudama n.d., 10:511-12; al-Shafi' n.d., 4:266; 'Alamgiriyya n.d., 6:311).

