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‘Who’s Better than God to Rule?’ - An Inquiry into the Formation of
the First Islamic State (622-32 CE)

*A dissertation submitted in partial satisfaction of the requirements for the degree Doctor of Philosophy in
Islamic Studies*

by

FIAZUDDIN SHUAYB

2012

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ABSTRACT OF THE DISSERTATION

“Who's Better than God to Rule?” – An Inquiry into the Formation of the First Islamic State (622-32 CE)

By

Fiazuddin Shuayb

Doctor of Philosophy in Islamic Studies

University of California, Los Angeles, 2012

Professor Khaled Abou El-Fadl, Chair

This dissertation is a historical research in the formation of the first Islamic State during the era of the Prophet Muḥammad (ca. 622-32 CE). While many academic works have referred to it largely within either biographical (e.g. ‘the life of Muḥammad’ and the like) or mega-historical conceptual frameworks (e.g. ‘the history of Islam’ etc), few have focused exclusively on the political context of the rise of Islam in the seventh century CE. Utilizing an interdisciplinary approach drawn from the social sciences, especially political anthropology, history and political science, and the Islamic sciences, I describe the various cultural processes involved in the founding of the early Islamic State and its structure, including an in-depth examination of the local Arabian and regional political environments, the make-up of Arabian society and religion, the Makkan opposition to Islam, the Muslim response to persecution, and how the Qur’an undermined ultimately undermined order and authority in Makka. Also explored in this research are the policy functions of the Islamic State, that is, its conduct, including its relations with non-Muslims, law, warfare, political economy, and foreign relations, which are interpreted through an

explanatory framework based on the system's idéologique or native logicity. Last but not least, aspects of the nascent Muslim body politic that are distinctively Islamic are highlighted, such as its innovative notion of rulership (namely, the prophet or messenger of God as a political agent who exercises ḥukm Allah or 'rule by that which God has revealed'), the concept of Sharia or divine law, the non-distinction of the religious and the secular or spiritual and temporal domains of society, and the practical demonstration of its uncompromising monotheistic theology as a political ideology and mode of governance.

The dissertation of FIAZUDDIN SHUAYB is approved.

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2012

I humbly dedicate this dissertation to my UCLA colleague, friend, and brother in
faith TAJUDDIN SHUAIB (d. 2009)
—*‘We belong to God and to Him we return’ (Q.2:156)*

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- **AH** – *anno hegira*, to mark Islamic dates: 1 AH corresponds to July 16, 622 CE.
- **Āḥādīth** – plural of *ḥadīth* (see entry on *ḥadīth*).
- **Allah** – the Supreme Being, Divinity, Indivisible Godhead, used interchangeably with God.
- **Anṣār** – the Prophet’s Companions from among the Madanite al-Aws and al-Khazraj tribes.
- **Asbāb al-nuzūl** – see entry on *sabab al- nuzūl*.
- **Āya** (pl. *āyāt*) – a ‘verse’ of the Qur’an.
- **Al-‘Āriba**, “the pure or original Arabs;” pre-Islamic descendants of Qaḥṭān who is believed to be one of the two eponymous ancestors of the Arab nation (the other was ‘Adnān).
- **Al-Bā’ida**, “the extinct Arabs”; pre-Islamic indigenous communities of ‘Ād, Thamūd, Jadīs, and Ṭasm.
- **Al-Musta’raba** – “the naturalized Arabs” who comprised two main groups: (i) the *qabīla* or clan of Arfakhshad Saba’ Abdu Shams of Yemen and (ii) The clan of Ishmael, son of Abraham.
- **BCE** – Before Common or Christian Era; an alternative to BC.
- **Chosroes** – a generic title given by Arabs to the king or emperor of Persia.
- **CE** – Common Era or Christian Era; an alternative to AD.
- **Companion** (*ṣaḥābī*; plural, *aṣḥāb*) – basically a person (male or female) who lived in the time of Muḥammad and believed in him as the Messenger of God.
- **Dīya** – blood money payment; wergild.
- **Ḍa’īf** – “weak”; a classification of a *ḥadīth* that does not meet the criteria of authenticity, in which the narrator has a defect or the defect is in the chain of authorities.
- **Ḥadīth** (in upper case) indicates the corpus of *ḥadīth* literature as a whole; also, *ḥadīth* (lower case), a report of what the Prophet, said, did, or approved.
- **Ḥalāl** – a category of legal ruling in Islamic Law, designating the lawful or permissible in worship or societal transaction.
- **Ḥarām** – opposite to *ḥalāl*, designating the unlawful in Islam.
- **Ḥanīf** (pl. *ḥunafā*) – A non-Jewish or non-Christian Arab monotheist during the Pre-Islamic Period in Arabia.
- **Ḥasan** – “good”: a category of authentic *ḥadīth* but not as strong as *ṣaḥīḥ* (see entry on *ṣaḥīḥ*).
- **Hijra** – the historic migration of the Prophet and his Muslim followers from Makka, where they were under religious persecution, to Madīna; it became a milestone in Muslim history that marked the beginning of the Islamic lunar calendar.

- **Hypocrites** – a loose grouping of converts to Islam from among Arab and Jewish tribes in Arabia but who secretly and openly plotted against the Islamic State.
- **Ijtihād** – personal judgment in the absence of a proof-text from the Qur’an or Ḥadīth.
- **Isnād** – (plural, **asānīd**), the chain of authorities through which a ḥadīth is transmitted.
- **‘Izza** – might or glory; in Islamic political doctrine, the symbolic expression of Divine Sovereignty.
- **Jāhiliyya** – generally, the pre-Islamic period and cultural era in Arabia.
- **Jihad** – literally, “to strive” or “to exert oneself”; technically, warfare sanctioned under Islamic Law.
- **Jiwār** – the grant of protection or immunity to a person issued by an individual or tribe.
- **Jizya** – the poll tax that the Islamic State imposed on subjugated non-Muslim (pagan, Jewish, Christian, Zoroastrian, etc) communities.
- **Fay’** – in Qur’anic terms, spoils of war that accrues to the Islamic State without warfare.
- **Fiqh** – Islamic jurisprudence, the body of juridical work by Muslim jurists and scholars; cf Islamic Law.
- **Khumus** – the Qur’anic division of spoils of war into fifths; one fifth of which belonged to the Islamic State.
- **Lex talionis** – retributive from of justice; the law of retaliation, to wit, a punishment should correspond in degree or kind to the offense, as an eye for an eye, tooth for a tooth, and the like; cf **qīṣāṣ**.
- **Makkan (āyāt)** – Pre-Hijra āyāt of the Qur’an.
- **Mawqūf** – a ḥadīth, the chain of authorities of which ends with a Companion who may or may not have heard it directly from the Prophet.
- **Mu‘allaq** – a ḥadīth attributed to the Prophet but in which its isnād or sanad is omitted; it may be “weak” or “sound.”
- **Muhājirūn** – In general, those who have migrated; in particular, the native Muslim émigrés from Makka.
- **Munqaṭi‘** – any ḥadīth in which the chain of authorities is not connected throughout; it is considered **ḍa‘īf**.
- **Madanite (āyāt)** – Post-Hijra passages of the Qur’an
- **Madhḥab** (pl. **madhāhib**) – a way or method; technically, a school of Islamic jurisprudence, such as the Hanafite or Shāfīte, etc.
- **Muslim Historical Tradition** – the vast corpus of Islamic literature written by Muslims, spanning over a millennium and covering the Islamic sciences, Muslim history, and the like; also, the Islamic literary heritage or **Turāth**.
- **Mufasssir** (pl., **mufasssirūn**) – a Muslim exegete on the Qur’an.

- **Maghāzī** – literally, “battles” but used interchangeably with *sīra* in reference to the Prophet’s biography.
- **MHT** – the Muslim Historical Tradition: the Muslim sources on Islam in general.
- **Mu’dal** – a *ḥadīth* in which two or more links are missing in its chain of authorities; it is considered *ḍa’īf*.
- **Mudallis** – generally, a *ḥadīth* in which the authority narrates from another authority whom he met but did not directly hear it from him or was his contemporary but did not meet him, giving the impression that it was heard from him.
- **Muḥaddithūn** – (sing. *muḥaddith*) a *ḥadīth* scholar.
- **Munāfiqūn** – (sing. *munāfiq*). See Hypocrites.
- **Muqawqis** – a generic term used by Arabs for a Coptic ruler.
- **Mursal** – a *ḍa’īf* type of *ḥadīth* in which the chain of authorities stops with a *tābi’ī* (“Follower”) who did not hear it directly from the Prophet.
- **Mushrikūn** – (sing. *mushrik*) pagans, polytheists.
- **Najāshī** – a generic term used by Arabs in reference to the king of Abyssinia.
- **People of the Book** – an Islamic reference to Jews, Christians, and Sabeans.
- **Qayṣar** – a generic term used by Arabs in reference to the king or emperor of the Byzantine Empire.
- **Qisās** – the law of retaliation or *lex talionis*, which predated Islam but was sanctioned under Islamic Law.
- **Sabab al-nuzūl** – Literally, “occasion of revelation,” referring to an early exegetical report that ground some *āyāt* of the Qur’an in a historical context.
- **Ṣaḥīḥ** – “sound”: the highest level of authenticity ascribed to a *ḥadīth*.
- **Ṣaḥīfa** – the historical Constitution of Madīna.
- **Ṣafi** – the portion of the spoils that the Prophet took before its regular division into fifths and distribution among beneficiaries.
- **SFS** – the Structural-Functionalist-System approach: it is a conceptual framework used to describe political systems.
- **Salaf** – “to come before”; refers in Islamic parlance to the first three generations of Muslims extolled for their learning and piety.
- **Sanad** – the chain of authorities or pathway of a *ḥadīth*.
- **Sarayya** – (pl. *sarāyā*) raiding attacks against enemy targets commonly used by non-Muslims and Muslims, some of which escalated into full-scale war like the Battle of Badr.
- **Sharia** – Islamic Law, the fundamental sources and texts of which are the Qur’an and *Sunna*.
- **Sīra** – (pl. *siyar*) biography of Prophet Muḥammad.
- **Siyar** – Islamic international law and relations
- **Ṣaḥīḥ** – a *ḥadīth* that is “sound.”

- **Shirk** – the antithesis of *tawḥīd* or Islamic monotheism, ascribing partners to God.
- **Spoils of war** – general terms for it in the MHT are *ghanīma* (pl. *ghanā'im*) and *anfāl*.
- **Sunna** – The Prophet's practice; in particular, what he said, did, or approved.
- **Sūra** (pl. *suwar*) – principal division or 'chapter' of the Qur'an.
- **Tābi'ūn** – sing. *tābi'ī*, "Follower" of the Muslim generation that came after the Companions.
- **Tafsīr** – exegesis of the Qur'an.
- **Tarikh** – history, especially Muslim history.
- **Tawḥīd** – Islamic monotheism as espoused in the Qur'an and Ḥadīth.
- **Umma** – commonly refers to the Muslim community.
- **Uṣūliyyūn** – Muslim legal theorists.
- **Zakāh** – annual tax on certain types of wealth possessed by Muslims.

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- 2005 - Presentation of paper entitled *The Hosay Massacre 1884: A Death Festival Challenges British Colonialism in Trinidad* at Third Annual NYC-MMUF Regional Conference, 4/15/05, Columbia College, NY 10027.

Publications

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PROLOG

“Do they, perchance, desire [to be ruled by] the law of pagan ignorance (**ḥukm al-jāhiliyya**)? But for people who have inner certainty, who could be a better law-giver than God (**ḥukm Allāh**)?”
—Q 5:50 (Asad)

It is universally recognized that Islam emerged in the seventh century as a new religion and state. Muḥammad, a rare individual who was a successful religious, political, and military leader, founded a polity that, shortly after his death, expanded into one of the world’s great empires. Many scholarly attempts have been made to account for the *Pax Islamica*, attributing its cause to a wide range of psychological, social, or materialist factors. Each researcher viewed it through the lens of his or her own bias, paradigm, or theoretical persuasion, invariably leading to diverse explanations that are sometimes complementary and sometimes contradictory. This interdisciplinary dissertation is intended to contribute to the field of research, examining the major cultural processes involved in the formation of the first Islamic State during the Prophet of Islam’s lifetime (622-32 CE). Through a *structural-functional-system* (SFS) conceptual framework, the dynamics of the nascent Muslim body-politic will be described at the process, policy, and system levels; its functions will be explained on the basis of its internal or native logicity; and its characteristics that are distinctly Islamic will be highlighted.

In the 1890s, Grimmes (d. 1942) theorized from a *socialist* perspective that the rise of Islam was the outcome of a struggle between the ‘haves’ and ‘have-nots’ in Arabian society. Setting aside Grimmes’ theory, Hurgronje (d. 1936) approached Islam

through the discipline of *religionswissenschaft* or “history of religions,”¹ which is basically a type of comparative-religion analysis. Wellhausen (d. 1918), Margoliouth (d. 1940), and Torrey² (d. 1956) focused on linkages between Makka’s economic growth and the popular religious system, examining the city state’s bitter opposition to Islam and later reconciliation with the new religion in order to maintain its material prosperity and jettison its rapidly becoming unfashionable polytheistic outlook. Through the lens of macro-economic theory, Becker observed that the expansionist Islamic State provided essential unity and power to the last great Semitic migration due to the economic decline of Arabia.³ Using Lammens’ (d. 1937) work as a baseline, Watt (d. 2006) posited that Islam was Muḥammad’s response to the Arabian social malaise of “individualism” and “tribal insecurity” due to mercantile economic forces.⁴ Admitting later that he might have overstated the case,⁵ Watt directed his attention to the factor of pre-Islamic political thought.⁶ Rodinson (d. 2004) later reworked Watt’s ‘sociological’ approach, explaining that Muḥammad’s “eschatological visions” combined with the “international political situation” to produce Islam, a religious ideology capable of mobilizing Arab tribes.⁷ More recently Crone presented a “nativist” model, dismissing

¹ C. Snouk Hurgronje, “Une nouvelle biographie de Moḥammed,” R.H.R., 1894, 48-70, reproduced in Hurgronje, *Selected Works etc.*, Leiden, 1957, 109-49 and quoted in Mohammad Mohar ‘Alī, *Sīrat al-Nabī and the Orientalists* (Madīna: Islamic University of Madīna, 1997), 1st edition, vol. 1, 118.

² J. Wellhausen, *Reste Arabischen Heidentums*, 2nd edition, Berlin, 1897, 93, quoted in D. S. Margoliouth, *Mohammed and the Rise of Islam*, 3rd edition, London, 1905, 32; C. C. Torrey, *The Commercial-Theological Terms of the Koran*, Leiden, 1892, quoted in Mohammad Mohar ‘Alī, *Sīrat al-Nabī and the Orientalists* (Madīna: Islamic University of Madīna, 1997), 1st edition, vol. 1, 96.

³ Mohammad Mohar ‘Alī, *Sīrat al-Nabī and the Orientalists*, vol. 1, 95-113.

⁴ W. Montgomery Watt, *Muhammad at Medina* (Oxford: Clarendon Press, 1956), 323.

⁵ Maxime Rodinson, “Modern Studies on Muhammad,” in *Studies on Islam*, trans. Merlin L. Swartz (New York: Oxford University Press, 1981), 50.

⁶ W. Montgomery Watt, *Islamic Political Thought* (Edinburg: Edinburg University Press, 1968), 10.

⁷ Rodinson, “Modern Studies on Muhammad,” 46.

Watt's "international trade thesis" and postulating that the "fit" between Muḥammad's political reform and Arab tribal interests was close enough to suggest that Islam could have succeeded at any period in Arabian history.⁸ She also offered alternative theses like *hagarism* and 'Arabia without Spices,' which have generated more heat than light on the rise of Islam. In sum, such 'nomothetic' (which considers a single or few but not a plurality of correlative factors) approaches are seldom sufficient to explain the rise of Islam, which entailed a vast, complex social enterprise⁹ in which religious and secular boundaries were not easily demarcated.

Shifting gears from 'conjectural' history to 'salvation' history, we find that classical Muslim historians proffered *theological* explanations, situating Islam in a divine schema of the inevitable rise and fall of nations and states. From the divine intervention perspective sprung two conspicuous traditional viewpoints in modern times: i) *Muslim liberalism* and ii) *Muslim fundamentalism*. The first is nuanced, as Kurzman has shown;¹⁰ so too is the second. Both Muslim liberalism and fundamentalism mainly disagree on the relative importance of Muḥammad's political role and its implications for the modern Muslim Community or *Umma*. In the liberal camp, Ali 'Abd al-Rāziq (d.1966), for example, claimed to be the first Muslim to question the Prophet's

⁸ See Patricia Crone, *Meccan Trade and the Rise of Islam* (Princeton: Princeton University Press, 1987), 245.

⁹ According to Hodgson (d. 1968), "for an 'exceptionalizing' historian. . .Islamdom [is seen] as a morally, humanly relevant complex of traditions, unique and irreversible, that can form his canvas. Whether it it 'led to' anything evident in Modern times must be less important than the quality of its excellence as a vital human response and an irreplaceable human endeavor. In this capacity, it would challenge our human respect and recognition even if it had played a far less great role than, in fact, it did play in articulating the human cultural nexus in time and space and in producing the world as we find it now." Marshall Hodgson, *The Venture of Islam* (Chicago: The University of Chicago Press, 1974), 26.

¹⁰ *Liberal Islam: A Sourcebook*, ed. Charles Kurzman (NY: Oxford University Press, 1998), 3-26.

political leadership: “Muḥammad was solely an apostle. He dedicated himself to purely religious propaganda without any tendency whatsoever towards temporal sovereignty, since he made no appeal in favor of a government.”¹¹ Since ‘Abd al-Rāziq, the basic thrust of the Muslim secularist’s normative argument is that the modern state ought to be secular insofar as the public sphere is concerned, relegating *Sharia* (Islamic Law) to the private sphere, as found in but not limited to the writings of Abduh, Ṭāhā, Laroui, and lately Na‘im in his *Islam and the Secular State*.¹² Closely related to the secularist position are the *progressive* or *modernist* points of views (Falzur Rahman, Arkoun, Engineer, Soroush, *et al*), which perceive that the only principles worthy of retrieving from the historical Islamic State in order to reconstruct Muslim identity and society in the democratic space of modernity are those that are egalitarian in nature. As for the fundamentalist camp, which includes such thinkers as Rida (d. 1935), Qutb (d. 1966), Mawdudi (d. 1958), the Muslim Brotherhood,¹³ and Khomeini (d. 1989) *et al*, it basically holds that the only valid or legitimate political system that can meet the needs of the *Umma* is that modeled after the early Islamic State governed by *Sharia*. A related view, traditionalist yet academic in its outlook and perhaps best represented in Ḥamīdullāh’s works, compares the early Islamic State with the modern nation-state, claiming that the former was a forerunner to the latter in many respects, including a written constitution, rule of law, international law, and the like. To sum up, Muslim

¹¹ ‘Alī ‘Abd al-Rāziq, *al-Islām wa uṣūl al-ḥukm* (Beirut: al-Mu’assasa al-Arabiyya, 2000). English excerpts of it are found in “The Caliphate and the Bases of Power,” in *Islam in Transition*, eds. J. Esposito and J. Donohue (NY: Oxford University Press, 2007), 25.

¹² See Maḥmūd M. Ṭāhā, *The Second Message of Islam*, trans. and ed. ‘Abdulla A. al-Na‘īm (Syracuse: Syracuse University Press, 1987), 146-64.

¹³ Muḥammad ‘Abdulla al-Sammān and Sylvia G. Haim, “The Principles of Islamic Government,” *Die Welt des Islams*, New Series, Vol. 5, Issue 3/4 (1958), 245-253.

intellectuals (fundamentalists, modernists, secularists, feminists) identify with Islam (for cultural, ideological, nationalistic, or religious reasons) but are primarily divided on the role (dominant, moderate, or limited) of *Sharia* in society at large, even though the notion of *sharia* itself is disputed among them. Yet all of them have engaged in one way or the other with the early Islamic State, the subject of this inquiry.

This dissertation depicts the nascent Muslim polity through the *structural-functional system* (SFS) conceptual framework, as utilized in political science¹⁴ not political anthropology.¹⁵ The SFS model posits that political systems (ancient and modern, religious and secular, authoritarian and democratic, etc) are situated in certain physical and social environments, having internal parts that interact with one another as well as with external boundaries. The system receives *inputs* (i.e., demands) from its environments within and without, processes them through political activity, and churns them out in the form of *outputs* (policies). Interrelated parts of the political system are represented by various domestic social *structures* (interest groups, institutions, society, government, culture, and economy) performing certain *functions*, while the external boundaries include the regional and international political environments, that is, foreign political systems and states. At the process level, demands of the polity are articulated, aggregated, and drafted into policies through various interest groups (e.g. participants, parties, lobbies, NGOs), which are

¹⁴ The *structural-functional system* model of understanding was introduced by Almond and Powell in the 1970s specifically to study political systems. See Almond, Powell, Strom, and Dalton, *Comparative Politics Today: A World View*, 8th edition (New York: Pearson/Longman, 2004).

¹⁵ Political anthropology and sociology are better acquainted with *structural-functionalism* (also called ‘social systems theory’) that is associated with Comte, Spencer, Parsons, Merton *et al*, which views the social system as an organism—a living entity having different parts, each of which does not exist independently and contributes to the functioning of the whole.

implemented and adjudicated through the state's executive arm or government and further projected onto society in a continuous dynamic cycle. All states in history have certain primary functions in common, such as maintenance of law and order for the general welfare of society, extraction and distribution of economic resources (e.g. taxes), and defense against external aggression. They also share some general structures—though the names may vary from one political culture to the next, such as congress, *jirga*, parliament, and the like. But states are also dissimilar in many ways:

- (i) The relative number of persons authorized to direct the state's sovereignty: *autocracy* (one-man rule), *oligarchy* or *aristocracy* (rule by an elite class or group), and *democracy* (rule by the people, directly or indirectly);
- (ii) Electoral systems (*SMDP* or *first-past-the post*, *proportional representation*, acclamation, etc);
- (iii) Non-electoral systems, as in *dictatorship* (monarchial, military, one-party);
- (iv) Policy profile, as determined by ideology (*communist*, *democratic*, *fascist*, *Islamic*) among other system-related functions.

As proponents of the SFS model put it, “The advantage of the system environment approach is that it directs our attention to the **interdependence** [bold in the original] of what happens within and between nations, and it provides us with a vocabulary to describe, compare, and explain these interacting events. If we are to make sound judgments in politics, we need to be able to place political systems in their domestic

and international environments, recognizing how these environments both set limits on and provide opportunities for political choices. This approach keeps us from reaching quick and biased political judgments.”¹⁶ Differentiating between modern and traditional polities in relation to the scope of political consciousness and involvement of their respective populations, Huntington (d. 2008) observed in 1966 the following:

Bureaucracies are not distinctly modern. The bureaucracies which existed in the Chinese, Roman, Byzantine, Ottoman, and other historic empires often had high degrees of structural differentiation, elaborate systems for recruitment and promotion according to merit and achievement, and carefully worked out procedures and regulations governing their actions. Nor are assemblies and parliaments unique to the modern polity: assemblies existed in the ancient city-states, and parliaments and other meetings of the estates were common phenomena in medieval Europe, most of which were destroyed during the process of modernization. Elections are also found in nonmodern polities: elective chiefs are common in tribal societies; the *strategoï* and other magistrates were elected in Athens, the tribunes and consuls in ancient Rome. The idea and practice of constitutionalism are similarly ancient. Constitutions, laws, and courts all existed in highly developed forms long before the appearance of the modern state. So also did cabinets and executive councils. . . .¹⁷

The SFS model is therefore most apt for supplying a value-neutral description of the cultural processes involved in the formation and conduct of states in general and the early Islamic State in particular, enabling us to understand its dynamics, structures, politics, and policy-making activities.

The next step in the research process is to explain the bases of political choices that the Islamic State had to make in response to inputs from its domestic and foreign environments. Given that conflicting notions of the state abound in political literature, a suitable working definition needs to be established here at the outset, thereby reducing ambiguity before proceeding to my explanatory framework. In his *Formation of*

¹⁶ Almond *et al*, *Comparative Politics Today*, 36.

¹⁷ Samuel Huntington, *Political Order in Changing Societies* (New Haven, Yale University Press, 1996), 89.

the Islamic State, Donner defined a state as a political body in general that has “an ideology of Law coupled with certain definable institutions,”¹⁸ including “sovereignty” and “stratified society.” Although his definition does not specifically mention territory, it is perhaps implied, since the requirement of territory is nigh axiomatic: for no state sovereignty is ever exercised in a vacuum but exists inside fixed *terra firma* spaces. Nonetheless, a universally agreed upon conception of the state continues to elude anthropology, history, political science, and sociology despite numerous investigations into its origins that date back over 7000 years and efforts to understand it through a myriad of paradigms. Indeed, Titus recorded over 150 definitions of the state.¹⁹ As political systems, states seem to be as old as the first stratified societies that emerged in human history. But the search for an all-inclusive definition of the state need not concern us here, since this thesis is focused on a fully functional state—one that has (and such a description does not fall outside any of the academic disciplines) at least three indispensable attributes: i) political authority, ii) social stratification, and iii) territorial sovereignty.²⁰ Consequently, a polity that lacks control over its own territory, makes no territorial claims, or is powerless to enforce them is “stateless.” When the political authority is incapable of imposing its will effectively over territory and subjects (i.e., it cannot govern effectively from the center), the polity is a “failed state.” As for egalitarian (i.e. non-stratified) societies that express “statehood,” such

¹⁸ Fred M. Donner, “The Formation of the Islamic State,” *Journal of the American Oriental Society*, vol. 106, No. 2 (Apr. - Jun., 1986), 283- 296.

¹⁹ Donald V. Kurtz, *Political Anthropology: Paradigms and Power* (CO: Westview Press, 2001), 170-79.

²⁰ Cf Richard C. Murphy, *Cultural and Social Anthropology: An Overview* (New Jersey: Prentice-Hall, Inc., 1986) 2nd edition, 163-64.

political specimens are rare if not absent in the historical and ethnographic records, notwithstanding Marxist discursive claims.²¹

The aim of the explanatory framework of this research is to understand as fully as is possible, based on the available records, traditions, and social artifacts, the concept of the early Islamic State as its political agents themselves might have understood it. Instead of imposing a theoretical (materialist, liberal, Marxist, or other) framework on it, the goal here is to seek out the internal logic or native logicity that directed the conduct of the nascent Muslim polity. There is no strictly objective way to do it. As we saw earlier, scholars have sought to account for its extraordinary rise through a number of secular interpretations, including the psychological, materialist, sociological, reductionist, and so forth. It is now widely accepted that *objectivity* is less a reality and more an academic ideal. Researchers start from *subjective* selection of units of the phenomenon to be studied and endeavor to arrive at a shared agreement about them with others. Important signposts that guide the inquiry along its way include awareness of one's bias and avoidance of grandiose claims on the truth. The classical Muslim Historical Tradition (MHT) testifies that Muḥammad, from the start to the end of his prophetic mission, was convinced that he was God's Messenger sent to promulgate the Qur'anic concept of monotheism to the world; thus, an important

²¹ The Marxist theory of the state is speculative, imagined, and does not rely on historical evidence. "Unfortunately," as Elman Service (1975: 283) has observed, 'there is absolutely no evidence in the early archaic civilizations themselves, nor in archaeologically or historically known chiefdoms and primitive states, of any important private dealings—i.e., evidence of capitalism,'" such that would vindicate Marxist theories of the origins of states. See Ted C. Lewellen, *Political Anthropology: An Introduction* (CT: Bergin and Garvey, 1992), 2nd edition, 52.

research objective is to find out to what extent its uncompromising monotheistic construct, as the *raison d'être* of the early Muslim body-politic, informed Islamic policy.

The aforementioned MHT—the major source of research materials for this dissertation—is a vast corpus of mainly Arabic writings by Muslims, formally dating from the second (AH)/eighth (CE) century and comprising millions of pages that cover every genre of Islamic literature (history, theology, law, exegesis, genealogy, Arabic grammar, lexicon, poetry, etc). A great deal of this literary material has been lost in the past but much is available in print and just as much or more exists in manuscripts in public and private libraries. That the MHT is almost wholly a Muslim compilation inevitably poses an epistemological challenge to *objectivity*. In other words, how much of MHT is impartial to *reliability* and *accuracy*? Ever since western scholarship on Islam got underway in earnest in the nineteenth century, a number of theoretical frameworks have been used to make sense or stipulate intellectual order on its tradition, including *islamophobia* (e.g. from the ‘mahound’ and ‘Saracen dogs’ of medieval European imagination to contemporary ‘Islam is inherently violent or evil’ literature); *apologia* (Stubbes 1705); *hypercritical* (Muir 1858; Lammens 1924); *skeptical* (Caetani 1905-26); *traditional*, i.e. permitting the MHT to speak without assessing its reliability (Gibbon 1907); *conciliatory*, an approach somewhere between outright skepticism and traditionalism (Watt 1956); *historical humanist* (Hodgson 1974); and the *phenomenological* (Smith 1981). Today, there is no scholarly consensus on what constitutes the best hermeneutical path to the phenomenon of Islam. Indeed, academic debate on its origins and sources has become a genre itself, as evidenced in Kister’s

Studies in Jāhiliyya and Early Islam (1980), Noth's *The Early Arabic Historical Tradition: A Source-Critical Study* (1993), Peters' *Muḥammad and the Origins of Islam* (1994), Donner's *Narratives of Islamic Origins* (1998), Faizer's *The Issue of Authenticity regarding the Traditions of al-Wāqidi as Established in His Kitāb al-Maghāzī* (1999), Motzki's *The Biography of Muḥammad: The Issue of the Sources* (2000), Berg's *Method and Theory in the Study of Islamic Origins* (2003), and Sivers' *The Islamic Origins Debate Goes Public* (2003), to name a few. At the heart of the debate are three major paradigms in tension with one another: the *skeptical*, *traditionalist*, and *conciliatory*. As a Muslim writing on the subject of the early Islamic State, I am inclined to the conciliatory approach regarding the MHT, which is partly motivated by reason, since it seems sensible to accept its *reliability* in general until the opposite is proven, as Sarjeant has pointed out: "Methodologically, we cannot but start from the premise that a [Muslim] Tradition is a genuine report of 'fact' until it is creditably shown to be false, or partially or wholly invalidated by palpable bias"²²; partly by a postmodern (i.e. non-positivist) attitude toward discovering its underlying logicity; and partly by faith. This work makes distinctions among *accuracy*, *reliability*, and *certainty* in connection with the MHT, as far as sources and origins are concerned.

As regards *accuracy*, this is a matter of subjectivity, since the researcher is free to believe or not to believe what the MHT represents as facts or truths in light of his or her epistemological orientation. As regards *reliability* or authenticity, this lies along a continuum, requiring critical analysis, for a MHT report or tradition is true, false, or neither true nor false (in which case, one may not have sufficient information to

²² R. B. Serjeant, "Meccan Trade and the Rise of Islam: Misconceptions and Flawed Polemics" in *Journal of the American Oriental Society*, vol. 110, no. 3 (July-September, 1990), 472-73.

determine if it is this or that, necessitating suspended judgment). In particular, if the MHT report is a *ḥadīth*, for example, I defer to the authority of *ḥadīth* scholars (*muḥaddithīn*) who are the experts and specialists in the field, citing its grade—*ṣaḥīḥ* (“sound”), *ḥasan* (“good”), *ḍa‘īf* (“weak”), etc. If it is a historical report unsupported by a *ḥadīth* or *āya* (‘verse’) of the Qur’an, I consider it reliable (but not necessarily accurate); on the other hand, if it contradicts a ‘sound’ or ‘good’ *ḥadīth* or *āya*, I view it unreliable, although I may mention it for informational purposes. And if the traditions or reports (regardless of its source: Qur’an, *Ḥadīth*, *sīra*/*maghāzī*/*ta’rīkh* literature) appear to contradict another on the same subject, I evaluate or reconcile them via the research methodologies of the Islamic sciences, especially *tafsīr* (Qur’anic exegesis), *ḥadīth*, and *uṣūl al-fiqh* (Principles of Islamic jurisprudence). To illustrate, the Qur’an is reliable but its exegesis or the genre of *sabab al-nuzūl* (‘occasion of revelation’ or historical circumstances associated with the revelations) traditions associated with it may or may not be reliable or authentic. In general, a MHT report is taken at face value for its reliability until disproved, which is not to suggest that it is relied upon with certainty.

In his *Arabia without Spices: An Alternative Hypothesis*, Heck claimed that the MHT is, by its very nature, “anecdotal.” Clarifying that he did not mean “anecdotal” in a pejorative sense, Heck added, “they (the MHT reports) are often little more than the early medieval equivalents of tabloid journalism. . . akin to most chronicled medieval

sources.”²³ But did Heck know this finding with certainty? By *certainty*, I mean the philosophical kind that knows something to be absolutely or 100 per cent false or true—a certitude that is beyond a shadow of doubt. In western philosophy, *certainty* is generally conceived as the highest form of knowledge or something superior to knowledge, which is divided into three kinds: *psychological*, *epistemic*, and *moral*. These three categories of certainty are not, however, without epistemological problems, which have prompted some thinkers to declare *certainty* a failed historical enterprise²⁴ in Enlightenment thought. Postmodernism shifts the focus from *certainty* to *reality*, arguing that reality does not exist as an actuality—only as individuals’ conceptions of it, all of which vary but are equally true or valid.²⁵

In Islamic thought, five centuries before Descartes (d. 1650) who proposed moral certainty, al-Ghazzālī (d. 1111) had expounded on the concept of *certainty* (*Ar yaqīn*), combining both the psychological and epistemic aspects. When one yields to belief, relying on it, he or she feels certain about it, provided it is devoid of hesitancy, error, or ambiguity. This justified belief (*i’tiqād jāzim*) gives one psychological certainty. As for *yaqīn* or epistemic certainty, it is derived from such examples like “3 is less than 6”; “an individual cannot be in two places at the same time”; and “a thing cannot be old and

²³ See Gene W. Heck, “Arabia Without Spices: An Alternative Hypothesis,” *Journal Of The American Oriental Society*, 2003, Volume 123, 547-576; 548.

²⁴ Baron Reed, “Certainty,” *The Stanford Encyclopedia of Philosophy* URL=<<http://plato.stanford.edu/entries/certainty>>; F. David Peat, *From Certainty to Uncertainty: The Story of Science and Ideas in the Twentieth Century* (Joseph Henry Press, 2002), 1st edition; M.J. Ryan (1908); “Certitude,” in *The Catholic Encyclopedia*. New York: Robert Appleton Company (<http://www.newadvent.org/cathen/03539b.htm>).

²⁵ Cf Earl Babbie, *The Practice of Social Research* (CA: Wadsworth/Thomson Learning, 2004), 10th edition, 10-11.

new, existent and non-existent, stationary and moving” while being in the same state.²⁶ Can doubts be admitted in such universal axiomatic beliefs or self-evident truths? If doubt occurs, then the acquired knowledge is no longer *yaqīn* but qualifies instead as justified belief or “speculation” (*ẓann*).²⁷ In light of the foregoing, one wonders on which type of *certainty* is Heck’s claim established. Was he psychologically certain of it? Did he know it on the basis of epistemic certainty? If so, then he must have examined every single record of the MHT in order to arrive at the conclusion that it is anecdotal. If his claim is not of epistemic certainty because the task of examining every single record of the MHT is impossible, then it is perhaps *speculation*, which is not knowledge and may be ignored. Most likely, however, Heck’s statement is a discursive claim, the plausibility of which is contingent on his arguments and proofs. Thus, the skeptic who postulates that the entire MHT is “anecdotal,” an “embellishment,” or “medieval tabloid journalism” shoulders the burden of proof.

Similarly, the traditionalist (Berg calls this approach “sanguine”) who postulates that the entire MHT is reliable or accurate also bears the burden of proof. As far as I know, Muslim scholars have never made such a claim. Rather, the MHT has been viewed as a mix of authentic, false, and that which cannot readily be proved as either authentic or false in Muslim scholarship. Take, for example, Ibn Ishāq (d. 150/767), nicknamed *imam* (“leader”) or *amīr al-mu’minīn* (“Commander of the Faithful”), that is,

²⁶ Al-Ghazzālī, *al-Mustasfā fī ‘ilm al-uṣūl* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2000), 35.

²⁷ *Ibid*, 35.

the foremost authority on the *maghāzī* / *sīra* genre²⁸ as regards Muḥammad's

biography.²⁹ As a narrator of *ḥadīth*, however, Ibn Ishāq is classified by the majority of

muhaddithūn as *ṣudūq* ("truthful"), *mudallis* ("one who quotes apocryphal or doubtful

²⁸ See Ibn Sa'd, *Kitāb al-ṭabaqāt al-kubrā*, ed. 'Alī Muḥammad 'Umar (Cairo: al-Khānjī, 2001), 1st edition, vol. 7 (no. 2151), 552-53; al-Dhahabī, *Ṣiyar a'lām al-nubalā'* (Beirut: al-Resala Publishing House, 1996), 11th edition, vol. 7, 33-55.

²⁹ **Ibn Ishāq** (d.150/767) is widely acknowledged as the Father of the *sīra*/*maghāzī* genre, which is the main biographical source on Muḥammad, because (i) he was among the earliest Muslim historians and perhaps the first to situate *sīra* and *maghāzī* traditions pertaining to the life of Muḥammad within a chronological, albeit crude, framework; (ii) the popularization of his work in **Ibn Hishām**'s authoritative *sīra*; and (iii) his high repute as a scholar in learned circles. Ibn Ishāq's *Sīra* has been published separately several times, such as the 19th century German edition entitled *Das Leben Muhammed's nach Muhammed Ibn Ishak von Abd el-Mālik ibn Hisham*, ed. Ferdinand Wüstenfeld (Göttingen: Dieterichsche Universitäts-Buchhandlung, 1860); Suhayl Zakkar's *Kitāb al-siyar wal-maghāzī* (Damascus: Dār al-Fikr, 1978); Muḥammad Ḥamīdullāh's *Sīrat Ibn Ishāq* (Rabat: Ma'had al-Dirāsāt wal-Abḥāth lil-Ta'rīb, 1976). In fact, from 1860-1998, at least 9 works on Ibn Ishāq's *Sīra* have been published, which includes two German editions. More recently, it was published as *al-Sīra al-nabawiyya lib-ni Ishāq*, ed. Aḥmad Farīd al-Mazīdī, 2 vols., 1st edition (Beirut: Dār al-Kutub al-'Arabīyya, 2004) from the Karabacek manuscript (no. 1140) at the Turkish Kubrīlī library and the Aḥmad Tīmour Pāshā copy at Dār al-Kutub al-Misriyya, Cairo. A few earlier *sīra* and *maghāzī* works, including those of some of Ibn Ishāq's contemporaries and their students have survived, although they are embedded in (a) the literary genres of *ḥadīth*, *ta'rīkh* (Islamic history), *ansāb* (Arab Muslim genealogy), and *tafsīr* (Qur'an exegesis); (b) in partially and wholly published works; and (c) in manuscripts. Pre-Ibn Ishāq *siyar* (sing. *sīra*) works include **Wahb b. Munabbih**'s (d. 114/732) *Maghāzī* manuscript, dated ca. 229/884, a portion of which was found in Germany and is known as the Heidelberg Papyrus Arab 23; **Musa b. 'Aqba**'s (d. 141/758) *Maghāzī*, portions of which were published by Edward Sachau as *al-Muntaqā min maghāzī Mūsā b. 'Aqba* from a manuscript found in Berlin. It was also found embedded in Ibn al-Ṣā'id's *Amālī* and was published by al-'Umarī in Baghdad in 1387/1967; **Sulaymān b. Ṭarkhān al-Tīmī** (d. 143/760)'s *al-Sīra al-ṣaḥīḥa*, most of which is lost except for 77 pages, which were published in F. Kramer's edition of al-Wāqidī's *al-Maghāzī*, Calcutta, 1856. Contemporaneous with Ibn Ishāq was **Mu'ammār b. Rāshid**'s (d. 153/770) *Maghāzī* edited by Nabia Abbot and published from a manuscript copy at the University of Chicago (other copies are found in Istanbul, Rabat, and Damascus). Post-Ibn Ishāq works include **Abū Ishāq al-Fazārī**'s (d.186/802) *Sīra*. A manuscript of it in two parts was found in al-Qarūwīn, Morocco, and published as *Kitāb al-sīra*, ed. Fārūq Ḥamāda, 1st edition (Beirut: Mu'assa al-Risala, 1987;); **Abū Ḥudhayfa Ishāq**'s (d.207/822) *Sīra* of which only parts IV and V have survived and are in the al-Zahiriyya Library (Collection 71, 150-63). For more on the origins and development of the *sīra*/*maghāzī* genre, see Aḥmad al-Chalbī, *Kashf al-ẓunūn* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1941), vol. 2, 1012-13; Josef Horovitz, *The Earliest Biographies of the Prophet and Their Authors*, ed. Lawrence I. Conrad (NJ: Dārwin Press, 2002); an annotated Arabic translation of Horovitz's work is published as *al-Maghāzī al-ūlā wa mu'allifūhā*, 1st edition, trans. Ḥussayn Naṣṣār (Cairo: Jāmi'a Fu'ād al-Ūlā, 1949); Gregor Scholeler, "Mūsā b. 'Uqba's (misprinted Uqbas) *Maghāzī* in *The Biography of Muḥammad: The Issue of the Sources*, ed. Harald Motzki (Boston: Brill, 2000); Aḥmad, *al-Sīra al-nabawiyya fī ḍaw' al-maṣādir al-aṣliyya* (Riyadh: Markaz al-Malak Fayṣal, 1992), 1st edition, 20-29; Qadi Shuhba, *Āḥādīth muntakhaba min maghāzī mūsā b. 'uqba* (Beirut: Mu'assa al-Rayyan, 1991), 1st edition, 21-24; 'Abdul 'Azīz al-Dawrī, *Nash'ata 'ilm al-ta'rīkh 'inda al-'arab* (UAE: Markaz Zayyād, 2000), 22-38; 'Abdul 'Alīm 'Abdur Raḥmān Khidr, *al-Muslimūn wa kitābatul-ta'rīkh* (VA: IIIT, 1995), 79-98. The complete list of the *sīra*/*maghāzī*/*ta'rīkh* literature consulted for this work is given in the bibliography at the end of this dissertation.

authorities”), or suspected of *tashayyu* (i.e., being a Shiite) as well as a Qadarite³⁰, ranking him among the authorities who transmitted one or two *ḥadīth* reports but may not have heard them directly from the Prophet’s Companions. As for his reports on *asbāb al-nuzūl* (“occasions of revelations”), which provide historical context to some passages of the Qur’an, they were evaluated as “less reliable” than those of Mūsā b. ‘Aqba (d. 141/758)³¹ but “more reliable” than al-Wāqidī’s (d. 207/822),³² the author of the well-known *Kitāb al-maghāzī*.³³ In the field of *ḥadīth* studies, even after a thorough investigation of the *isnād* or *sanad* (“chain of authorities”) of a *ḥadīth* and grading it *ṣaḥīḥ* (“sound”), *ḥasan* (“good”), or *ḍa‘īf* (“weak”), issues of reliability and accuracy do not end there. Muslim legal theorists (*uṣūliyyūn*) have entered the discourse, proposing their own rational criteria for accepting and rejecting *āḥādīth* as ‘sound’ or ‘weak.’ Here is al-Ghazzālī again:

Every report (*khabar*, i.e., *ḥadīth*) is not readily ‘acceptable’ (*maqbul*). By ‘acceptability’ (*qubul*), we do not mean *taṣdīq* (“confirmation”; i.e., to confirm that the narrator spoke the truth) and by ‘rejection’ (*radd*), we do not mean *takdhīb* (“falsification”; i.e., to accuse the narrator of lying). Why should we accept the statement of a trustworthy narrator (*‘adl*) who might have lied or erred but not accept that of a sinner (*fāsiq*) who might have told the truth?! Rather, by ‘acceptability’ we mean nothing more than the religious obligation of acting on the report and by ‘rejection,’ the absence of any non-religious to act on it. Therefore, we apply ‘acceptability’ only to the narration of a

³⁰ A Qadarite was an adherent of the school of *qadariyya*—the so-called Magians of the *Umma*—who held that the human will is completely free, denying predestination (*qadr*), which states that an individual’s acts and destiny are ultimately willed or decreed by God; or that humankind, along with God, create acts. That is the standard Sunnite narrative of the Qadarites, but the term was first applied to those who believed in God’s *qadar* or determination of events. See Ibn Abī al-‘Izz, *Sharḥ al-‘aqida al-ṭahāwī*, ed. al-Albānī (Beirut: al-Maktaba al-Islāmī, 1984), 2nd edition, 437-38; W. Montgomery Watt, *Islamic Philosophy and Theology: An Extended Survey* (Edinburgh: Edinburgh University Press, 1985), 25-31.

³¹ Refer to the earlier footnote (fn 29) in which Mūsā b. ‘Uqba is mentioned.

³² Al-Wāqidī was considered *matrūk* (“forsaken”) by al-Bukhārī; a “liar” (*kadhīb*) by Aḥmad, and *ḍa‘īf* by Yaḥyā b. Mu‘īn. To his student Ibn Sa’d, al-Wāqidī was regarded as a scholar of *maghāzī*, *sīra*, *futūḥ*, and other disciplines. See Ibn Hajar, *Taqrīb al-tahdhīb*, ed. Abū al-Ashbāl (Riyadh: Dār al-‘Āṣa), vol. 1, 882; Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 7 (no. 2274), 603-04.

³³ Ibn Hajar, *Taqrīb*, 825; Ibn Hajar, *al-‘Ujāb fī bayān al-asbāb* (Riyadh: Dār Ibn al-Jawzī, 1997), 1st edition, vol. 1, 220-21.

Muslim, adult, trustworthy, having sound memory, and transmitting the report as a lone authority or together with other authorities.³⁴

Furthermore, he outlined a set of logical criteria for rejecting a report (in spite of its apparent *reliability* or *acceptability*), including if i) it contradicts what the intellect and five objective senses know to be false; ii) it opposes what the majority of people know is true or false; iii) it is vocal on a thing on which experts in its field are silent (that is to say, had the report is true, they would have broken their silence on it); and iv) it is not known to be either true or false, in which case suspended judgment is reserved on both its *reliability* and *accuracy*.³⁵ Al-Ghazzālī is followed in that by most *uṣūliyyūn*. Suffice it to say that the MHT is not a monolithic piety discourse on Islam—a fact often overlooked by many writers on Muslim sources or Islamic origins; rather, it is a vast, centuries-old, diverse, nuanced corpus with in-built antibodies of critical scholarship. Indeed, this analytical attitude toward the MHT was actually the mediating or conciliatory outlook on Islamic Studies or the study of Islam generally in the west during the nineteenth century, as Motzki noted, “There were contradictions in the [Muslim] sources, traces of legends, exaggerations, and many kinds of biases, but they [Orientalists] were nonetheless convinced that a critical mind would be able to reconstruct what really happened.”³⁶ In sum, this dissertation makes absolutely no claim to *psychological*, far less *epistemic*, certainty; rather, it is written as a *probabilistic* (hopefully plausible) discourse on the early Islamic State.

³⁴ Al-Ghazzālī, *al-Mustaṣfā*, 123.

³⁵ Al-Ghazzālī also included *revelatory* criteria: a particular *ḥadīth* report should not contradict Qur’anic *āyāt* of apparent meanings (since God’s word is absolute proof) or a *ḥadīth mutawātir* (i.e., transmitted by multiple narrators, by which it is inconceivable that they could have collaborated to fabricate it). See *al-Mustaṣfā*, 113-15.

³⁶ *The Biography of Muḥammad: The Issue of the Sources*, ed. Harald Motzki (Boston: Brill, 2000), xi.

Lastly, the remainder of this work will demonstrate that the nascent Muslim polity did retain some pre-Islamic socio-political conventions (e.g. *jiwār*, *lex talionis*, wergild), did anticipate a few modern concepts (constitutionalism, international law, social contract, territorial sovereignty), and did possess several distinctly Islamic characteristics (a new category of political authority, the peculiarity of its divine law or *Sharia*, a monotheistic political ideology that stemmed from the Qur'an, a prototype welfare state, etc).³⁷ In fact, a plethora of cultural factors—ecological, economic, political, religious, and social, Muḥammad's charismatic leadership, and the religious faith of his community—contributed to Islam's phenomenal rise and domination in Arabia and beyond.

³⁷ For a similar discussion on the characteristics of the early Islamic State, albeit based on a political philosophy perspective, see Eltigani A. Hamid, *The Qur'an and Politics: A Study of the Origins of Political Thought in the Makkan Qur'an*, trans. A. Lu'lu'a (VA: IIIT, 2004), 79-85.

Makka: The Islamic Call

Introduction

The Islamic Call in Makka is examined in three segments. The first part briefly surveys the physical setting of Arabia where Islam first emerged; the regional political system at the time; the inhabitation of Arabia, including origins of the Arab populace and Muḥammad's lineage; the kinship structure of Arabian society; pre-Islamic religions; the identities of the Sabeans, Ḥunafā' (sing. *ḥanīf*); the nature of order and authority in Arabia; and the Qur'anic notion of *Jāhiliyya*, that is, the cultural period in Arabia prior to Islam. The second part examines constituent elements of Muḥammad's Islamic Call in Makka; overt and covert attempts by the pagan Quraysh to suppress it; the efforts of Muslims to resist religious persecution; and the political implications of three major Qur'anic themes—monotheism, prophethood, and the hereafter. The third part treats the Qur'anic paradigm of divine legislative authority; how the Islamic Call systematically undermined the status quo in Makka; and, finally, the reading of the Qur'an as political text in which is investigated its concept of divine sovereignty as political doctrine and Islam as a revolutionary religio-political ideology.

Part I

a. Arabia: The Physical Setting

Islam manifested in the Arabian Peninsula (Ar. *shibh al-jazīra al-'arabiyya* or *jazīra al-'arab*) toward the close of the sixth century CE against the backdrop of intense rivalry between the Byzantine and Sasanid Empires over political control of western Asia. The largest of its kind in the world, the Peninsula covers an area of 1.25 million sq mil/3.24 million km², bordering the so-called Fertile Crescent (Mesopotamia, Syria, and

Palestine) to the north, the Arabian/Persian Gulf to the east, the Indian Ocean to the south, and the Red Sea to the west.¹ Except for some elevations in the west, most of its lands are flat deserts, level tracts, and wadis. Fertile lands are found close to oases and are irrigated by infrequent rainwater, which is trapped in *shirāj* (sing. *sharj*, a place where water flows from a stony tract to a softer, plain tract).² The Peninsula has a generally hyper-arid climate and witnesses two yearly seasons of summer and winter. Ptolemy (d. 168 CE) divided it into *Arabia Petraea*, *Arabia Felix*, and *Arabia Deserta*. Traditionally, Arabs have partitioned it into five main regions: ‘Arūd, Ḥijāz³, Najd (the “Heart of Arabia”), Tihāma, and Yemen.⁴ The Peninsula is also known by its desert types like *al-Ḥirār* (blackish volcanic rock), *al-Dahnā’* (reddish sand deserts), and *Nufūd* (deserts of shifting white or red sand dunes of varying elevations).⁵

b. Regional Political Landscape

In the seventh century CE, provinces in the north, east, and south of Arabia had become contested sites of rivalry between the Byzantine Empire (the East Roman

¹ Jawād ‘Alī, *al-Mufaṣṣal fī ta’rīkhil-‘arabī qablal-islām* (Baghdad: University of Baghdad, 1993), 3rd edition, vol. 1, 139-44; and Bernard Lewis, *The Arabs in History* (NY: Oxford University Press, 1993), 25-27.

² See Edward W. Lane, *Arabic-English Lexicon* (Beirut: Librairie Du Liban, 1968), 1529.

³ The Ḥijāz figures prominently in early Islamic history but its exact area has been a matter of disagreement. Arabists have sought to estimate it in terms of miles (approx. 37,500 sq mil/97,125 km², which separates Najd from Tihāma); or identify it by geographical landmarks (the basaltic tracts of Shawrān, Laylā, Wāqīm, al-Nār, including the dwelling of Banī Salīm up to al-Madīna); or situate it within the outermost abodes (*duwar*; sing. *dār*) of al-Madīna, Khaybar, Fadak, Dhul-Marwa, Bazyī, Ashja‘, Muzayna, Juḥayna, Julla Salīm, Hilāl, Zahr Ḥarra Laylā, Shaghb, and Badā. See Thomas Hughes, *Dictionary of Islam* (reprinted—New Delhi: Munshiram Manoharlal Publishers Pvt. Ltd., 1993), 174; al-Baghdādī, *Mu‘jam al-buldān* (Beirut: Dār Ṣādir, 1977), 218-22; al-Alūsī, *Bulūgh al-‘arab fī ma‘rifati aḥwālil-‘arab* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1896), vol. 1, 187-88.

⁴ Al-Hamdānī, *Ṣiḥḥ jazīra al-‘arab* (Sanaa: Maktaba al-Irshād, 1990), 1st edition, 89, 333; al-Hamdānī, *Mukhtaṣar kitāb al-buldān* (Beirut: Dār Ṣādir, 1884), 336-37; al-Alūsī, *Bulūgh al-‘arab*, 187; ‘Alī, *al-Mufaṣṣal*, vol. 1, 166.

⁵ ‘Alī Akbar Fayyād, *Ta’rīkh jazīra al-‘arab*, trans. ‘Abdul Wahhāb ‘Ulūb (Cairo: Cairo University, 1993), 8-9; ‘Alī, *al-Mufaṣṣal*, vol. 1, 145-53; Hughes, *Dictionary of Islam*, 17; Philip K. Hitti, *History of the Arabs: From the Earliest Times to the Present* (London: Macmillan and Co Ltd, 1961), 7th edition, 14-20.

Empire) and the Sasanid Empire, except for the Ḥijāz in the west, which somehow fell outside the imperialist designs of Constantinople and Ctesiphon. Intercultural exchanges among them were not uncommon to the region, for the great powers had deep economic, political, military, religious, and social ties with Arabs.⁶ The etymology of “Arab” is ambiguous. Contending theories are that (a) ‘*arab* and ‘*arabī* (pl. ‘*arāb*) mean “deserts,” (b) “nomads” (*al-badw*), (c) is named after Ya‘rab b. Qaḥṭān, an early ancestor, or (d) “eloquence,” and so forth. Ibn Taymiyya (d. 728/1327) went so far as to claim that “Arab” originally referred to three groups: i) those whose language was originally Arabic, ii) descendants of Arabs, and iii) those whose dwellings were in the Arabian Peninsula.⁷ Two distinct cultural modes of existence defined Arabs: nomadic or Bedouin and sedentary or settled, although the demarcation has not always been clear.⁸ Known to Greeks and Latins or Romans as ‘Saracens,’⁹ the Bedouins used to frequently raid Byzantine and Persian frontier domains and retreat with impunity, when they did not find fertile areas to forage in Arabia proper; thus, they posed a greater challenge to the embattled empires than the settled Arabs. Although the Bedouin swift strikes lacked the necessary large-scale military organization and strength to significantly threaten the imperial political systems, they did exact a nagging toll in blood and treasure. In effect, Byzantine and Persian forces proved futile in ending Bedouin forays because of

⁶ See al-Alūsī, *Bulūgh al-‘arab*, 16-19; Ibrāhīm Ḥarakāt, *al-Siyāsa wal-mujtama‘ fī ‘aṣṣril-nabawī* (Morocco: Dār al-Afāq al-Jadīda, 1989), 21-22; Hitti, *History of the Arabs*, 41-43.

⁷ Ibn Taymiyya, *Iqtīdā’ al-ṣīratil-mustaqīm*, ed. Nāṣir A. al-‘Aql (Riyadh: Maktaba al-Rushd, 1994), 4th edition, vol. 1, 406-07.

⁸ Hitti, *History of the Arabs*, 23.

⁹ Arabs were referred to in Graeco-Roman sources by various names, such as *Arabes*, *Saraceni*/ *Saraceni*, *Ishmaelite*, and *Hagare-noui/Hagareni*. According to Shahid, *saraceni* may be etymologically and semantically related to *scenae*, “tent-dwellers.” See Irfan Shahid, *Rome and the Arabs: A Prolegomenon to the Study of Byzantium and the Arabs* (Wash., DC: Dumbarton Oaks, 1984), 122.

their unfamiliarity with the nomads' desert hideouts, their preoccupation with war priorities, and their limited resources of arms or communication at their disposal.¹⁰ Consequently, the Greek-speaking Byzantines and Persian-speaking Sasanids resorted to a 'carrot-and-stick' approach to manage the desert Arabs' incursions. On the one hand, the empires sought to appease powerful Arab chieftains with money, treaties, military alliances, and political titles and symbols, such as kingships and crowns, which impacted Arab loyalty, pitting nomads against sedentary tribes and nomads and sedentary tribes against one another. On the other hand, they threatened Arab villages, towns, and cities with either robust military reprisals or the economic retaliation of heavy tribute.¹¹ Economically, the imperial policy of appeasement was also aimed at protecting the flow of foreign goods from Africa, China, and India, and Turkmenistan, via Yemen and Arabia, to the empires' markets; at the same time, appeasement flirted with the dangers of Arab resistance and treachery. Several buffer or vassal Arab polities were established along the frontiers of the rivalrous empires; indeed, since the third century CE, the Byzantine Empire had fortified the *Strata Diocletiana* ("The Diocletian Road") with forts and outposts at every 20-Roman mile (29.6 km) interval. Thus, Arabs and their lands had become strategic human and material assets in a shaky regional political system of checks and balances on imperial expansionist tendencies.

¹⁰ Watt, *Muhammad: the Prophet and Statesman*, 11.

¹¹ 'Alī, *al-Mufaṣṣal*, vol. 2, 629-30.

Byzantine regional power was projected in Abyssinia, Egypt, parts of northern Iraq, and *Arabia Petraea* proper, including the Arab Ghassanid¹² kingdom, which extended over much of Syria, Mount Hermon, Maʿān, Jordan, Palestine, the western Syrian Desert, and Bostra (Ar. Buṣrā)—a major destination of Arab trade caravans that were heavily taxed—extending its influence into southern Arabia via the Azdite tribes. The Ghassanids did not exercise independent sovereignty but was a buffer state or protectorate of the Byzantine Empire. Another Arab vassal state, the pre-Islamic Kindite kingdom, had ruled Ḥaḍramawt in Central Arabia, operating within the sphere of Ḥimyarite influence stemming from Yemen. Appointed by the Himyarite king Ḥasan b. Tubbaʿ (ca. 480 CE), Ḥujr (Ākil al-Murār), head of the Kindite dynasty, had sought to unite the tribes of Central Arabia and expand his influence in North Arabia. Kindite regional influence declined ca. 529 CE in the wake of the Lakhmid al-Mundhir III's invasion of al-Ḥīra, which routed Ḥujr's son al-Ḥārith from power.

Not to be outdone, the Sasanid Empire conducted its own containment policy vis-à-vis Byzantines and Arabs, taking additional military measures to protect its sea trade as well as building a series of trenches in its frontier territories to deter outside foreign attacks. Sassanid regional power was principally projected in southern Iraq and northern Arabia via al-Ḥīra, which was situated between the Euphrates and Arabian

¹² Ar. *ālu ghassān*, *ālu jafna*, or *al-ghassāna*. This Arab group settled in pre-Islamic Syria with the permission of the Byzantine ruler (possibly Anastasius I, d. 518) on condition that they pay tribute. He bestowed their chief with kingship. Semi-autonomous, the Ghassanids became a military ally of the Byzantines and embraced Monophysite Christianity. They protected the Empire's trade routes against Bedouin raids, provided troops for its army, and formed the first line of defense against their cultural rivals the Arab Lakhmid tribe of al-Ḥīra who were allied with Persia. Muslim historians differ on whether Ghassanid rulers were the first Arab kings or phylarchs in Syria, as they differ on the name of the first ruler of the Ghassanid dynasty. The Ghassanids entered into the fold of Islam after their defeat in the Battle of al-Yarmūk, 12/634, during the reign of the caliph ʿUmar b. al-Khaṭṭāb.

Desert and was ruled over by the nominal Arab Lakhmid dynasty. Al-Ḥīra was first founded by Bakht Naṣr and later by ‘Amr b. ‘Adī b. Naṣr al-Lakhmī, a descendant of ‘Amr b. ‘Āmir, who had migrated from Yemen after the Saba’ Flood *ca.* second century CE. It became a protectorate of Sassanid Persia in the third century CE under Sābūr I (Shapur, r. 241-72). The Lakhmid dynasty produced about 20 kings and lasted approximately 423 years until it fell to Islam.¹³ In the third century CE, Aradshir I (d. 241), founder of the Sassanid Empire, subjugated both al-Anbār¹⁴ and al-Ḥīra, installing Jadhīma al-Waḍḍāḥ as phylarch and supporting him with Sassanid troops to oversee Persia’s defenses in its western frontiers. The Sassanid grip in al-Ḥīra was not loosened until *ca.* 624 CE¹⁵, during the Battle of Dhū Qār after Chosroes II (d. 628) killed the Lakhmid king al-Nu‘mān b. al-Mundhir, provoking a battle between Lakhmid and Persian forces.¹⁶ East of the Ḥijāz, Sassanid sovereignty dominated the Arab Kindite kingdom of Yamāma,¹⁷ as it did in the south (including southeast and southwest) among the settled Arab populations of Bahrain, Oman, and Ḥaḍramawt. As for Yemen proper, Sassanid dominance did not extend there until the sixth century CE. Around 537 or shortly thereafter, Abraha al-Ashram challenged Aryāṭ to a duel over the rule of Yemen

¹³ Cf Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 26-35.

¹⁴ An Arab city of Iraq, east of the Euphrates, al-Anbār was roughly 10 *farāsik* (sing. *farsakh*) (=55 km or 34 miles) away from Baghdad. See al-Alūsī, *Bulūgh al-‘arab*, 217.

¹⁵ Conflicting dates are given in the Muslim Historical Tradition (MHT). Reports are that it occurred in 610, while the Prophet was still in Makka; or after the Hijra; or 4 months after the Battle of Badr in 2/624; see al-Mas‘ūdī, *Murūj al-dhahab wa ma‘ādinil-jawhar*, ed. Abdul-Ḥamīd (Beirut: Dār al-Fikr, 1973), vol. 1, 282.

¹⁶ Al-Baghdādī, *Mu‘jam al-buldān* (Beirut: Dār Sader, 1977), vol. 2, 328-31; al-Mas‘ūdī, *Murūj al-dhahab*, vol. 1, 282.

¹⁷ It was a province situated about 300 degrees (*dārajāt*; sing. *dārāja*) east of the Ḥijāz or 16 *marḥala* (= 16-day journey) to Basra and Kufa and was more abundant than the Ḥijāz in palm groves and water. See Hamdānī, *Ṣifa al-jazīratil-‘arab*, 81; al-Alūsī, *Bulūgh al-‘arab*, 200. Kindite Arab ancestry went back to the Qaḥṭān clan at Saba’. See ‘Alī, *al-Mufaṣṣal*, vol. 3, 315.

and defeated him, becoming the second Abyssinian Christian viceroy.¹⁸ After Abraha's death ca. 575, his sons Yaksūm and Masrūq consecutively succeeded him. A Persian-backed Arab rebellion later toppled Masrūq's government, effectively ending about 72 years of Abyssinian Monophysite rule. Subsequently, the Himyarite (or Homorite) dynasty¹⁹ was restored in Yemen, albeit nominally, for Ctephon assumed direct administration, appointing a total of 6 Sassanid viceroys in provinces such as Sanaa and its environs, whereas other provinces became autonomous polities under various Yemenite tribal chiefs, such as Ḥaḍar and Barr who, in their own right, called themselves kings. In ca. 605, Chosroes II appointed Bādhān, the sixth and last Persian viceroy in Yemen, who would later convert to Islam upon the Prophet's invitation.

In sum, at the dawn of Islam, the political landscape outside the wider Ḥijāz area laid under the shade of great powers' rivalry, sowing a period of general societal "decline and deterioration" in the region.²⁰ Compounded by the permanent status quo

¹⁸ It is related that a Christian named Daws Dhū Tha'labān (from Saba' or Najrān), who had survived the Judaized king Dhul-Nuwās' slaughter of his people—Companions of the Ditches (*aṣḥāb al-ukhdūd*, as referred to in the Qur'an {85:1-8})—sought the Byzantine Emperor's help against the Himyarite king. The Emperor directed the king of Abyssinia to aid Daws' struggle. Led by two generals Aryāt and Abraha b. al-Ashram, about 70,000 Abyssinian troops landed in Yemen ca. 523 CE and ousted Dhul-Nuwās from power. Aryāt became the first Abyssinian Monophysite viceroy in Yemen but was later challenged by his general Abraha who gained notoriety in the MHT for his attempt to destroy the Ka'ba in Makka. See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1 (Beirut: Dār al-Kitāb al-'Arabī, 1990), 3rd edition, 52-58; al-Suhaylī, *al-Rawḍ al-unf* (Beirut: Dār al-Kutub al-'Ilmiyya), 1st edition, vol. 1, 98-110; al-Ṭabarī, *al-Ta'rīkh* (Cairo: Dār al-Ma'ārif, 1967), 2nd edition, vol. 2, 123-30; Ibn Kathīr, *al-Bidāya wal-nihāya* (Riyadh: International Ideas Home, 2004), vol. 1, 281-82.

¹⁹ A Himyarite named Sayf b. Dhī Yazīn (nicknamed Abū Marra) had complained to the Byzantine Emperor about the oppressive Abyssinian rule in Yemen but failed to convince him to support regime change. Sayf then met with al-Nu'man b. al-Mundhir, Persia's viceroy in al-Hira and surrounding areas, who brought him before Chosroes. Securing the aid of Sasanid mercenaries led by the aging commander Wahraz and Himyarite tribes, Sayf managed to bring Abyssinian Christian rule to an end in Yemen.

²⁰ Lewis, *The Arabs in History*, 33.

of war between Constantinople and Ctesiphon,²¹ the regional political system faced formidable challenges in the forms of imperial extension of troops in frontier zones, depleting treasuries to finance constant military confrontations, sectarian tensions among religious groups, onerous taxes, impoverished masses, diseases, and political instability provoked by serial palace coups, especially in Persia. The following is a snapshot of the wretched social conditions in the Greek and Persian Empires:

In the west, as in the east, the condition of the masses was so miserable as to defy description. They possessed no civil rights or political privileges. These were the monopoly of the rich and powerful, or the sacerdotal classes. The law was not the same for the weak and the strong, the rich and the poor, the great and the lowly. In Sassanid Persia, the priests and the landed proprietors, the *dihkhāns*, enjoyed all power and influence and the wealth of the country was centered in their hands. The peasantry and the poorer classes generally were ground to the earth under a lawless despotism. In the Byzantine Empire, the clergy and the great magnates, courtesans, and other nameless ministrants to the vices of Caesar and proconsul, were the happy possessors of wealth, influence, and power. The people groveled in the most abject misery.²²

As for the Peninsula as a whole, it was devoid of a unified political system: the polities of nomadic and settled Arabs (both pagan and non-pagan) represented separate political cultures strained by tribal warfare and internecine conflicts. Into this conflictual political culture in Arabia and the wider region, Muḥammad would introduce Islam as a new political dynamic with revolutionary consequences.

c. Pre-Islamic Arab society: A Prophet is Born

Several theories in the west have been advanced to explain the origins of Arabs in the Peninsula, tracing them back to Africa or Mesopotamia.²³ Arabs themselves, however, looked back at their habitation of the Peninsula as having occurred in three

²¹ See Irfan Shahid, *Byzantium and the Arabs in the Sixth Century* (Wash., DC: Dumbarton Oaks, 1995), vol. 1, Part 1, xxv.

²² Ameer 'Alī, *The Spirit of Islam* (London: Christophers, 1946), 268-69.

²³ Hitti, *History of the Arabs*, 10.

episodic waves:²⁴ *al-‘Arab al-Bā’ida*, *al-‘Arab al-‘Āriba*, and *al-‘Arab al-Musta‘raba* who were agnates sharing a common ancestor in Shem through the lineages of ‘Adnān and Qaḥṭān. Here are their ethnoprofiles:

1. *Al-Bā’ida* (“extinct Arabs”) included the communities of ‘Ād,²⁵ Thamūd,²⁶ Jadīs, and Ṭasm.²⁷ The Qur’an mentions the stories of Ād and Thamūd,²⁸ to whom were sent the prophets Hūd and Šāliḥ²⁹ respectively, and their eventual destruction by divine wrath due to their rejection of God’s Sovereignty and their own iniquities.³⁰ As for Jadīs and Ṭasm, these communities inhabited parts of the Ḥijāz, between Makka and Madīna, and much of Yemen. They were both ruled over by a single government. Ṭasm later integrated with Jadīs in al-Yamāma after a prolonged series of wars. Also counted in this group were the tribes of

²⁴ While some Arabists and historians (Perceval, ‘Alī, Fayyād *et al*) lumped *al-Bā’ida* and *al-‘Āriba* together as one group, others (Ibn Khaldūn, Alūsī, *et al*) further divided them into four groups: i) *al-‘Āriba*, ii) *al-Musta‘raba*, iii) descendants of Quḍā‘a, Qaḥṭān, ‘Adnān, Rabī‘a, and Muḍar, and iv) *al-Musta‘jama*. The popular classification, however, which is held by the majority, is that the Arabs belonged to three main groups (*al-Bā’ida*, *al-‘Āriba*, and *al-Musta‘raba*) based on their historical appearances in Arabia, which is followed in this chapter.

²⁵ This polity was named after ‘Ād, a descendant of Noah through Iram, son of Sām (Shem). It was situated at al-Aḥqāf, as mentioned in the Qur’an (46:21)—“*And remember that brother [Hūd] of [the tribe of] ‘Ād—how, seeing that [other] warnings had already come and gone within his own knowledge as well as in times beyond his ken, he warned his people [who lived] among those sand-dunes (al-aḥqāf): ‘Worship none but God! Verily, I fear lest suffering befall you on an awesome day!’*”—which extended from the shores of Yemen to Oman, Ḥaḍramawt, and al-Shiḥr. Muslim historians write about the existence of two ‘Āds: the first is the community at *al-Aḥqāf* and the second were survivors of the destruction who fled to Makka and formed a community there. See al-Ṭabarī, *Jāmi‘ul bayān ‘an ta’wīl āyi-l qur’ān*, ed. ‘Abdulla b. ‘Abdul Muḥsin al-Turkī (Cairo: Dār Hajar, 2001), 1st edition, vol. 10, 268-79; Ibn Kathīr, *al-Bidāya wal-nihāya*, 31-33.

²⁶ Thamūd was situated at al-Ḥajar between the Ḥijāz and Syria. See Ibn Kathīr, *al-Bidāya wal-nihāya*, 32.

²⁷ Ād, Thamūd, Jadīs, and Ṭasm were originally descendants of Noah through Sam, according to Ibn Ishāq, *al-Sira al-nabawiyya* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2004), 1st edition, vol. 1, 18-19.

²⁸ For ‘Ād, see Q 7:65, 74; 11:50, 59-60; 26:123; 38:12; 41:15; 46:21; 50:13; 51:41; 53:50; 54:18; 69:6; 89:6. For Thamūd, see Q 7:73; 11:61, 68, 95; 17:59; 26:141; 27:45; 38:13; 41:17; 50:12; 51:43; 53:51; 54:23; 69:5; 85:18; 89:9; 91:11. ‘Ād and Thamūd are mentioned together in Q 9:70; 14:9; 22:42; 25:38; 29:38; 40:31; 41:13; 69:4;

²⁹ Both of them were descendants of Noah through Shem and his son Iram, as given in the MHT.

³⁰ Q 11:59; 27:45

‘Abīl, al-Hamyas’, al-Amdād, al-Sālīfāt, Umīm, Jurhum I, Jāsim, Ḥaḍramawt, al-‘Amāliqa (Amalekites), including the Hamitic (from Ham, Noah’s son), Kushite colonies, and Aramean of Syria, Phoenicia, and elsewhere. Several of them flourished up to the early Common Era. Some historians gave the total number of Arab groups in this category as twelve, but perusal of the *ansāb* (genealogy) literature in the MHT suggests a higher number. One cannot be certain if a particular name refers to a progenitor or an entire tribe. In any case, the general belief is that *al-Bā’ida* perished or became absorbed into the next wave of Arabs; hence, the designation *al-Bā’ida*, “extinct” or “ancient” Arabs.

2. *Al-‘Āriba* (“pure” or “original Arabs”) were descendants of Qaḥṭān³¹ who is widely regarded as one of the two eponymous ancestors of the Arab people; the other was ‘Adnān. The Qaḥṭānites, headed by Qaḥṭān’s sons Jurhum II (who settled in Makka in proximity to the famous Zam Zam well) and Ya‘rub, formed two large tribal groups, consisting of smaller social units (33 or more). Jurhum II became king of the Ḥijāz and his brother Ya‘rub, king of Yemen.
3. *Al-Musta‘raba* (“naturalized Arabs”) comprised two main groups. The first was the *qabīla* of Arfakhshad Saba’ ‘Abdu Shams³² of Yemen. He had a number of

³¹ There are at least 9 different opinions held by Muslim genealogists and historians on Qaḥṭān as regards the names and exact number of his direct male ascestors. They also disagreed on Qaḥṭān’s identity—whether he was one and the same with Jokhtan (Heb. Yoktan; Ar. Yaqṭān or Qaḥṭān) mentioned in the Bible (Gen. 10:25; 1 Chr. 1:19) as the second of two sons of Eber or the son of Prophet Hūd; or neither of the two. According to Ibn Abdul Barr, “There is no disagreement among genealogists that the origins of all Arabs are from two sources: ‘Adnān and Qaḥṭān. From these two ancestral roots stem every Arab on earth—‘Adnānī (‘Adnānite) or Qaḥṭānī (Qaḥṭānite).” See Ibn ‘Abdul Barr, *al-Qaṣd wal-umam fil-ta’rīf bi’ansābil-‘arab wal-‘ajam* (Cairo: Maktaba al-Qudsī, 1931), 58.

³² He earned his nickname Saba’ because, it is said, of his many successful military exploits and taking of captives (*sabiya*).

sons, including Ḥimyar and Kihlān and from them sprung several Arab dynasties. They founded a thriving civilization at Saba' that lasted until the bursting of the Ma'rib dam (built ca. 750 BCE) and the great Flood of the Dam (*sayl al-'aram*)³³ ca. 542 CE. The second major group was the tribe of Ishmael. Abraham had brought his infant son Ishmael and his mother Hagar (Hājar) to barren Makka, trusting in divine providence.³⁴ Ishmael was raised there, practicing his father's monotheistic faith, assisting him in building the Ka'ba,³⁵ and contracting exogamous marriages with Jurhum II's tribe. Ishmael had 12 sons and one daughter, became king of Makka, and established a dynasty. The division of *al-Musta'raba* is manifold and, by some estimates, branched off into 160 or more tribes.³⁶

Muḥammad was born in Makka, in the Ḥijāz province of the Peninsula, on Monday, Rabī' al-Awwal 12,³⁷ ca. 570, the Year of the Elephant, by most accounts in the

³³ It is referred to in the Qur'an thus: "Indeed, in [the luxuriant beauty of] their homeland, the people of Sheba (Saba') had an evidence [of God's grace] two [vast expanses of] gardens, to the right and to the left, [calling out to them, as it were:] 'Eat of what your Sustainer has provided for you, and render thanks unto Him': a land most goodly, and a Sustainer much-forgiving! But they turned away [from Us], and so We let loose upon them a flood that overwhelmed the dams (*sayl al-'aram*), and changed their two [expanses of luxuriant] gardens into a couple of gardens yielding bitter fruit, and tamarisks, and some few [wild] lote-trees" (Q 34:15-16 {Asad}). See also Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 21.

³⁴ Q 14:37. See also al-Bukhārī (*ḥadīth* nos. 3364-65) in Ibn Hajar, *Fath al-bārī* (Riyadh: Dār Ṭayyiba, 2005), 1st edition, vol. 7, 655-58.

³⁵ Q 2:127.

³⁶ For more on the three Arab groups, see Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 1, 53-58; al-Ṭabarī, *Ta'rīkh*, vol. 2, 239-72; al-Balādhurī, *Ansāb al-ashraf*, ed. Muḥammad Ḥamīdullāh (Cairo: Dār al-Ma'rifa, 1959), vol. 1, 3-5; Ibn al-Athīr, *al-Kāmil fīl-ta'rīkh* (Riyadh: International Ideas Home), 191-99; Ibn 'Abdul Barr, *al-Qaṣd*, 13-14; Ibn Kathīr, *al-Bidāya wal-nihāya*, 274-77; al-Dhahabī, *al-Sīra al-nabawiyya*, ed. Ḥassāmuddin al-Qudṣī (Beirut: Dār al-Kutub al-'Ilmiyya, 1927), 1-5; al-Alūsī, *Bulūgh al-'arab*, 8-11; al-Qinawwajī, *Luqta al-'ajalān* (Constantinople edition, 1878), 109-15; *al-Mufaṣṣal*, vol. 1, 297-465; Ali, *Spirit of Islam*, lviii-lxiii; Hughes, *Dictionary of Islam*, 17-20; Hitti, *History of the Arabs*, 30-32.

³⁷ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 99-100; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 183; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 1, 81-83; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 278. Some reports suggest that his date of birth was a month, 40, or 50 days after the Year of the Elephant, during the middle of the

MHT.³⁸ His lineage is traced back to Ishmael through Kedar (Ar. Qīdar). The exact number and names of his forefathers, between Kedar and ‘Adnān, are not agreed upon by Muslim genealogists³⁹; however, from ‘Adnān down to his father ‘Abdullah, there is consensus of opinion on the existence of 21 ancestral members whose names are given as follows.⁴⁰

↓ Ibrāhīm (Abraham)
↓ Isma‘īl (Ishmael)

pilgrimage (*ayyām al-tashrīq*, thus placing it in Muḥarram (11th-13th), Ramaḍān 12, Rabī‘ al-Awwal 2, 4, or 8; that is, 40-41 years before his prophetic mission or almost 13 years before his emigration from Makka to Madīna, as in Ibn Sayyid al-Nās, *‘Uyūn al-athar fil-maghāzi wal-siyar*, eds. Muḥammad al-‘Id al-Khatrāwī and Muḥyī-ud Dīn Mastū (Beirut: Dār Ibn Kathir, n.d.), vol. 1, 79-81. According to al-Zarqānī, in his commentary on al-Qastalānī’s (d. 923/1517) *sīra* work, “The popular narrative is that [Muḥammad] was born on Monday, Rabī al-Awwal 12, according to Ibn Ishāq and others. That (it was) Rabī‘ al-Awwal, which is authentic, and not Muḥarram, Rajab, or Ramaḍān, or a similarly revered month is because he is not revered by time; rather time, like places, is revered because of him. Had he been born in one of those months, people would have believed that he was revered by it; therefore, Allah placed his birth in Rabī‘ al-Awwal for his care and honor in it.” See al-Zarqānī, *Sharḥ al-mawāhib* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1996), 1st edition, vol. 1, 75. The reports in Ḥadīth that confirm he was born on a Monday and in the Year of the Elephant are found in al-Ḥākim, *al-Mustadrak* (Cairo: Dār al-Ḥaramayn, 1997), 1st edition, vol. 2, 707-08: (*ḥadīth* nos. 4238-40; the first two—nos. 4238-39—are, according to al-Dhahabī, *ṣaḥīḥ* and the third *ḍa‘īf* because in its *isnād* is al-Ḥussayn b. Ḥumayd b. al-Rabī‘ ‘who is not followed’; i.e., untrustworthy); Aḥmad, *Musnad* (Riyadh: International Ideas Home, 1998), 233, 1299: (*ḥadīth* no. 2506 {1/277} - *ḍa‘īf*; no. 18050 {4/215} - *ḥasan*); al-Bayhaqī, *Dalā’il al-Sunna* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1988), 1st edition, vol. 1, 71-74; al-Ṭabarānī, *al-Mu‘jam al-kabīr*, ed. Ḥamdī A. al-Salafī (Cairo: Maktaba Ibn Taymiyya, 1976), 2nd edition, vol. 12, 237: (*ḥadīth* no. 12984 - *ḍa‘īf*). Al-Ḥaythamī commented on Ibn ‘Abbās’ *ḥadīth*, which is reported by Aḥmad (no. 2506), al-Bayhaqī, and al-Ṭabarānī, stating, “In its (*isnād*) is Ibn Luhay‘a who is ‘weak’ (*ḍa‘īf*), but the rest of authorities are trustworthy (*thiqāt*).” See al-Ḥaythamī, *Majma‘ al-zawā‘id*, ed. ‘Abdullah M. al-Dārūsh (Beirut: Dār al-Fikr, 1994), vol. 1, 463.

³⁸ The MHT tends to record Muḥammad’s birth as being in the “Year of the Elephant” (‘*ām al-fīl*), as we have seen, which is typical of Arab memory to recall dates by important events impressed upon the collective consciousness. Here it refers to the failed attempt by Abraha to raze the Ka‘ba and bring Makka and its environs under Byzantine and, indirectly, Christian dominion. He mobilized an army mounted on elephants, but they were destroyed before reaching Makka. The Qur’an ascribes his foiled plan as a divine miracle: “Seest thou not how thy Lord dealt with the Companions of the Elephant? Did He not make their treacherous plan go astray? And He sent against them Flights of Birds, Striking them with stones of baked clay. Then did He make them like an empty field of stalks and straw (of which the corn) has been eaten up” (Q 105:1-5; Pickthall). See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 111-15; al-Ṭabarī, *Ta’rīkh*, vol. 24, 627-45; Ibn Kathīr, *al-Bidāya wal-nihāya*, vol. 1, 282-85; al-Bayhaqī, *Dalā’il al-Sunna*, vol. 1, 115-22.

³⁹ Figures range from 7, 9, 15, to 40. See Ibn Abdul Barr, *al-Qaṣd*, 46-47.

⁴⁰ Ibn Sā’ib al-Kalbī, *Jamhara al-nasab* (Damascus: Dār al-Yaqza al-‘Arabiyya, 1939), 2nd edition, vol. 1, 1-18; Yāqūt al-Ḥamawī, *al-Muqtaḍab min kitābi jamhara al-nasab*, ed. Nājī Ḥasan (Beirut: al-Dār al-‘Arabi, 1987), 1st edition, 23-27; al-Balādhurī, *Ansāb al-ashraf*, 8-66; Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 1, 4-9.

↓ Qīdar (Kedar)
↓ **X** (to indicate the unknown number and names of forefathers between Kedar and 'Adnān)
↓ **'Adnān**
↓ Ma'add
↓ Nizār
↓ Muḍar
↓ Ilyās
↓ Mudrika
↓ Khuzayma
↓ Kināna
↓ Al-Naḍr
↓ Mālīk
↓ Fīhr (*progenitor of the Quraysh tribe*)
↓ Ghālib
↓ Lu'ayy
↓ Ka'ab
↓ Murra
↓ Kilāb
↓ Quṣayy
↓ 'Abd Manāf
↓ Hāshim
↓ 'Abdul Muṭṭalib
↓ 'Abdullah
↓ **Muḥammad**

d. Structure of Arabian society: the Kinship System

The tribe was the fundamental organizing principle in Arabian society and is a key factor in unlocking the dynamics of its political system. The Arabic language provides comparative descriptions for various sizes of social units that do not have exact English equivalents. That is perhaps because of the fact, as Hitti noted, "No people, other than the Arabians, have ever raised genealogy to the dignity of a

science.”⁴¹ According to the Father of Arab genealogy, Ibn al-Kalbī (d. ca. 204/819), the fission of tribal units was arranged in decreasing order from larger to smaller—*shu‘ūb* (sing. *sha‘b*), *qabā’il* (sing. *qabīla*; also *banūn/banū*), *‘amā’ir* (sing. *‘amāra*), *buṭūn* (sing. *baṭn*), and *afkhādh* (sing. *fakhidh*).⁴² This classification is alluded to in the Qur’an: “O mankind! We created you from a single (pair) of a male and a female, and made you into **shu‘ūb** and **qabā’il**, that ye may know each other. . . .”⁴³ In his exegesis (*tafsīr*) of the Qur’an, al-Zamakhārī (d. 538/1143) added a sixth category after *afkhādh*, namely, *faṣā’il* (sing. *faṣīla*), providing these examples: “Khuzayma is a *sha‘b*, Kanāna a *qabīla*, Quraysh an *‘amāra*, Quṣṣay a *baṭn*, Hāshim a *fakhidh*, and al-‘Abbās a *faṣīla*. *Shu‘ūb* are so called because tribes are ‘segmented’ or ‘divided into branches’ (*tasha‘abat*)”⁴⁴; that is, through the cultural process of fission. This segmentary lineage was further extended by some genealogy authorities to include *‘ashīra*,⁴⁵ which comes after *faṣā’il*; thenceforth, groups splinter into even smaller social units, consisting of 10 members or less and are usually designated by the collective nouns *raḥṭ* (or *rahaṭ*), *qawm*, *naḥar*, and the like.⁴⁶ In Islamic literature, *qabīla* or *banū* is frequently used as a generic term to designate a tribe or descendants of a single progenitor, such as *qabīlatu ismā’il* (“Ishmael’s tribe or descendants”) and *banū isra’il* (“the tribe or, literally, sons of Israel”)—a Qur’anic reference to the Tribes of Israel or Jews in general. Thus, the maximal social unit was *sh‘ab* or tribe, which became segmented into tribes of decreasing sizes. But it was the

⁴¹ Hitti, *History of the Arabs*, 28.

⁴² Lane, *Arabic-English Lexicon*, 1556.

⁴³ Q 49:13 (Y. ‘Alī).

⁴⁴ Al-Zamakhsharī, *al-Khashshāf* (Riyadh: Maktaba al-‘Abīkān, 1998), vol. 5, 585.

⁴⁵ Ibn Abdu-Barr, *al-Qaṣd*, 45.

⁴⁶ See *Lisān al-‘arab*, vol. 5, 3519.

family (*āl* or *usra*)—not the individual—that constituted the basic social unit of nomadic and sedentary Arab polities; hence, collective life was emphasized over individualism,⁴⁷ involving an aggregate approach to ownership of wealth (particularly among Bedouins), pride in lineage (*nasb*; pl., *ansāb*), collective decision making on societal affairs, and communal defense of person and property. This clannish pattern of group behavior was expressed as ‘*aṣabiyya*’⁴⁸, defining the cultural ethos of desert Arabs and town Arabs alike.

The patrilineal system of the typical Arab tribe (both nomadic and settled) was not egalitarian; rather, it was stratified, consisting of superior and inferior tribes based on nobility (*shurf* or *karāma*) or power (*shawka*) or both.⁴⁹ Hence, in such a cultural milieu, insulting or shaming the ‘other’ easily triggered internecine violence, far less committing infractions against persons and properties. As a result, tribal skirmishes were well remembered, rehearsed, and celebrated in poetry and oral tradition known as *ayyām al-‘arab* (“Days of the Arabs”), *al-ghazw* (“the Battle”), and *al-ḥurūb* (“the Wars”), which were later committed to writing.⁵⁰ Justice among Arabs was mediated principally through the quasi-legal institutions of *lex talionis* and wergild (*dīya*). Watt

⁴⁷ Hitti opined that *individualism* is a deeply ingrained Bedouin characteristic, which prevented the nomad from raising himself “to the dignity of a social being of the international type, much less to develop ideals of devotion to the common good beyond that which pertains to the tribe” (24). But we know from the ethnographic record that *individualism* is atypical of kinship systems and that group solidarity does not negate *individuality*, proving Hitti wrong.

⁴⁸ Ibn Khaldūn, *Muqadimma* (Cairo: Dār al-Fajr, 2004), 1st edition, 169-78; Hitti, *History of the Arabs*, 27.

⁴⁹ Indeed, Muḥammad himself seemed to recognize the importance of nobility in the social ranking of Arab society, as he is reported to have said, “*Verily, Allah has chosen Kināna from Ishmael’s progeny, Quraysh from Kināna, Banū Hāshim from Quraysh, and me from Banū Hāshim.*” See Muslim (*ḥadīth* no. 2276) in al-Nawawī, *al-Minhāj fī sharḥ ṣaḥīḥ muslim* (Riyadh: International Ideas Home, n.d.), 1413; Ibn Kathīr, *al-Bidāya wal-nihāya*, 295-97.

⁵⁰ For more on the Arab wars before Islam, see Ibn al-Athīr, *Ta’rīkh*, 141-89; Hitti, *History of the Arabs*, 88-90; ‘Alī, *al-Mufaṣṣal*, vol. 5, 333-468.

gave an insightful description of how these two cultural institutions worked to maintain the social equilibrium in Arabian society:

A distinctive feature of pre-Islamic tribal life was the maintenance of security by a high degree of social solidarity. The most familiar aspect of this is the *lex talionis* of 'an eye for an eye, a tooth for a tooth, and a life for a life'. . . .While it is primitive, however, it is neither barbaric nor immoral, for it is a primitive way of maintaining public security. In pre-Islamic Arabia there was no sense of a general duty to another man based on the fact that he was a fellow human being. In the abstract there was no fault or sin in killing a man you happened to meet in the desert. You might be restrained from killing him, however, by considerations linked with the system of security and the *lex talionis*; e.g. by the fact that he belonged to an allied tribe towards which your tribe had obligations, or by the fact that he belonged to a strong tribe which would be sure to exact full vengeance. In such ways the *lex talionis* succeeded in restraining wanton killing and injury among the nomads of Arabia. . . .⁵¹

But the *lex talionis* and wergild institutions were steadily exploited by the more powerful tribes who demanded more than equal rights in societal transactions.

Moreover, at the macro-level of Arabian society, a cultural paradigm shift had already occurred by the time of Muḥammad, distinguishing the North from the South—the culmination of centuries-long socio-economic processes:

Some two or three centuries before the coming of Islam (ca. third to sixth centuries AD [CE] *jāhili* Arabia had achieved linguistic unity, an impressive and lasting legacy. This unity coincided with the emergence, after centuries of southern domination, of the North as Arabia's center of political, economic and religious gravity. The North was an arc of commercial and religious towns joining north-western to north-eastern Arabia and curving through southern Syria and southern Iraq. It was in this arc that the North Arabic script and dialect developed and then dominated the Peninsula. . . .The South, *Arabia Felix*, well known to the classical world of Greece and Rome, was being superseded in pre-eminence by a northern *Arabia Ferox*, which was to develop its own traditions in a new cultural zone. The devastation of the imperial wars of the Near East reverberated throughout the Peninsula, especially during the sixth century. Cities of the northern arc like Mecca, Yathrib (later Medina) and Hira and regions like Bahrayn and Yamama in the north east benefited commercially from nearby wars, while an intensification of missionary activity by Christianity and Judaism first brought turmoil to the moribund South and then began to disturb the traditional modes of thought and life throughout the Peninsula. But the new *Arabia Ferox* of the northern arc was [an] altogether more turbulent, more militant and tribal region than the South had been. The towns were not only emporia of trade but often claimed for their territory a sanctity in the name of a local idol. *Arabia Ferox* was a region whose cultural traditions were largely of local inspiration. In this kind of environment great honor was paid to

⁵¹ Watt, *Islamic Political Thought*, 6.

the arts of war. Eloquence, on the other hand, was a gift of the gods, a cause of wonder and dread.⁵²

e. Pre-Islamic Religion in the Near East

In the Byzantine Empire, the dominant religion was the Eastern Orthodox Christian Church, which theologically acknowledged the Emperor as Jesus Christ's representative on earth. Several schisms, including Arianism, Nestorianism, and Monophysitism, were at loggerheads with the state religion. Through his doctrine of *Monothelism* (i.e., the belief that the divine and human natures of Christ were united under one will), Emperor Heraclius (d. 641) had attempted to reconcile these theological differences but to no avail. Among the Byzantine Arab dependencies, the Ghassanids adhered to the Syrian Monophysite Church. Founded by Jacob (d. 578), the bishop of Edessa, the Syrian Monophysite Church espoused that the divine and human nature in Christ were conjoined in a single "nature" (Gk, *physis*), which was impervious to change, confusion, or mixture of the two natures; or, expressed another way, it is the belief that Christ had one nature but two wills, one of which was divine and the other human.

In contrast, the Persian Empire's religious outlook remained predominantly Zoroastrian during the Sassanid period. The Sassanid's were generally tolerant of non-Zoroastrian religious communities, such as the adherents of Chaldeo-Magian rites, Mazdakhism, Manichaeism, Nestorianism, and Judaism, although from time to time they were persecuted by various emperors out of political expediency. As for the Arabs

⁵² Tarif Khalidi, *Arabic Historical Thought in the Classical Period* (Cambridge: Cambridge University Press, 1996), 1-2. Cf. Hitti, *History of the Arabs*, 91-96.

of al-Ḥīra, they had embraced Nestorianism. Apart from the Monophysite Ghassanids, Nestorian Lakhmids, and Judaized and Ḥanafite Arabs, Arabian religion on the whole was predominantly polytheistic.⁵³ Idolatry was largely an indigenous innovation, although some aspects of it had been imported into Arabia through the cultural process of *diffusion*; for example, during Khuzā'a's reign in pre-Islamic Makka, the idol Hubal was introduced via pagan Amelekites in Syria.⁵⁴ Other entities worshiped by pagan Arabs were the deities of Noah's community—Wadd, Suwā', Yaghūth, Ya'ūq, Nasr⁵⁵—at various places. Jews and Christians had a long and active presence in the Peninsula but did not succeed in converting Arabs en masse to either Judaism or Christianity, especially in Northern Arabia.

Alongside deep religious fervor was Arab pride in controlling sacred sites, which attracted homage to their gods and patrons from all over the Peninsula.⁵⁶ The Ka'ba (pl. *ka'bāt*) in the heart of Makka towered in size and prestige over places of worship, which included temples, shrines, houses, venerated stones, and the like. The Qur'an credits Abraham and his son Ishmael with building the Ka'ba—the first house of worship

⁵³ Research on pre-Islamic religion in Arabia, particularly among nomads, in western scholarship generated several theories on its origins, features, evolution: (i) that Arabs' gods were borrowed from more advanced civilizations, (ii) that Arabian religion represented a primitive form of Semitic religion, (iii) that it was a type of *fetishism*, the worship of stones and other sacred objects (iv) a type of *animism*, the proliferation of belief in spirits (i.e. *jinn*), (v) *manism*, a type of ancestor worship, (vi) *le sacré impersonnel*, the idea of a diffused impersonal force not necessarily a deity or object of worship, (vii) totemism, (viii) *astral triad*, involving Sun-Moon-Venus, and (ix) primordial *monotheism*. See Joseph Henniger, "Pre-Islamic Bedouin Religion" in *Studies on Islam*, trans. and ed. Merlin L. Swartz (NY: Oxford University Press, 1981), 6-7; Hitti, *History of the Arabs*, 97-102. The notions of fetishism, *le sacré impersonnel*, totemism, have been discredited because of misreading, lack of evidence, or speculation; however, evidence for the rest of them is found in the epigraphic record and MHT, as discussed in the text.

⁵⁴ See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 94-95; and Ibn Kathīr, *al-Bidāya wal-nihāya*, 289-90.

⁵⁵ Q 72:23 (Asad).

⁵⁶ For an extensive list of the names of these idols and places in Arabia where they were worshipped, including their patrons, see Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 42-43, 94-100; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 168-80.

consecrated to monotheism.⁵⁷ It has been rebuilt many times.⁵⁸ The ‘House of Allah,’ the Ka‘ba was the spiritual center for the popular annual observance of Abrahamic rites of pilgrimage, albeit in a degenerate form,⁵⁹ such as circumambulating its outer walls, drinking from the Zamzam well, running between the hills of Ṣafā and Marwa, entreaties and supplications, animal sacrifices to God, and so forth. This elaborate religious performance must have deeply impressed the pilgrim’s psyche, near and far. The evidence is that Makkan Ka‘ba rites were widely appropriated throughout the Peninsula, manifesting as *Dhūl-Khalaṣa* and the “Yeminite Ka‘ba” (*al-Ka‘ba al-yamaniyya*) to the peoples of Daws, Kath‘am, Bajīla, and Tabāla—in contrast to the Ka‘ba of Makka or “Northern Ka‘ba” (*al-Ka‘ba al-shamāliyya*); *Qils* of Ṭay’ and its environs; *Ri‘ām* of Ḥumayr; *Ruḍā’* of Banū Rabī‘a b. Ka‘b; and the *ka‘bāt* (sing. *Ka‘ba*) of Bakr and Taghlib, the sons of Wā’il and Iyād at Sandād. Apart from these holy *ka‘bāt* primarily associated

⁵⁷ Q 2: 125-27; 3:96. See also Aḥmad, *Musnad* (*ḥadīth* no. 21659), 1570; al-Bukhārī (*ḥadīth* no. 3366) in Ibn Hajar, *Fath al-bārī*, vol. 7, 671; Muslim (*ḥadīth* no. 520) in al-Nawawī, *al-Minhāj*, 402; Ibn Majā, *Sunan* (*ḥadīth* no. 753 - *ṣaḥīḥ*), ed. al-Albānī (Riyadh: Maktaba al-Ma‘ārif, 1996), 1st edition, 143-44.

⁵⁸ The MHT records the rebuilding of the Ka‘ba on many occasions during the post-Abrahamic period by Amakelites, Jurhumites, Quṣayy, and Quraysh respectively. At the age of 35, it is reported that Muḥammad participated in Quraysh’s reconstruction of the Ka‘ba. The Quraysh tribes nearly came to blows over which of them deserved the honor of erecting the Ka‘ba’s last pillar. They found a compromise in Muḥammad whom they all regarded as *al-Amīn* (“the Trustworthy”). He suggested that the pillar be placed in a cloth and that a representative of each tribe hold an end of it; in this way, bloodshed was averted, and all the tribes participated in finishing the cubical structure. Muḥammad had wished to restore it to its original foundation, resembling an arch shape and not a cube, saying to his wife, “*Had it not been for their recent disbelief, I would have rebuilt it on Abraham’s foundations.*” See al-Bukhārī (*ḥadīth* no. 1585) in Ibn Hajar, *Fath al-bārī*, vol. 4, 483-88; Muslim (*ḥadīth* no. 1333) in al-Nawawī, *al-Minhāj*, 835; Ibn al-Athīr, *Asad al-ghāba* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1994), 1st edition, vol. 1, 124-25; al-Albānī, *Ṣaḥīḥ al-sīra al-nabawiyya* (Riyadh: Maktaba al-Ma‘ārif, 2000), 1st edition, 39-47; al-Shāmī, *Subul al-hudā wa al-rashād fī sīra khayril-‘ibād*, ed. Muṣṭafā ‘Abdul Wāḥid (Cairo: Ministry of Endowments, 1997), vol. 1, 193 -94 (also vol. 2, 228-33).

⁵⁹ It is reported that the Quraysh used to perform these pilgrimage rites, making obeisance to the idols inside the Ka‘ba while circumambulating it in the nude and hyming praise of their private parts. See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 95-96; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 164-67; Aḥmad, *al-Sīra fī ḍaw’ maṣādir aṣliyya*, 69.

with pilgrimage rituals, another type of sacred houses called *ṭawāghīt* (sing. “*tāghūt*”)⁶⁰ were also venerated, since they housed some of the major deities of Arabs like *al-‘Uzzā*, which was administered by Quraysh, Banū Kināna, and Banū Shaybān of the tribe of Salīm at al-Nakhla; *al-Lāt*, by Thaqīf and Banū Mu‘tab at al-Ṭā‘if; and *al-Manāt*, administered by al-Aws and al-Khazraj at Yathrib.⁶¹ They are referred to in the Qur’an: “Have you, then, ever considered [what you are worshipping in] **al-Lāt** and **al-‘Uzzā** as well as [in] **al-Manāt**,⁶² the third and last [of this triad]? . . .”⁶³ Not only were these sacred sites places for the solemn spectacle of pilgrimage, but they also accommodated great economic activity and provided cultural media for the celebration of their poets’ outstanding eloquence, thereby illustrating the integration of the economic, political, religious, and social activities of Arabian society. In addition to tribal gods (*ālīha qabaliyya*), pagan Arabs also kept household gods (*ālīha ‘ā‘iliyya*). Before a male family member left on a journey, his last ritual would be to perfunctorily wipe his hands on the home idol, doing the same on his return. During his journey, wherever he alighted,

⁶⁰ After the Conquest of Makka in 9/630, the Prophet ordered the destruction of these pseudo-Ka‘ba temples.

⁶¹ See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 100-05; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 173-80.

⁶² According to al-Kalbī (d. ca. 206/821), the idol of *al-Manāh*, oldest of the three goddesses and under the care of Hudhayl and Khuzā‘a tribes, was situated between Makka and Madīna; it was ordered to be destroyed by the Prophet after the Conquest of Makka in 9/630, assigning the task to ‘Alī. *Al-Lāt*, a second goddess, was an idol sculpted from a large square rock and was situated at al-Ṭā‘if under the care of Banū ‘Attāb b. Mālik at Thaqīf who had constructed a building over it. The idol *al-Lāt* was originally a man who used to feed people that he met. When he died, people thought that he had entered into a rock where he continued to live. They made the rock into a shrine and venerated it. Over time, *al-Lāt* somehow morphed into a goddess. When Thaqīf converted to Islam, the Prophet sent al-Mughīra b. Shu‘ba to destroy it. The idol *al-‘Uzzā* was a stately palm tree. The third, youngest, and most important goddess of Quraysh, *al-‘Uzzā* was found in a wadi called Ḥurād and was under the care of Banū Marra b. Širma. Religious practices associated with these idols included pilgrimage, sacrificing animals and distributing the meat to visitors, and circumambulating them, praising their names imitative of the Makkan Ka‘ba rites. See al-Kalbī, *Kitāb al-aṣnām* (Cairo: Dār al-Kutub al-Miṣriyya, 1924), 2nd edition, 14-27; al-Tabarī, *Taḥṣīn*, vol. 23, 46-50; al-Suyūṭī, *al-Durr al-manthūr fī taḥṣīn al-ma‘thūr* (Cairo: Markaz Hajar, 2003), 1st edition, vol. 14, 30-33; Hitti, *History of the Arabs*, 98-99.

⁶³ Q 53:19 (Asad).

he would collect seven stones, four of which he treated as gods and the remaining three were used for a fireplace.⁶⁴

This cultural appropriation of Ka'ba rites reverberated throughout Arabia, from North to South, prompting certain political authorities to take notice. According to the MHT, when the Abyssinian Abraha al-Ashram came to power in Yemen, he built a magnificent church in Sanaa, naming it al-Qullays, ostensibly to gain favor with the Monophysite King of Abyssinia and establish it as an alternative pilgrimage site to the Ka'ba in Makka. He wrote to Negus (Ar. *al-najāshī*⁶⁵), stating, "I have built for thee, O King, a church (*kanīsa*), the likes of which has never been built for any king. I will not be finished with it until I divert Arab pilgrimage to it." Many Arabs received the news with trepidation, provoking a Yemenite, a practitioner of inter-calculation of lunar time (*al-nasī'*), to defecate inside the church, underscoring the fierce Arabian pride and honor associated with the Ka'ba, the "Ancient House" (*al-bayt al-'atīq*).⁶⁶ An infuriated Abraha vowed that the sacrilege of al-Qullays will not go unpunished. The Arabs will pay dearly. Mobilizing a huge army mounted on elephants, he marched to Makka to raze the Ka'ba. Politically, this military maneuver signaled the seemingly inevitable subjugation of the Ḥijāz under direct Monophysite rule and indirect Byzantine control for the first time in history. Valiant attempts were made by a few small Arab groups, led by Dhū Nafar and Nafīl b. Ḥabīb al-Khath'amī, to foil Abraha's plan but without success. The Abyssinian viceroy plundered Tihāma and other settlements along the

⁶⁴ Fayyād, *Ta' rīkh jazīra al- 'arab*, 50-55.

⁶⁵ A generic term applied by Arabs to rulers of Abyssinia.

⁶⁶ Q 22:29, 33.

way. As he and his army neared Makka, Arab clans, who were unable to mount any serious defense, vacated the city. But Abraha did not succeed: he and his army were annihilated before reaching the Ka'ba.⁶⁷ The Qur'an attributes his failure to divine intervention: "*Art thou not aware of how thy Sustainer dealt with the Army of the Elephant? Did He not utterly confound their artful planning? Thus, He let loose upon them great swarms of flying creatures, which smote them with stone-hard blows of chastisement pre-ordained, and caused them to become like a field of grain that has been eaten down to stubble.*"⁶⁸

The Qur'an itself is a type of ethnographic survey of the many pre-Islamic religious beliefs and practices in 7th century Arabia. "If you wish to know about the ignorance (*jahl*) of Arabs [before Islam], read what comes after 100 āyāt of sūra *al-An'am* [i.e. Q 6:140]," narrated Ibn 'Abbās (d. ca. 70/689), a Companion of the Prophet: "*Lost, indeed, are they who, in their weak-minded ignorance, slay their children and declare as forbidden that which God has provided for them as sustenance, falsely ascribing [such prohibitions] to God: they have gone astray and have not found the right path.*"⁶⁹ Revealed in Makka,⁷⁰ the āya scathingly denounces female infanticide, which was predicated on the fear of losing them as captives in wars or the economic burden of having to pay for their ransom. The part "*as forbidden that which God has provided for them as sustenance, falsely ascribing [such prohibitions] to God*" referred to esoteric animal superstitions and practices that the Qur'an deemed harmful to society that undermined monotheism, and

⁶⁷ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 41-52; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 58-76 ; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 111-35.

⁶⁸ Q 105:1-5 (Asad). See also al-Ṭabarī, *Tafsīr*, vol. 24, 627-45.

⁶⁹ See al-Ṭabarī, *Tafsīr*, vol. 9, 592; and al-Suyūṭī, *al-Durr al-manthūr*, vol. 6, 219.

⁷⁰ See al-Suyūṭī, *al-Taḥbīr fī 'ilm al-tafsīr* (Riyadh: Dār al-'Ulūm, 1982), 46.

appropriated divine legislative authority, which are fully outlined in the next couple of āyāt:

Of the cattle are some for burden and some for meat: eat what Allah hath provided for you, and follow not the footsteps of Satan: for he is to you and avowed enemy. [They say,](“Take) 8 (head of cattle) in (4) pairs: of sheep a pair, and of goats a pair”; say: ‘hath He forbidden (ḥarrama) the 2 males, or the 2 females, or (the young) which the wombs of the 2 females enclose? Tell me with knowledge if ye are truthful’; [They say,] ‘Of camels a pair, and oxen a pair’; say: ‘hath He forbidden the 2 males, or the 2 females, or (the young) which the wombs of the 2 females enclose? Were ye present when Allah ordered you such a thing?’ But who doth more wrong than one who invents a lie against Allah, to lead astray men without knowledge? For Allah guideth not people who do wrong.”⁷¹

f. Who were the Sabeans and Ḥanīfs?

The religious fabric of Arabian society also included the Sabeans (Ar. ṣābiʾīn).

The Qurʾan mentions ṣābiʾīn in two places: “Lo! Those who believe (in that which is revealed unto thee, Muhammad), and those who are Jews, and Christians, and Sabeans – whoever believeth in Allah and the Last Day and doeth right – surely their reward is with their Lord, and there shall no fear come upon them neither shall they grieve”; and “Lo! Those who believe (this revelation), and those who are Jews, and the Sabeans and the Christians and the idolaters – Lo! Allah will decide between them and the Day of Resurrection. Lo! Allah is witness over all things.”⁷² Scholarly opinion is divided on the Sabeans’ identity⁷³ and pronunciation of their name in the singular: ṣābiʾī or ṣābī.⁷⁴ The widely held view is that they existed in pre-Islamic Arabia, adhering to a form of monotheism, and that they later became

⁷¹ Q 6: 143-44 (‘Alī).

⁷² Q 2:62; 22:17.

⁷³ Ibn Abī Ḥātim, *Tafsīr al-qurʾān al-‘aẓīm* (Riyadh: Maktaba N. M. Al-Bāz, 1997), 1st edition, vol. 1, 127-28; al-Ṭabarī, *Tafsīr*, vol. 2, 34-37; al-Bukhārī (*ḥadīth* no. 344) in Ibn Hajar, *Fath al-bārī*, vol. 2, 32-33; Hughes, *Dictionary of Islam*, 551.

⁷⁴ If ṣābiʾī (with a ḥamza at the end), then it is a derivative of ṣabaʾa, meaning “rising” or “appearance,” as in the appearance or rising of stars at night. If ṣābī (without a ḥamza), it is from ṣabā, “to incline” or “to lean”; hence, it is said a ṣābī is one who has abandoned his religion for another. See al-Shawkānī, *Fath al-qadīr* (Beirut: Dār al-Maʿrifā, 2007), 4th edition, 64;

polytheistic, worshiping celestial bodies. They do not appear to be extant around the time of Muḥammad.⁷⁵

Although the majority of Arabs were polytheists, some tribes had embraced Christianity (Monophysitism and Nestorianism), been Judaized, or, as a tiny minority had done, practiced a few monotheistic tenets from the Ishmaelic era. The latter were called *ḥunafā'*; sing. *ḥanīf*. The Qur'an mentions both forms (*ḥanīf* and *ḥunafā'*) in several places⁷⁶ usually in connection with Abraham. The most prominent *ḥunafā'* in the Pre-Islamic Period are said to be Umayya b. Ubayy al-Ṣalat al-Thaqafī, Quss b. Sa'āda al-Iyādī, Zayd b. 'Amr b. Nafayl, Abū Qays b. Abī Anas, Khalid b. Sannān, al-Nābigha al-Dhibyānī, Zuhayr b. Abī Salmā, and Ka'b b. Lu'ayy b. Ghālib who was one of Muḥammad's forebears.⁷⁷ Details on their beliefs and practices are found in Ḥadīth. To illustrate, it is related that Zayd b. 'Amr b. Nafayl travelled to Syria in search of the right religion to follow when he met a Jew. He wanted to follow him in his religion, but the Jew said to him, "You cannot follow our religion until you take your portion of God's anger." He replied, "I am neither fleeing from God's anger nor bearing it. I cannot do that. Can you direct me to something else?" The Jew said, "I don't know of anything else except that you could become a *ḥanīf*." He asked, "What is a *ḥanīf*?" The Jew answered, "(One who follows) the religion of Abraham. He was neither a Jew nor a Christian, and he worshipped God alone." Zayd travelled further and met a Christian and had with a similar conversation with him. Thereafter, he vowed to become a *ḥanīf*,

⁷⁵ Fayyād, *Ta'rīkh jazīra al-'arab*, 57.

⁷⁶ Q 2:135; 3:67, 95; 4:125; 6:79, 161; 10:105; 16: 120, 123; 30:30 and *ḥunafā'* in Q 22:31; 98:5.

⁷⁷ See Ibn Kathīr, *al-Bidāya wal-nihāya*, 304-14; and Aḥmad, *al-Sīra al-nabawiyya*, 72-77.

adhering to certain Abrahamic rites. Muḥammad is reported to have had contact with him prior to his prophetic mission.⁷⁸ The *ḥunafā'* appear to be believers in the one God, identified with Abraham's religion, did not eat meat immolated to other deities, prayed towards the Ka'ba, and disdained female infanticide known as *maw'ūda*. According to the MHT, some Arab monotheists, who were descended from the households of Jurhum and Ishmael, had left Makka when Quzā'a seized power, taking with them a few stones from the Ka'ba, which they were wont to erect wherever they stopped and enacted the pilgrimage rites—a ritual of keeping alive the memory of Abrahamic monotheism. Later generations misconstrued the rationale behind this cultural performance, transforming the venerated stones into idols, thus progressively contributing to the Arabs' loss of monotheism.⁷⁹ Distorted by the cultural forces of variant polytheisms, Abrahamic monotheism, which had deeply resonated in the Peninsula for centuries, had become almost indiscernible until the advent of the Prophet of Islam.

g. Order and Authority: Pre-Islamic Makkan Government

Concerning political order and authority in the Peninsula, the collective Arab cultural memory experienced at least three different forms of government in the Pre-Islamic Period:

- (i) *Monarchy*, as found among the Sabeans, Nabateans, Palmyrenes, Ghassanids, and Lakhmids⁸⁰;

⁷⁸ Al-Bukhārī (*ḥadīth* nos. 3826-28) in Ibn Hajar, *Fath al-bārī*, vol. 8, 533-34; Ibn Kathīr, *al-Bidāya wal-nihāya*, 311-14.

⁷⁹ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 95-96.

⁸⁰ The Ghassanids established their own kingdom, the kings of which were recognized by Byzantine authorities, whereas the Lakhmids had kingship conferred on them by Persian authorities. See Lewis, *The Arabs in History*, 20-23.

- (ii) *Chieftdom*, as pertained to the Bedouin 'ranked society'; and
- (iii) *Oligarchy* or *aristocracy*, such as the *mala'* or city elite that ruled Makka, Yathrib, and Ṭā'if.

As regards the monarchial system, the Ghassanids, Kindis, and Lakhmids were all kingdoms that vied for domination in North Arabia and were, as we have seen, direct dependencies of the Byzantine or Persian Empires.⁸¹ As regards chieftdom, the Bedouin polity did not constitute a state *per se* but a kinship political system. Invariably, the male *shaykh* or *sayyid* held the highest political office. He was elected by the *majlis* or council of tribal elders and usually transferred power on the basis of agnatic or patrilineal primogeniture in which the eldest son succeeded his father. He had the authority to arbitrate inter-tribal disputes, mete out punishment or reward, and negotiate alliances and treaties with other tribes and political entities. Nevertheless, his scope of authority was limited, since he functioned within the parameters of *sunna* or *'āda*—an authority code or custom shaped by the ecological, social, and religious factors of a segmentary social system. Hence, the *sayyid* or *shaykh* could persuade but not command, depending on the sanction of public opinion, which made him a necessarily weak leader as opposed to the strong leader found in a state formation.⁸² As regards aristocracy, it is represented by the *mala'* or city elite government that ruled, for example, the Makkan polity.

⁸¹ See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 35; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 52-56; Ibn al-Athīr, *Ta'rīkh*, 138; Hitti, *History of the Arabs* 78-86.

⁸² Cf Ḥarakāt, *al-Siyāsa wal-mujtama'*, 29-31.

The origins of the religiopolitical system in Makka date back to the fifth century CE. Provoked by an insult from a member of the Quḍā'a tribe, to wit, he was a "stranger" (*gharībā*; i.e., without tribal lineage), Quṣayy, who lived in Syria, set out to garner respect for his ancestral heritage. Eventually, he managed to seize the reins of authority in the Ḥijāz. He had four sons, 'Abdu-d Dār, 'Abdul Manāf, 'Abdul 'Uzzā, and 'Abd Quṣayy, from his wife Ḥubbā, daughter Ḥulayl al-Khuzā'ī, custodian of the Ka'ba. How Quṣayy himself came to be in charge of Ka'ba affairs varies in the MHT, but the reports agree that his control did not come about without a fight between him and Khuzā'a⁸³ and the tribes allied to them. Quṣayy was ultimately victorious and rallied Quraysh to Makka. Proclaiming himself king, he rebuilt the Ka'ba⁸⁴ and assigned the Qurayshite clans various dwelling spaces in al-Baṭāḥ and al-Ẓawāhir. 'Abd Manāf, 'Abd Dār, 'Abdul 'Uzza, Zuhra, Makhzūm, Taym, Jumaḥ, Sahm, 'Adī, and 'Atīk (or Ḥanbal) b. 'Āmir b. Lu'ayy settled in al-Baṭāḥ and Muḥārib, al-Ḥārith b. Fihir, al-Adram b. Ghālib b. Fihir, and Haṣīṣ b. 'Āmir b. Lu'ayy settled in al-Ẓawāhir.⁸⁵ Altogether, the Quraysh tribe consisted of 25 clans,⁸⁶ the noblest and most honorable of whom were 10— Abdul-Dār, 'Adī, Asad, Hāshim, Jumaḥ, Makhzūm, Nawfal, Sahm, Tīm, and Umayya.⁸⁷ They fiercely competed for power in Makka. Quṣayy extended Quraysh political authority to encompass the administration of Ka'ba affairs, which involved the public duties of *al-*

⁸³ Khuzā'a, who had overwhelmed the Jurhumites and Ishmaelites in Makka, were the progeny of 'Amr b. 'Āmir of Yemen. They had migrated after the Flood of al-'Aram and settled close to Makka. But it is believed by some that Khuzā'a belonged to the tribe of Ishmael. Nevertheless, they exercised authority in Makka for 3 to 5 centuries (reports vary) until Quṣayy wrenched it from them, restoring Ishmaelite rule.

⁸⁴ See al-Shāmī, *Subul al-hudā*, vol. 1, 322-26; and Aḥmad, *al-Sira al-nabawiyya*, 52.

⁸⁵ Al-Mas'ūdī, *Murūj al-dhahab*, vol. 2, 59.

⁸⁶ Al-Mas'ūdī, *Murūj al-dhahab*, vol. 2, 671-72.

⁸⁷ Al-Alūsī, *Bulūgh al-'arab*, 249.

hijāba (“guardianship”), *al-siqāya* (“refreshment”), *al-rifāda* (“donations”), *al-nadwa* (“parliament”), and *al-liwā’* (“standard bearer”) connected to the Pilgrimage.⁸⁸ When Quṣayy (d. ca. 480) died, his eldest son ‘Abdul- Dār succeeded him, but he proved to be a weak leader; so he shared the government with his brothers. Later, conflict ensued between the clans of ‘Abdul-Dār and ‘Abd Manāf, which was ultimately settled by a treaty, dividing public administration between them. The responsibilities of *al-siqāya* and *al-rifāda* went to the ‘Abd Manāf household; the rest to ‘Abdul-Dār. These public duties, which mainly serviced Ka’ba rites, were not necessarily hereditary and could easily be transferred, bartered, or sold at the discretion of the office-holders. Indeed, at the time of Muḥammad, the *siqāya* office was held by his uncle Abū Ṭālib who forfeited it to al-‘Abbās, his brother, to whom he owed a debt. In his *Spirit of Islam*, Ali delineated the main functions of the pre-Islamic government of city-state of Makka, the most important North Arabian city, since it contained the prestigious Ka’ba and was the hub of foreign trade in the region:⁸⁹

The government of Makka was at this time vested in the hands of an oligarchy composed of the leading members of the house of Quṣayy. After the discovery of the sacred well of Zamzam by ‘Abdul Muṭṭalib, and the settlement of the disputes regarding its superintendence, the governing body consisted of ten ‘senators,’ who were styled *sharīf* [pl., *ashrāf*].⁹⁰ These *decemviri* [sing. *decimvir*] occupied the first place in the State,⁹¹

⁸⁸ Usually this duty entailed serving pilgrims a beverage made of raisins steeped in water. The Qur’an mentions it thus: “Do ye make the giving of drink (*siqāya*) to pilgrims, or the maintenance (*‘imāra*) of the Sacred Mosque, equal to (the pious service of) those who believe in Allah and the Last Day, and strive with might and main in the cause of Allah” (9:19). Specifically, its duties included opening and closing the doors of the Ka’ba at certain times. The *hijāba* was usually accompanied by the office of *al-sadāna*. The functionaries of *al-sadāna* were known as *sādan*, servants who attended to the Ka’ba and main houses of idols. After the Conquest of Makka, the Prophet allowed the ‘Abdul Dār tribe to continue holding this office. This duty involved raising money and donations to provide refreshments for the pilgrims. It referred to a house called Dār al-Nadwa, where Quraysh met to run the affairs of Makka; derived from *nadwa*, meaning “assembly.” See al-Alūsī, *Bulūgh al-‘arab*, 248.

⁸⁹ ‘Alī, *Spirit of Islam*, 5-7.

⁹⁰ That is, *sādāt* (sing, *sayyid*), the tribal leaders. Inter-tribal disputes brought the *ashrāf* or *sādāt* of the dominant tribes together in consultation (*shūrā*), seeking consensus on conflict resolution.

and their offices were hereditary in favor of the eldest member, or chief, of each family. These dignities were [as follows.]

1. The *Hijāba*, the guardianship of the keys of the Ka'ba, a sacerdotal office of considerable rank. It had been allotted to the house of 'Abdul-Dār, and at the time when Makka was converted to Islam, it was held by 'Uthmān, the son of Ṭalḥa.
2. The *Siqāya* or the intendance of the sacred wells of Zamzam, and of all the water destined for the use of the pilgrims. This dignity belonged to the house of Hāshim, and was held at the time of the conquest of Makka by [al-] 'Abbās, the uncle of the Prophet.
3. The *Diyāt* [sing. *dīya*],⁹² or the civil and criminal magistracy, which had, for a long time, belonged to the house of Taym b. Murra, and, at the time of the Prophet's advent, was held by 'Abdullah b. Quḥāfa, surnamed Abū Bakr.
4. The *Sifāra* or legation.⁹³ The person to whom this office belonged was the plenipotentiary of the State, authorized to discuss and settle the differences which arose between the Quraysh and the other Arab tribes, as also with strangers. This office was held by 'Umar [b. al-Khaṭṭāb].
5. The *Liwā'* or custody of the standard under which the nation marched against its enemies. The guardian of this standard was the general-in-chief of all the forces of the State. This military charge appertained to the house of Umayyad, and was held by Abū Sufyān, the son of Ḥarb, the most implacable enemy of Muḥammad.⁹⁴
6. The *Rifāda* or the administration of the poor tax. Formed with the alms of the nation, it was employed to provide food for the poor pilgrims, whether travelers or residents, whom the State regarded as guests of God. This duty, after the death of Abū Ṭālib, upon whom it had devolved after 'Abdul Muṭṭalib, was transferred to the house of Nawfal, son of 'Abd Manāf and was held at the time of the Prophet by Ḥārith, son of 'Amr.
7. The *Nadwa*, the presidency of the national assembly. The holder of this office was the first councilor of the State, and under his advice all public acts were transacted. Aswad, of the house of Abdul 'Uzzā, son of Qusayy, held this dignity at the time of the Prophet.
8. The *Khaïmmeh* [sic], the guardianship of the council chamber. This function, which conferred upon the incumbent the right of convoking the assembly, and

⁹¹ These 'senators' formed the *mala'u makka* (i.e., the Makkan elite leadership) who assembled at Dār al-Nadwa (a house designated for that purpose) to decide on matters of general interests to the polity. Their chief was Yazīd b. Zam'a b. al-Aswad, from Banū Asad, who had men-at-arms at his command; he later accepted Islam and died during the Battle of Ṭā'if. Consensus in decision-making governed the deliberations of al-Nadwa but often when it was not achieved, the result was a renewal or renegotiation of pacts, deeper polarization of clans or new alignments, imposition of comprehensive social boycotts (*muqāṭi'āt*; sing. *muqāṭi'a*) or, worse, war because of the absence of a powerful central government to impose its will on all subjects. See 'Alī, *al-Mufaṣṣal*, vol. 5, 246.

⁹² The *Diyāt* office was also known as *al-Ashnāq* or *al-Maghram*.

⁹³ In addition to *al-Sifāra*, there was *al-Munāfara* (from *nāfara*, "to have mutually aversion") which occurred when, after a war, the one state would send out an legate or envoy (*safīr*) to the other; if he was treated aversely out of pride, they reciprocated by appointing someone to do the same (*munāfīr*). The *Sifāra* and *Munāfara* belonged to Banū 'Adī. See Ibn 'Abd Rabba, *al-'Iqd al-farīd*, ed. 'Abdul Majīd al-Tarḥīnī (Beirut: Dār al-Kutub al-'Ilmiyya, 1983), 1st edition, vol. 3, 268; 'Alī, *al-Mufaṣṣal*, vol. 5, 248-49.

⁹⁴ That is, prior to the 9/630.

even of calling to arms the troops, was held by Khālīd, son of Walīd, of the house of Yakhzum, son of Murra.⁹⁵

9. *Khazīna*,⁹⁶ or the administration of the public finances, belonged to the house of Ḥasan, son of Ka‘ab, and was held by Ḥārith, son Qays [d., Banū Sahm].
10. The *al-Lām*,⁹⁷ the guardianship of the divining arrows by which the judgment of the gods and goddesses was obtained. Ṣafwān, brother of Abū Sufyān, held this dignity. At the same time it was an established custom that the oldest member exercised the greatest influence, and bore the title of *raʿīs* or *sayyid* chief and lord *par excellence*. [al-]‘Abbās was at the time of the Prophet the first of these senators.⁹⁸

Upon analysis, the above snapshot reveals that at least two governmental functions (nos. 1, 2) centered on pilgrimage rituals and services connected to the Ka‘ba, underlining the temple’s sacredness to Arabs, the gravity of religion in the life of the polity, and the prestige conferred on its trustees. Economic policy, involving extraction of resources and distribution, is reflected in nos. 6 and 9; law and order in nos. 3 and 4; public administration in nos. 7 and 8; the high status of the state’s department of religion in no. 10, which apparently commanded great moral authority, as the titles *raʿīs* and *sayyid* suggest; and, lastly, symbolic functions are outlined in nos. 1 and 5. While the latter were ritualistic in respect of pilgrimage rituals, some were symbolic, conferring high status (*karāma*) to the office-holder and his tribe. To these government functions may be added an eleventh and twelfth. The eleventh was *Ḥulwān al-naḥar*, a type of divination based on casting lots; the one to whom the lot befell was charged with mobilizing Quraysh forces against external threats. The twelfth was *al-‘Imāra*, a

⁹⁵ No. 8 refers to two functions: *al-Qubba*, the cupola that was struck or sounded to gather troops, and *al-A’na* or horsemen of Quraysh, a type of cavalry.

⁹⁶ This office, also called *al-Amwāl al-Muḥajjara*, was also keeper over the wealth in stones named after their gods and counted among their spoils in times of peace and war.

⁹⁷ It is also known as *al-Aysār*. This office belonged to Ṣafwān b. Umayya who had taken over from Banū Juḥam. See al-Ṭabarī, *Tafsīr*, vol. 8, 76-77; Ibn ‘Abd Rabba, *al-‘Iqd al-farīd*, vol. 3, 268.

⁹⁸ Ali, *Spirit of Islam*, 5-7; see also Muhamed S. al-Ewa, *On the Islamic Political System* (IN: American Trust Publications, 1980), 5-6.

function that restricted abominable speech, loud talking, and despicable acts inside the precincts of *al-Masjid al-Ḥarām* (“the Sacred Mosque” that surrounds the Ka’ba), which is mentioned in the Qur’an along with *al-Siqāya* thus: “Do ye make the giving of drink to pilgrims (*al-Ṣiqāya*), or the maintenance (*al-‘Imāra*) of the Sacred Mosque (*al-Masjid al-Ḥarām*), equal to (the pious service of) those who believe in Allah and the Last Day, and strive with might and main in the cause of Allah. . . .”⁹⁹ The offices of *al-Siqāya* and *al-‘Imāra* were held by the Prophet’s uncle al-‘Abbās of Banū Hāshim; *al-‘Uqāb* by Abū Sufyān b. Ḥarb of Banū Umayya; *al-Rifāda* by al-Ḥārith b. ‘Āmir of Banū Nawfal; *al-Sidāna*, *al-Hijāba*, *al-Nadwa*, and *al-Liwā’* by ‘Uthmān b. Talḥa of Banū ‘Abdul-Dār; *al-Mashūra* by Yazīd b. ‘Zama’a b. al-Aswad of Banū Asad; *al-Ashnāq* (which includes *al-Diyāt* and *al-Maghram*) by ‘Abdullah b. Quḥāfa (known as Abū Bakr) of Banū Tīm; *al-Qubba* and *al-A’na* by Khālīd b. Walīd of Banū Makhzūm; *al-Sifāra* by ‘Umar b. al-Khaṭṭāb of Banū ‘Adī; *al-Aysār* (which included *al-Azlām*) by Ṣafwān b. Umayya of Banū Jumah; *al-Ḥukūma* and *al-Amwāl al-Muḥajjara* by al-Ḥārith b. Qays. These then are a total of 16 distinctly executive, economic, military, religious, and ceremonial duties of the Quraysh government in Makka.¹⁰⁰ After obtaining guarantees of protection (*ilāf*) from Constantinople and Ctesiphon, Quraysh rose to become the dominant merchant class in Arabia, spearheading two huge regional trade caravans every year—one in the summer and the other in the winter—to Syria, Abyssinia, Iraq, and Yemen, which is indicated in the Qur’an: “For the covenants (of security and safeguard enjoyed) by the Quraysh; their covenants

⁹⁹ Q 9:19 (Y. ‘Alī). See also Lane, *Arabic-English Lexicon*, 1386.

¹⁰⁰ Altogether they are *al-siqāya*, *al-‘imāra*, *al-‘uqāb*, *al-rifāda*, *al-sidāna*, *al-hijāba*, *al-nadwa*, *al-liwā’*, *al-mashūra*, *al-ashnāq*, *al-qubba*, *al-a’na*, *al-sifāra*, *al-aysār*, *al-hukūma*, and *al-amwāl al-muḥajjara*. See Ibn ‘Abd Rabbihi, *al-‘Iqd al-farīd*, vol. 3, 268; al- Alūsī, *Bulūgh al-‘arab*, 250; ‘Alī, *al-Mufaṣṣal*, vol. 5, 247.

*(covering) journeys by winter and summer. Let them adore the Lord of this House, Who provides them with food against hunger, and with security against fear (of danger)."*¹⁰¹

Even though it was economically prosperous, the Makkan polity struggled to organize a consensual approach to policy making, lacked a powerful central authority, and was further weakened by inter-Quraysh political rivalry. Public life was often rattled by violent altercations when grievances could not be resolved satisfactorily. In general, conflict characterized foreign relations among the major North Arabian cities over issues of trade and *‘aṣabiyya*. Nevertheless, Arabian city-states managed to maintain the modicum of social equilibrium necessary to avoid descent into total chaos or ‘failed state’ status (the same, however, cannot be said of Yathrib, which is discussed in the next chapter). That is not to say aspects of unity were entirely missing in Arabian society, for Arabs shared the Peninsula in common as a homeland, Arabic (several varieties of which existed and were mutually intelligible), and certain physical features and cultural behavior that distinguished them as almost pure Semites.¹⁰²

Some Muslim writers on the Early Islamic Period have hesitated in referring to the “government” of Makka or describing it as a “state”; others went in the opposite direction, disassociating Islam entirely from politics during the first thirteen years of Muḥammad’s prophetic mission there,¹⁰³ as previously pointed out in the prolog of this work. Such hesitancy is groundless, particularly from the purview of political history,

¹⁰¹ Q 106:1-4 (Y. ‘Alī). Akram Diyā’ al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa* (Medina: Maktaba al-‘Ulūm wal-Ḥikam, 1994), 6th edition, vol. 1, 77.

¹⁰² Ḥarakāt, *al-Siyāsa wa al-mujtama*, 28-29; Hitti, *History of the Arabs*, 9-13.

¹⁰³ See al-Rāziq, “The Caliphate and the Bases of Power,” in *Islam in Transition*, 26-28; al-Ewa, *Islamic Political System*, 4-8; and ‘Alī, *al-Mufaṣṣal*, vol. 5, 245-46; Aḥmad, *al-Sīra al-nabawīyya fī daw’al-maṣādir al-aṣliyya*, 62;

political science, and political anthropology. Recall that the problem stems from myriad conceptions of the state, which can be confusing. From the Structural-Functionalist System (SFS) standpoint—the conceptual framework of this thesis—governments are fundamentally “organizations of individuals who are legally empowered to make binding decisions on behalf of a particular community.”¹⁰⁴ Governments constitute an ancient social phenomenon, dating back to the world’s ‘six primary states,’¹⁰⁵ others that date back 5000-8000 years ago,¹⁰⁶ or some that are much older like Çatal Hüyük in Anatolia, according to the anthropological record. “The state came into existence at the dawn of society; it is as old as the individual,” Osgood observed. “The existence of society without organization, and in that organization power to force conformity by individuals to the necessities of life and growth of society, would be contrary to all experience and is absolutely unthinkable.”¹⁰⁷

This dissertation avoids conflating the reality of the state with the modern reality of the ‘nation-state,’ which first emerged in the eighteenth century in Europe (à la the French Revolution of 1789), expressing the notion of a homogenous people living within the territorial sovereignty of the state, sharing a common culture, history, language, and lineage. The working definition of a state used throughout this research

¹⁰⁴ Almond *et al*, *Comparative Politics Today*, 2.

¹⁰⁵ These ancient primary states appeared in China (ca. 1800 BCE), Egypt (ca. 3700 BCE), Indus Valley (ca. 3200 BCE), Mesoamerica (ca. 300 BCE), Mesopotamia (ca. 3500 BCE), and Peru (ca. 100 BCE); see Charles S. Spencer, *Territorial Expansion and Primary State Formation* in Proceedings of the National Association of Scientists (PNAS) 2010 107 (16) 7119-7126.

¹⁰⁶ Kurtz, *Political Anthropology: Paradigms and Power*, 170; Richard H. Robbins, *Global Problems and the Culture of Capitalism* (MA: Allyn and Bacon, 2002), 2nd edition, 103; Richard H. Robbins, *Cultural Anthropology: A Problem-Based Approach* (IL: F. E. Peacock Publishers, Inc, 2001), 3rd edition, 73.

¹⁰⁷ Ferninand Ezra M. Bullowa, *The History of the Theory of Sovereignty* (NY: Columbia College, 1895), 76-77; 74.

is that it is basically a political system having i) political authority, ii) social stratification, and iii) territorial sovereignty. Therefore, statements, to wit, “Makka was a not state,” “had only a political system but not a government,” or was a “primitive” body-politic, and the like, are but moot propositions and meaningless; rather, we should recognize that the Makkan polity (inclusive of the structures of government, state, interest groups, and political system), in light of the foregoing, might seem peculiar to an outsider looking in but was simply situated in the context of its own cultural environment, as are all states. Thus, it should be clear that Makka was a state, albeit a city-state, but it was not a nation-state as understood in modernity. Indeed, there should be no dispute over the terms, if their meanings are understood, as previously stated.

h. Jāhiliyya

References have been made here to the so-called Pre-Islamic Period. It became known in Islam’s early political discourse as *Jāhiliyya*, generally designating aspects of the Arabian way of life before Islam that conflicted with Islamic values, norms, and mores.¹⁰⁸ But usage of *Jāhiliyya* did not appear until the post-Hijra period of the Prophet’s mission; that is, it is found only in the Madanite *āyāt* of the Qur’an.¹⁰⁹ It is

¹⁰⁸ See al-Alūsī, *Bulūgh al-‘arab*, 15-22 and Hitti, *History of the Arabs*, 87.

¹⁰⁹ Muslim exegetes have divided *āyāt* of the Qur’an into two groups: Makkan (*makkī*) and Madanite (*madanī*) but differed on their meanings. There are three main opinions. The majority opinion is that is that the *makkī* refers to that which was revealed before the Hijra and the *madanī*, after the Hijra regardless of whether it was revealed in Makka or Madīna. The second opinion is that the *makkī* is that which was revealed in Makka and its environs, even if it was after the Hijra and the *madanī*, in Madīna and its environs; as for those *āyāt* revealed during travel outside the two holy cities, they are neither *makkī* nor *madanī*. The third opinion is that the *makkī* is that which was specifically addressed to the people of Makka and the *madanī*, to the people of Madīna. See al-Suyūṭī, *Itqān fī ‘ulūm al-qur’ān*, ed. Muḥammad A. Ibrāhīm (Beirut: al-Makataba al-‘Aṣriyya, 2006), 1st edition, 32-33.

reported in the MHT that the cultural period preceding Islam used to be called ‘*Ālimiyya*’ (“the known state”) at first, until a woman told the Prophet: “[The custom] in *Jāhiliyya*’ used to be such and such”; thereafter, the Qur’an began using it.”¹¹⁰ *Jāhiliyya* is found in four places in the Qur’an; for example, “Do they, perchance, desire [to be ruled by] the law of pagan ignorance (*Jāhiliyya*)? But for people who have inner certainty, who could be a better law-giver than God?”¹¹¹ The said word occurs more frequently in Ḥadīth. An example is “You are a person in whom *jāhiliyya* is still found,”¹¹² said the Prophet to his Companion Abū Dharr who had insulted another Companion, saying to him: “You son of a black woman!” Etymologically, *jāhiliyya* literally means “a state of ignorance”; it is an intensive noun derivative from the verb *jahila*, “to be ignorant, foolish,” connoting the sense of something unknown, a state of ignorance, or absence of knowledge (in this case, until Islamic guidance came).¹¹³ In the MHT, *Jāhiliyya* typically refers to the period before the Prophet’s advent; but it is as much a time construct as it is a cultural reference to a social state or condition.¹¹⁴ The Qur’an speaks to two levels of it: i) primordial *jāhiliyya*, as in the words “the former Times of Ignorance (*al-Jāhiliyya al-Ūlā*)”¹¹⁵ and ii) the later *Jāhiliyya* of pagan Arabs that was at variance with certain Islamic

¹¹⁰ Ibn Abī Ḥātim, *Tafsīr*, vol. 4, p1154-55;

¹¹¹ Q 5:50. See also Q 3:154; 33:33; 48:26.

¹¹² The *ḥadīth* is reported by al-Bukhārī (*ḥadīth* no. 30) in Ibn Hajar, *Fath al-bārī*, vol. 1, 158; Muslim (*ḥadīth* no. 1661) in al-Nawawī, *al-Minhāj*, 1058; al-Albānī, *Irwā’ al-ghalīl* (Beirut: al-Maktaba al-Islāmī, 1979), 1st edition, vol. 7, 235.

¹¹³ *Lisān al-‘arab*, vol. 1, 713-14; Lane, *Arabic-English Lexicon*, 478.

¹¹⁴ Al-Alūsī, *Bulūgh al-‘arab*, 15-18.

¹¹⁵ Q 33:33.

precepts: “Do they, perchance, desire [to be ruled by] the law of pagan ignorance (**ḥukm al-jāhiliyya**)?.”¹¹⁶

In sum, Muslims in Madīna, having formed their own society on a different ideology in contradistinction to Makka, found themselves in a new cultural milieu in which they were able to compare and evaluate Islam and their former way of life more effectively; hence, the usage of *Jāhiliyya* to profile it. Definitely, the Qur’an reveals Islam as the antithesis of *Jāhiliyya*, advocating a clean social break with the past and embrace of a new divinely revealed way of life (*dīn*) for the present and the future. Nevertheless, the disjunction between the two nativist praxes was never absolute in practice, for many social artifacts of *Jāhiliyya* were retained in the Islamic *dīn*,¹¹⁷ as long as they did not contravene its core values. Examples are scattered throughout this work, but suffice it to mention that of ‘Awf b. Mālik al-Ashja‘ī (d. 73/692)¹¹⁸ who narrated, “We used to do forms of spiritual healing (**ruqā**; sing, *ruqya*)¹¹⁹ in the *Jāhiliyya*, so we asked the Messenger of Allah about that. He said, ‘Show me your ruqā. Nothing is wrong with it unless it has traces of polytheism.’”¹²⁰ The Prophet is also reported to have said, “There are four things of the *Jāhiliyya* that my Umma will not abandon: pride in social status (*ḥasb*), disparaging of the other’s lineage (*nasab*), seeking rain via the medium of stars (*istisqā*) bil-

¹¹⁶ Q 5:50.

¹¹⁷ The topic of Islam’s relationship with *Jāhiliyya* will be revisited in a later chapter of this work on the law of the Islamic State.

¹¹⁸ Al-Athīr, *Asad al-ghāba*, vol. 4, 300-01.

¹¹⁹ *Ruqā* (sing. *ruqya*), forms of spiritual healing or seeking refuge from the harms of charms, spells, sorcery not treated by regular medicine, relying on prayers, incantations, etc. See *Lisān al-‘arab*, vol. 3, 1711-12; Lane, *Arabic-English Lexicon*, 1140; Hughes, *Dictionary of Islam*, 549

¹²⁰ Muslim (*ḥadīth* no. 2200) in al-Nawawī, *al-Minhāj*, 1374; Abū Dāwūd, Sunan (*ḥadīth* no. 3886 - *ṣaḥīḥ*) in *Ṣaḥīḥ sunan abī dāwūd*, ed. al-Albānī (Riyadh: Maktaba al-Ma‘ārif, 1998), 1st edition, vol. 2, 468; al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 1066) (Riyadh: Maktaba al-Ma‘ārif, 1992), vol. 3, 55-56.

nujūm) (instead of entreating Allah), and loud mourning of the dead (niyāḥa)”¹²¹; that is, blameworthy things contrary to proper Islamic behavior.¹²² Next, the nature of the Islamic Call is discussed.

Part II

i. The Islamic Call

Muḥammad began his prophetic mission at the age of 40 in Makka.¹²³ Describing a metaphysical encounter that he had at Ḥirā’, a cave on Mount Nūr, he resorted to his wife Khadīja who assured him that he was neither insane nor a poet.¹²⁴ It is said that she reported the news to her cousin Waraqa b. Nawfal (b. Asad b. ‘Abdul ‘Uzzā), a learned Christian,¹²⁵ who informed her that *al-Namūs al-Akbar*¹²⁶ or the angel Gabriel (Ar. *Jibrīl*),

¹²¹ See Muslim (*ḥadīth* no. 934) in al-Nawawī, *al-Minhāj*, 601-02.

¹²² Hamid, in his *The Qur’an and Politics*, critiqued Sayyid Qutb’s *Ma’ālim al-tāriq* (published in English as *Milestone*), arguing that he was an extremist in negating everything in the *Jāhiliyya* as repugnant to Islam. The same may be said of Ibn Taymiyya who, in his *Iqtidā’ al-ṣīrati-l mustaqīm*, strongly articulates that Muslims, when in power, ought to act contrary to disbelievers (*mukhālaḥa al-kuffar*); but when they are not in power, *mukhālaḥa al-kuffar* is not legitimate. Perhaps both of their cases are hasty generalizations and not categorical repudiations, since it is hard to imagine that Ibn Taymiyya and Qutb were unaware that *bay’a* (“oath of allegiance”), *ruqā*, *jiwār*, Arab hospitality, lunar months, three-count divorce pronouncement, blood-money, prisoner ransom, etc were all *Jāhili* cultural practices, which Islam did not prohibit. Indeed, upon closer scrutiny, it is found that they wrote nuanced discourses on the *Jāhiliyya*. For example, Qutb penned these words: “Thus, there would be a break between the Muslim’s present Islam and his past *Jāhiliyya*, and this after a well thought out decision, as a result of which all his relationships with *Jāhiliyya* would be cut off and he would be joined completely to Islam, *although there would be some give-and-take with the polytheists in commercial activity and daily business* [emphasis mine]. . .” As for Ibn Taymiyya, he identified nine variables of the Islamic cultural strategy of *mukhālaḥa al-kuffar* (“acting contrary to disbelievers”) in relation to *Jāhiliyya*, not all of which rejected *Jāhili* norms. See Ibn Taymiyya, *Iqtidā’ al-ṣīrati-l mustaqīm*, vol. 1, 422.

¹²³ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 173; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 263; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 396; Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 1, 213; Ibn Sayyid al-Nās, *‘Uyūn al-athar*, vol. 1, 164; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 1, 103; al-Ṭabarī, *Ta’rīkh*, vol. 2, 290-92; al-Dhahabī, *al-Sīra al-nabawiyya*, 64-65; al-Mas’ūdī, *Murūj al-dhahab*, vol. 2, 678. The majority of reports indicate that he was 40 years old and a few, 43.

¹²⁴ This incident reportedly occurred on Monday, Ramaḍān 17 (ca. 609 CE). See Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 1, 213. Differing dates are given in al-Ṭabarī, *Ta’rīkh*, vol. 2, 293-97.

¹²⁵ It is related that Waraqa b. Nawfal had set out with Zayd b. ‘Amr b. Nufayl in search of true religion. He embraced Christianity in Syria. Zayd became a *ḥanīf*. See Ibn Kathīr, *al-Bidāya wal-nihāya*, 314.

¹²⁶ According to one rendition, it means “the one who knows the secrets of the king.” See al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 408. *Al-Namūs al-Akbar* is identified as *al-Rūḥ al-Qudus* (“the Holy Spirit”) in Q 2:87, a euphemism for the angel Gabriel in Islamic tradition.

who had visited Moses, had also visited Muḥammad. Convinced that he was the Messenger of God (*rasūlullāh*) and His Prophet (*al-nabī*), Muḥammad initiated a call to monotheism, implementing it first in private and then in public. In the private phase, he invited close relatives and friends to the new Islamic faith, achieving mixed results.¹²⁷ Following the revelation of the first 5 āyāt of *al-‘Alaq* (“*That which clings*,” Q 96:1-5),¹²⁸ the private phase of the Islamic Call lasted a short while.¹²⁹ Thereafter, the Qur’an directed the proclamation of monotheism to the wider society: “*O thou wrapped up (in the mantle)! Arise and deliver thy warning! And thy Lord do thou magnify!*”¹³⁰; “*warn thy tribe of near kindred*”¹³¹; and “*expound openly what thou art commanded, and turn away from those who join false gods with Allah.*”¹³² The Prophet publicly preached his message in dramatic fashion. Standing atop the hill Ṣafā, he summoned a crowd and spoke to them: “*If I were to inform you that enemy horsemen are approaching the base of this hill, would you believe me?*” They replied, “We have not been tested by any lie from you.” He said, “*Verily, I am a warner to you before the coming punishment.*” Present in the crowd was his uncle Abū Lahab who retorted, “*Tabālak! For this you have gathered us!?*” The Qur’an’s response to him is found in *al-Masad* (Q 111): “*Ruined are the hands of Abū Lahab and he*

¹²⁷ Among the early converts to Islam in Makka were the Prophet’s wife Khadīja, Waraqa b. Nawfal, Abū Bakr, ‘Alī, Zayd b. Ḥāritha, Uthmān b. ‘Affān, al-Zubayr b. al-‘Awām, ‘Abdul Raḥmān b. ‘Awf, Sa’d b. Abī al-Waqqāṣ, Ṭalḥa b. ‘Ubayd, Abū ‘Ubayd ‘Āmir b. Abdullah b. al-Jarāḥ who were followed by several others. See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 184; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 281-93; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 1, 113-16, 124; al-Shāmī, *Subul al-hudā*, vol. 2, 402-08.

¹²⁸ Al-Suyūṭī, *al-Taḥbīr fī ‘ilm al-tafsīr*, 89-91.

¹²⁹ Reports vary on the period in between the first and second Qur’anic revelations from a few days, 40 days, to 3 years. See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 295; al-Suhaylī, *al-Rawḍ al-unf*, vol. 2, 3; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 1, 113; al-Shāmī, *Subul al-hudā*, vol. 2, 363-64; Ibn Hajar, *Fath al-bārī* (*ḥadīth* no. 4953), vol. 11, 101-16.

¹³⁰ Q 74:1-3 (Y. ‘Alī).

¹³¹ Q 26:214 (Pickthall).

¹³² Q 15:94

*himself is ruined. . . .*¹³³ The Prophet used to mill about in society, openly and secretly, night and day, preaching to men and women, young and old, rich and poor, slave and master, Arab and non-Arab, relative and stranger, and resident and foreigner.¹³⁴ His *talbiyya* (mantra) was simple and constant—“O people! Allah commands you to worship Him alone and not ascribe partners to Him.” Abū Lahab used to trail his nephew, countering the Prophet’s monotheistic message with his own mantra: “O people! Muḥammad commands you to abandon your gods!”¹³⁵ Visitors to Makka for pilgrimage and commerce directly and indirectly heard the Prophet’s monotheistic message, since it was the talk of the town; in this way, news of the Islamic Call spread throughout Arabia.

j. Makka’s Response

Aside from Abū Lahab’s contumely deportment toward the Prophet, the people of Makka were initially neutral and nigh ambivalent about the Islamic Call—until the Qur’an began castigating their deities. Subsequently, a discernible behavior pattern emerged among Makkans in opposition to the Prophet, ranging from ignoring him to *ad hominem* attacks in order to discredit his message. According to the Qur’an and the MHT, the Quraysh depicted the Prophet or treated him as follows.

- (i) **Diviner** - (“Nor diviner’s {*kāhin*} speech—little is it that ye remember!”)¹³⁶;

¹³³ Ibn Abī Hātim, *Tafsīr*, vol. 10, 3473; al-Ṭabarī, *Tafsīr*, vol. 24, 714-26; al-Suyūṭī, *al-Durr al-manthūr*, vol. 15, 733- 39; al-Wāḥidī, *Asbāb al-nuzūl*, 469-70; al-Bukhārī (*ḥadīth* no. 4971) in Ibn Hajar, *Fath al-bārī*, vol. 11, 139; al-Tirmidhī (*ḥadīth* no. 3363 - *ṣaḥīḥ*), 763.

¹³⁴ See Ibn Qayyim, *Zād al-ma‘ād fī ḥadyī khayrī-l ‘ibād* (Beirut: Mu’assasa al-Risala, 1994), 27th edition, vol. 3, 11.

¹³⁵ Al-Ṭabarānī, *al-Mu‘jam al-kabīr* (*ḥadīth* no. 4583), vol. 5, 61-63; al-Hākim, *al-Mustadrak* (*ḥadīth* no. 38; al-Dhahabī commented, “It is *ṣaḥīḥ* according to the criteria {of al-Bukhārī and Muslim}”), vol. 1, 56-57; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 1, 118.

¹³⁶ Q 69:42 (Pickthall).

- (ii) **Devil in human form** - “Nor is this the utterance of a devil worthy to be stoned {shayṭān rajīm}”¹³⁷;
- (iii) **Liar** - “They wonder that a warner has come to them from among themselves! And the Unbelievers say, ‘this is a sorcerer telling lies! {khabbāb}”¹³⁸;
- (iv) **Madman** - “And they say: ‘O thou unto whom the Reminder is revealed, lo! thou art indeed a madman {majnūn}!”¹³⁹;
- (v) **Object of ridicule** - “And they denied the truth when it came unto them. But there will come unto them the tidings of that which they used to deride {bihi yastahzi’ūn}”¹⁴⁰;
- (vi) **Poet** - ““Shall we forsake our gods for a mad poet {shā’ir}?””¹⁴¹;
- (vii) **Sorcerer** - “This is naught else than magic {sihr} from of old”¹⁴²;
- (viii) **Target of maltreatment** - e.g. throwing thorns in his pathway, taunting, harassing, pouring refuse on him while he prayed at the Ka’ba, etc.¹⁴³

These tactics of discredit were cunningly calibrated so as not to incur a tribal backlash from the Prophet’s respected uncle Abū Ṭālib, chief of Banū Hāshim, who benignly protected him. Less fortunate, however, was the handful of his followers who lacked any protection from a strong tribe or did not belong to any tribe in the first place. They underwent whippings, torture, and killing in some cases. Thus, Makka became a hostile environment for the Islamic Call. When the combination of verbal and

¹³⁷ Q 81:25 (Pickthall).

¹³⁸ Q 38:4 (Y. ‘Alī). Cf. Q25:4.

¹³⁹ Q 15:6 (Pickthall).

¹⁴⁰ Q 6:5 (Pickthall).

¹⁴¹ Q 37:36 (Pickthall).

¹⁴² Q 74:24 (Pickthall).

¹⁴³ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1. 319-21.

physical intimidation methods¹⁴⁴ failed to steer the Prophet away from his monotheistic path, repudiate the Qur'anic messages, and plug a trickling membership into the nascent Muslim community, Quraysh resorted to subtler measures of persuasion, which involved the following:

- (i) **Challenging the Prophet's veracity** - e.g. their frequent demands that he produce miracles or reveal esoteric knowledge from the heavens;
- (ii) **Cooptation** - their offers to make him the richest man in Makka, chief (*sayyid*) of the chiefs, king, cure him of his one-god malady, exorcise him of the demonic *jinn* that possessed him at their expense, or marry him to the best Quraysh women¹⁴⁵;
- (iii) **Theological compromise** - their proposal that he worship their gods for a year and, in turn, they will worship his God the next year¹⁴⁶;
- (iv) **Moral suasion** - their appeals and threats to Abū Ṭālib that either he restrain his nephew from insulting Makkan gods, criticizing their religion, disdaining their dreams, and misguiding their men or he let them have their own violent way with him;
- (v) **Socio-economic boycott** - they severed societal ties with Banū Hāshim and allied clans, confining them to an enclave¹⁴⁷;

¹⁴⁴ See Aḥmad, *al-Sīra al-nabawiyya fī daw' al-maṣādir al-aṣliyya*, 180-90.

¹⁴⁵ The *ḥadīth* is *ḥasan* and is reported in Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 322-26; al-Bayhaqī, *al-Dalā'il al-nubuwwa*, vol. 2, 202-03; Ibn Kathīr, *Tafsīr* (Beirut: Dār Ibn Hazm, 2000), 1st edition, 1651; see also Muḥammad al-Ghazzālī, *Fiqh al-sīra* (Cairo: Dār al-Rayyān, 1987), 1st edition, 112-13.

¹⁴⁶ The Prophet's rejection of this theological compromise came in the revelation of *al-Kāfirūn* (Q 109:1-6), a Makkan *sūra*: "Say: O disbelievers! I worship not that which ye p; Nor worship ye that which I worship . . ."; cf. Q 68: 9; Ibn Abī Ḥātim, *Tafsīr*, vol. 10, 3471; al-Suyūṭī, *al-Durr al-manthūr*, vol. 15, 711-12; al-Ṭabarī, *Tafsīr*, vol. 24, 702-04; al-Wāḥidī, *Asbāb al-nuzūl*, 467; al-Suyūṭī, *Lubāb al-nuqūl*, 310.

- (vi) **Orphan Swap** - they requested that Abū Ṭālib exchange Muḥammad for ‘Ammāra b. al-Walīd b. al-Mughīra, so that they could kill him without the repercussions of retaliation or blood money;
- (vii) **Murder plot** - when Abū Ṭālib died shortly after the embargo, the Prophet lost his only tribal security blanket and became an open target for assassination. Even so, to kill him would not be an easy task: the would-be assassin risked war from Banū Hāshim and their allies if blood money failed to appease them.

k. ‘Weapons of the Weak’

Reacting to Quraysh anti-Islam backlash, the Prophet devised various coping strategies for his faith community, many of which stemmed from the Qur’an, constituting a set of ‘weapons of the weak’:

- (i) **Barā’a (“disassociation”)** - “. . .this Qur’an has been revealed unto me so that on the strength thereof I might warn you and all whom it may reach. Could you in truth bear witness that there are other deities side by side with God?” Say: ‘I bear no [such]

¹⁴⁷ That is because Quraysh wished to kill Muḥammad openly but Banū Hāshim rejected their highly priced blood money offer. So the tribes of Hāshim, Muṭṭalib, and ‘Abd Manāf—Muslims and non-Muslims ‘Alīke (except Abū Lahab)—retreated to Abū Ṭālib’s fortress-stronghold, in order to protect Muḥammad and prevent Quraysh from executing their death wish; meanwhile, the Prophet ordered the rest of the Muslims in Makka to migrate to Abyssinia and seek refuge with the goodly Christian king there. Quraysh then imposed on them an embargo (*ḥiṣār*), banning trade, marriage, conversation, and other activities with them until Muḥammad was handed over. The embargo was solemnized in a written document, which they suspended from the Ka’ba’s roof. This incident occurred in Muḥarram, the 7th or 10th year of Muḥammad’s prophetic mission and lasted 3 years. The harsh treatment, which inflicted famine and loss of wealth on Banū Hāshim and their associates, proved too much to bear for some signatories to the embargo, causing them to break ranks and supply rations to those confined; eventually, it was discovered that the document had been eaten by worms, providing the legal technicality needed to lift the embargo, ushering in a tense truce. See Ibn Qayyim, *Zād al-ma’ād*, vol. 3, 26-28; Ibn Abdul Barr, *al-Durrur fī ikhtisā al-maghāzī wal-siyar* (Cairo: Lajna Ihya’ al-Turāth al-Islāmī, 1966), 56-60; al-Dhahabī, *al-Sīra al-nabawiyya*, 140-42.

witness!’ Say: ‘He is the One God; and, behold, far be it from me (**barī**) to ascribe divinity, as, you do, to aught beside Him!’”¹⁴⁸

(ii) **Consoling believers with the hope and promise of a better future** – “Thy

Sustainer has not forsaken thee, nor does He scorn thee: for, indeed, the life to come will be better for thee than this earlier part [of thy life]!”¹⁴⁹;

(iii) **I’rād (“withdrawal,” “aversion,” “avoidance,” etc)** – “When thou seest men

engaged in vain discourse about Our signs, turn away {a’rid} from them unless they turn to a different theme”¹⁵⁰);

(iv) **Ṣabr (“perseverance,” “patience,” “forbearance,” etc)** – “Have patience {iṣbir}

even as the stout of heart among the messengers (of old) had patience, and seek not to hasten on the doom for them”¹⁵¹;

(v) **Secrecy of Islamic practices** – e.g. recital of the Qur’an and ritual prayer in hushed tones;

(vi) **Tuqā (“dissimulation”)** – “Let not the believers take for friends or helpers

Unbelievers rather than believers: if any do that, in nothing will there be help from Allah, except by way of precaution (**tuqā**), that ye may Guard yourselves from them. But Allah cautions you (to remember) Himself; for the final goal is to Allah”¹⁵²).

Although the āya is Madanite, that is, post-Hijra, the practice of tuqāh or

¹⁴⁸ Q 6:19 (Asad).

¹⁴⁹ Q 93:3-4 (Asad).

¹⁵⁰ Q 6:68 (Y. ‘Alī). Cf Q9:95; 32:30;53:29.

¹⁵¹ Q 46:35 (Pickthall).

¹⁵² Q 3:28 (Y. ‘Alī). It may also have been revealed in connection with Muslims in Makka who were urged by their counterparts in Madīna to migrate there; when they attempted to do, they were caught by Quraysh sentries and recanted Islam under coercion. See Ibn Abī Ḥātim, *Tafsīr*, vol. 7, 2303-04; al-Suyūṭī, *al-Durrur*, vol. 9, 119-23; al-Ṭabarī, *Tafsīr*, vol. 14, 371-76; al-Wāḥidī, *Asbāb al-nuzūl* 281-82; al-Suyūṭī, *Lubāb al-nuqūl*, 158.

taqiyya was sanctioned by the Prophet in Makka. It is related that ‘Ammār b. Yāsir, an early Muslim Arab convert, used to be tortured by Quraysh, perhaps on account of his mother’s client status, forcing him to verbally denounce Islam or insult Muḥammad and affirm the state religion. His father Yāsir had settled in Makka and was an ally of al-Makhzūm who had married him to Sumayya. When ‘Ammār was overheard praying to the pagan gods, rumor spread that he had renounced Islam. The Prophet asked him, “*How did your heart feel (when you praised their gods)?*” He replied, “My heart was contented with faith (*muṭma’in bil-īmān*) [in Allah].” In connection with this incident, the following āya is said to have been revealed: “*Anyone who, after accepting faith in Allah, utters unbelief, except under compulsion, his heart remaining firm in Faith—but such as open their breast to Unbelief, on them is Wrath from Allah, and theirs will be a dreadful Penalty*”¹⁵³

In sum, the Islamic movement in Makka was prone to peace. There is no evidence to the contrary. The main weapon in the Prophet’s arsenal appeared to be not a sword but *tablīgh* (“proclamation”) of Islamic Monotheism, as expressed in the Qur’an: “*I convey {uballighu} unto you the messages of my Lord and am for you a true adviser.*”¹⁵⁴ This Qur’anic rhetoric nurtured faith in the Muslim community, steeled them for sacrifices, attracted many hearts and minds across the social strata, and, last but not least, challenged the ruling Makkan aristocracy at the very bases of their political authority, which will be analyzed shortly.

¹⁵³ (Q 16:106 {Y. ‘Alī}).

¹⁵⁴ Q 7:68 (Pickthall). See also Q 7:62, 79, 93.

I. Political Reading of Islam's Axial Texts

The Qur'an is widely acknowledged as the primary source on early Islamic political thought. Its contents have been summed up and categorized in many different ways.¹⁵⁵ Indisputably, "monotheism" (*tawḥīd*), "prophethood" (*nubuwwa* or *risāla*), and "hereafter" (*ākḥira*)¹⁵⁶ are three of its major—if not fundamental—themes. *Tawḥīd* is reflected in āyāt that describe God, His attributes, and His works. *Risāla* is found in āyāt pertaining to stories of past prophets and messengers of God, their trials and tribulations, their miracles, their followers and enemies, divine revelations, and rewards and punishments of their peoples. And *ākḥira* is read in āyāt that describe Paradise and Hell, the fate of believers and disbelievers, compensation for good and bad deeds in the hereafter, similitudes, and the reckoning of humankind before God on the Last Day, and the like. These three Qur'anic themes, none of which are free of political implications, are the virtual pillars of Islamic political ideology.

The MHT tells us that the Prophet's persistent Islamic Call aggravated the Makkan ruling class to such an extent that they had no choice but to have recourse to a string of oppressive measures to terminate its propagation. But we are not told why. That is to say, why did the theological reduction of many divinities into a single divinity, the advocacy of monotheism to replace polytheism, or the rise of a relatively powerless and numerically inferior faith-based community trigger virulent hostility

¹⁵⁵ Cf al-Ghazzālī's *Jawāhir al-qur'ān*, Ibn Qayyim's *Aqsām al-qur'ān*, and Fazlur Rahman's *Major Themes of the Qur'an*. The thematic approach to the Qur'an is also discussed in Muḥammad Ḥ al-Dhahabī's *Tafsīr wal-mufasssīrīn* and Khalidī discussed three principal Qur'anic themes (vision of history, narratives of prophets and kings, and views of man) in his *Arabic Historical Thought in the Classical Period*.

¹⁵⁶ Cf al-Shawkānī, *Irshād al-thiqāt ilā ittifāq al-sharā'i* (Beirut: Dār al-Kutub al-'Ilmiyya, 1984), 1st edition.

and violence on the part of the pagan Makkan elite? Indeed, the God of the Qur'an—Allah—was not unknown to Makkans, even if they attributed to Him daughters and other partner types: “Yet they make the **Jinn** equals with Allah, though Allah did create the **Jinn**; and they falsely, having no knowledge, attribute to Him sons and daughters. Praise and glory be to Him! (For He is) above what they attribute to Him!”¹⁵⁷ The answer to the question why was the Prophet's slogan *lā ilāha illallāh* (literally, “there is no god but God”) deemed so intolerable to Quraysh polytheists that it had to extirpated can be gleaned from a political reading of his Islamic Call, especially the literature pertaining to the pre-Hijra (Makkan) Period. In spite of that, after a cursory review of the said Makkan period of Islam, Ju'ayt, in his *al-Fitna*, concluded that

It is impossible to believe, as represented in the works of some Orientalists, that Muḥammad's Call (*da'wa*) during the first 13 years had political or hegemonic designs on Makka. . . . Rather, the issue that the Prophet faced was religious and cultural in nature, having no relationship whatsoever with commerce or politics and being inherently spiritual. The Islamic Call was religious, firstly, and cultural, secondly. Culturally, the Call wished to bestow, consciously or unconsciously, whether it was impressed with Manichaeism or Sabianism or not, its own holy book, prophet, religious culture, and character to Arab society, which was possible in the morrow—the Day of Judgment—whereof he would be able to say to Allah, ‘This is my nation that followed me. I warned them and they believed in me.’ The Prophet conceived the Call to mean that Allah had sent a warner (*nadhīr*) and bearer of glad tidings (*bashīr*) to every nation and had sent an individual to bear witness and talk about it, after which the proof was established. Thus, the aspect of politics was absent in the Makkan Period. Nevertheless, Orientalists have perpetuated the belief that it existed. . . .¹⁵⁸

This attempt to deconstruct the Islamic Call in Makka, jettisoning politics and reducing its ideology message and movement to an almost purely Arab-oriented cultural phenomenon is an imagined narrative and is clearly not borne out of a meticulous study of the MHT (especially the *sīra*, *maghāzī*, and *ta'rikh* genres and the

¹⁵⁷ Q 6:100 (Y. 'Alī).

¹⁵⁸ Hishām Ju'ayt, *al-Fitna* (Beirut: Dār al-Ṭalī'a, 2000), 4th edition, 21-23.

Qur'an itself as an early ethnographic record), which unveils political behavior as an integral part of the culture in Arabia and the wider region at the time of the Prophet of Islam. Take, as an example, the apparently innocuous act of *al-Rifāḍa* in the Makkan polity, which was previously discussed. Responsible for the annual provision of food for pilgrims to the Ka'ba, the function *al-Rifāḍa* was simultaneously a political act, religious practice, social service, and economic activity. As Feuck correctly observed,

The controversy over whether Muḥammad had been active politically in Mecca is idle, for in his mind there was no conflict between religious and political activity. Muḥammad's earliest preaching already necessarily included the demand that life be conducted in accordance with moral principles as the only safeguard against divine wrath and the punishment of hell. Above all, the Qur'an repeatedly insists that believers ought to give alms and to accept responsibility for the poor and the orphans [Q 92:18; 90:13-16; 93:9-10; 89:17-20 (18-21); 69:34]. Already very early a fixed tax is mentioned [Q51:19; 70:24]. These and similar requirements (such as that the possessions of widows and orphans should not be violated, that property held in trust should be returned, that full measure be given in commercial transactions, and that perjury not be committed) [Q89:14-21] are intimately linked to the 'religious' (in the modern sense of the term) requirements of prayer, the night vigil, and similar acts of practical piety.¹⁵⁹

Moreover, such an unrestricted deconstruction stems partially from a narrow definition of politics, confining it to mere statal activities, which leads to an erroneous conclusion that, since the Prophet did not control a state until he arrived in Madīna, it necessarily follows that his Islamic movement in Makka was devoid of politics.¹⁶⁰ The proposition ignores assumptions that politics occurs in a system, which has a set of interdependent parts (culture, society, economy, religion, government) and boundaries with an outside environment. It overlooks the articulation of the Islamic Call against the ruling Quraysh elite at the process level of the system, interpreting it as being

¹⁵⁹ J. Feuck, "The Originality of the Arabian Prophet," in *Studies on Islam*, trans. Merlin L. Swartz (Oxford: New York, 1981), 95-96.

¹⁶⁰ See Hamid, *The Qur'an and Politics*, 7.

“religious” and “cultural” but not “political”; in this context, “cultural” itself is ambiguous. The view that the Islamic Call merely sought to introduce a new religion into Makkan society is proof of its being a “cultural” and not a “political” phenomenon fails to appreciate that such a grand sociological goal is impossible without engagement in politics at all levels of society. That is because when the Prophet defied warnings of the Makkan authorities, rebuffed their efforts to muzzle his preaching, and weathered their verbal and physical attacks upon his Islamic movement, he was making simultaneously a religious and political statement, to wit, he would persevere in his mission until society conforms to his message come what may. Not to have hegemonic design on state power does not automatically mean disengagement from political activity, since politics occurs along a continuum, involving the family, tribe, clan, community, society, and ultimately the state.

Unlike Ju‘ayf, Hamid went to the opposite extreme, proposing that the Prophet had set about to establish an Islamic state in Makka. Based on his analysis of *Sūra al-An‘ām* (Q 6), he put forward the following view:

The Prophet’s strategy for establishing the Islamic state comprised three vital steps:

1. To annul the constitutional legitimacy of the Qurayshī government of Elders; to disprove the religious claims on which they based their authority; to call for the organization of daily affairs according to religious principles derived from the revealed Book instead of manmade religions, and to refer to the revealed *Sharia* (Islamic Law) instead of personal whims and aspirations. . . .
2. To threaten and harm the economic interests of the Quraysh whenever possible.
3. To encircle the Quraysh from the outside by contracting alliances, pacts, and defense treaties with neighboring tribes. This stage was closely connected to the second stage, for one of the best ways to harm the economic interests of the Quraysh was to dismantle the treaties and pacts that supported them. This, in turn would lead to the signing of new treaties and to the disruption of the entire economic and political structure of the Quraysh.

These were the Prophet's objectives throughout the next few years. Moreover, the policies that he implemented were all in accordance with the philosophy of religious history and the principles of political thought specified in the Qur'an.¹⁶¹

Hamid may have overstated his case. The points that he emphasized are not without merits, for if pursued to their logical conclusions in history, it is possible that a beleaguered Quraysh might have conceded power to Muḥammad, making him the ruler of Makka. Nevertheless, there are a couple of counter-arguments to Hamid's thesis. Firstly, if Muḥammad intended an Islamic state of affairs in Makka, why did he persist in his destabilizing strategy after the *mala'* offered him kingship, chieftaincy, untold riches, the most beautiful maidens, and the like? As ruler or *sayyid* of Makka appointed by its aristocratic class, the Prophet could easily have decreed Islam as the new Qurasyh religion and safely ignored their protestations. Aforetime Khuzā'a had introduced the worship of Hubal, instituting a polytheistic religious order. Instead, Muḥammad declined their blandishments and persisted in his preaching. Secondly, to all intents and purposes, the Prophet did not display any overtly political ambitions at the beginning and middle of the Pre-Hijra period. It is apparent from the Qur'an and *sīra/maghāzī/ta'rīkh* literature that he seemed genuinely concerned about his people and wished for their conversion, as underscored by many Makkan *āyāt*, such as "*But if you turn away [from the message which I bear, remember that] I have asked no reward whatever of you: my reward rests with none but God, for I have been bidden to be among those who have surrendered themselves unto Him*"¹⁶²; and "*Thou art not one to manage (men's) affairs*

¹⁶¹ Hamid, *The Qur'an and Politics*, 128.

¹⁶² Q 10:72 (Asad).

(*muṣaytir*).”¹⁶³ But as the Qur’anic revelations intermittently unfolded and, at the same time, were vehemently rejected by Makkan authorities who also relentlessly persecuted Muslims, the political dimensions of the Islamic Call became more evident and assertive. Here it will be argued that Muḥammad’s message to acknowledge the One God and worship Him and none other besides Him—*lā ilāha illalāh*—was not only a religious mantra but it was also an ideological slogan that effectively undermined the political order in Makka, which was ultimately perceived by the rich and powerful *mala’a* or elite as an existential threat to the pagan state, thereby prompting them to seek its eradication of Islam by any means necessary.

Part III

m. Divine Authority: Creative Will and Legislative Will

The *āyāt* on *tawḥīd*—the first fundamental theme of the Qur’an—have been collected in several genres of Islamic literature, including *tafsīr*, *Ḥadīth*, *uṣūl al-dīn*, and separate works like Ibn Khuzayma’s (d. 311/923) *Kitāb al-tawḥīd*, al-Ghazzālī’s (d. 505/1111) *Jawāhir al-qur’ān* (“Jewels of the Qur’an”), and Siddīq Khān al-Qinawwījī’s (d. 1253/1838) *al-Dīn al-khālīṣ*. Upon analysis of these Tawḥīdic *āyāt*, it is found that they describe God in three theological categories: the divine essence, attributes, and works. The *āyāt* on the divine essence, being or nature, are the least in number; those on His attributes and names are the second largest in number; and those on His works are the most insofar as the subject of God in the Qur’an is concerned. An example of His essence is the words: “Say: He is Allah, the One and Only (**ahad**); Allah, the Eternal, Absolute

¹⁶³ Q 88:22 (‘Alī).

(**al-ṣamad**); *He begetteth not, nor is He begotten; and there is none like unto Him*¹⁶⁴; of His attributes: “Allah. There is no god but He, -the Living, the Self-subsisting, Eternal. No slumber can seize Him nor sleep His are all things in the heavens and on earth. Who is there can intercede in His presence except as He permitteth? He knoweth what (appeareth to His creatures as) before or after or behind them. Nor shall they compass aught of His knowledge except as He willeth. His Throne doth extend over the heavens and the earth, and He feeleth no fatigue in guarding and preserving them for He is the Most High, the Supreme (in glory)”¹⁶⁵; and of His works: “(It is He) who has made the earth your couch, and the heavens your canopy; and sent down rain from the heavens; and brought forth therewith fruits for your sustenance; then set not up rivals unto Allah when ye know (the truth).”¹⁶⁶

Against this uncompromising monotheistic backdrop, the role of divinely commissioned prophets and messengers—that is, *risāla*, the second fundamental Qur’anic theme—is juxtaposed. They appear on the world’s stage—not to reveal God but to make known His Will, which consists of divine commands and prohibitions. The One God of the Qur’an is not a deistic but a theistic divinity: He did not originate creation and retreat, leaving it to run on natural laws, but He ordained a way of life for His creatures, especially humankind. The Qur’an sketches humankind in ancient antiquity as an *umma wāḥida* (“single nation”); thereafter, “Allah sent (unto them) prophets (**nabiyyīn**) as bearers of good tidings (**mubashshirīn**) and as warners (**mundhirīn**), and revealed therewith the Scripture (**al-kitāb**) with the truth that it might judge between mankind

¹⁶⁴ Q 112:1-5 (‘Alī).

¹⁶⁵ Q 2:255 (‘Alī).

¹⁶⁶ Q 2:22 (‘Alī).

concerning that wherein they differed. And only those unto whom (the Scripture) was given differed concerning it, after clear proofs had come unto them, through hatred (**baghyī**) one of another. And Allah by His will guided those who believe unto the truth of that concerning which they differed. Allah guideth whom He wills unto a Straight path.”¹⁶⁷ That is the gist of Islamic political philosophy in the Qur’an. The primordial human community was a cooperative society of monotheists united in the worship of the One God and guided by wise elders. Between Adam, the first human being, and Noah, ten generations faithfully adhered to the divinely revealed way of life, “surrendering” or “submitting” to the Divine Will in the etymological sense of Islam. Eventually, the First Nation of Islam became corrupted by dispute and violence, so God intervened with His infinite Mercy, sending prophets and messengers and supporting them with Scripture and Law. Reviving the primordial monotheistic faith, the prophets established righteous governments, social harmony, and justice among nations of the world. As for *baghyī* or human hatred, it emanated from polytheism (*shirk*), the antithesis of monotheism, making its historical appearance for the first time in the advent of Noah when the pious forefathers of his *Umma*—Wadd, Suwā’, Yaghūth, Ya’ūq, and Nasr—were deified: “Inasmuch as they said [to their followers among the people of Noah], ‘Do not ever abandon your gods: abandon neither **Wadd** nor **Suwā’**, and neither **Yaghūth** nor **Ya’ūq** nor **Nasr**!’”¹⁶⁸ The people grieved over their passing away. Keeping a watchful eye, the Devil whispered to them to build a statue in remembrance of Wadd, the most widely revered among their pious ancestors, so that they could assemble around it and rehearse his deeds and

¹⁶⁷ Q 2:213 (Pickthall).

¹⁶⁸ Q 71:23 (Asad).

virtues. Observing their compliance with his suggestion, the Devil further whispered to them to make miniature replicas of the Wadd sculpture, which could be kept in their homes for personal veneration. They complied. By the time the next generation came along, because of the widening cultural gap, Wadd and others were remembered not as mortals but as gods and their figurines worshipped, thus substituting *tawḥīd* with *shirk*.¹⁶⁹ Therefore, Noah's prophetic mission was to restore the monotheistic system of governance: "*O my people! I am but a plain warner to you, [sent to tell you] that you should worship God [alone] and be conscious of Him. Now do pay heed unto me, so that He may forgive you some of your sins, and grant you respite until a term known [to Him alone] but, behold, when the term appointed by God does come, it can never be put back - if you but knew it!*"¹⁷⁰

Thereafter, the *tawḥīd* cycle continually repeated itself in human history, culminating with the advent of Muḥammad, the final Messenger of God sent to his people and the world, bearing the same monotheistic message and, with it, the Qur'an to adjudicate his people¹⁷¹ and all those who adhered to the Islamic Call.¹⁷² Like the example of Noah *et al*, Prophet Muḥammad's people were also polarized into two camps: believers and unbelievers.

¹⁶⁹ See Ibn Abī Ḥātim, *Tafsīr*, vol. 2, 375-78 and vol. 10, 3375-76; al-Suyūṭī, *al-Durr al-manthūr*, vol. 2, 496-500; al-Ṭabarī, *Tafsīr*, vol. 3, 620-36; al-Ṭabarānī, *al-Mu'jam al-kabīr* (*ḥadīth* no. 11830) (Cairo: Maktaba Ibn Taymiyya, 1983), 2nd edition, vol. 11, 309; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 3098 - *ṣaḥīḥ*), vol. 2, 315; al-Haythamī, *Kashf al-astār 'an zawā'id al-bazzār* (*ḥadīth* no. 2190), ed. Ḥabīb al-Raḥmān al-A'zamī (Beirut: Mu'assassa al-Risāla, 1984), 1st edition, vol. 3, 41; al-Haythamī, *Baghiya al-rā'id fī taḥqīq majma' al-zawā'id* (*ḥadīth* nos. 10857-58), ed. Abdullah M. al-Dārwish (Beirut: Dār al-Fikr, 1994), vol. 7, 34-35.

¹⁷⁰ Q 71:2-4 (Asad). See also Hamid, *The Qur'an and Politics*, 50-56.

¹⁷¹ Q 5:48.

¹⁷² Q 34:28; 21:107; 42:7.

Illustrating the third fundamental Qur'anic theme of the *ākhira*, the Prophet is projected as a bringer of good tidings and a warner to humankind before the Day of Reckoning, striving to set right the worldly order, so that people can have a better life here and in the hereafter: "*When the term appointed by God does come, it can never be put back.*"¹⁷³ Accordingly, the Islamic political order represents a different kind of 'state of nature' political doctrine in its axial texts. It is unlike Hobbes' idea that society, in the absence of strong government, is inherently violent, pitting all against all; it is unlike Rousseau's idea that humanity was born free but continues to live in chains due to governments and corruptions; it is unlike the Lockean state, the primary function of which is to regulate property rights and commerce, thereby allowing the individual to pursue economic prosperity; and it is quite unlike Marx's notion of the dialectic, materialistic process, which postulates that "as ownership of private property and monogamous families (which provide discrete male heirs to whom property is transferred) restructure society into a system of classes, hence the origin of the state, in which control over means of production is appropriated by upper-class elites, thereby oppressing the lower, labor class."¹⁷⁴ Rather, the Islamic 'state of nature' concept starts out from the premise that human society in ancient antiquity had experienced cultural harmony, peace, and justice but progressively deteriorated into social chaos as monotheism became distorted and God's ordinances subverted.

Hence, Islam seeks to restore the political order based on God's Will revealed to His prophets: "*Those who followed after them would not have fought one with another after the*

¹⁷³ Q. 14:42.

¹⁷⁴ Kurtz, *Political Anthropology: Paradigms and Power*, 172.

clear proofs had come unto them. But they differed, some of them believe and some disbelieve. And if Allah had so willed it, they would not have fought one with another; but Allah doeth what He will."¹⁷⁵ The Divine Will manifests itself to humankind in principally two ways: (i) as the "Creative" (*kawniyya*) Will and (ii) as the "Legislative" (*shar'iyya*) Will.¹⁷⁶ The Creative Will governs all things in existence in their so-called 'natural' states, such as the movements of celestial bodies, animal, human, mineral, and plant kingdoms. In short, 'all that is in the heavens and all that is in the earth' is administered by the creative aspect of His Will: "*Do they seek, perchance, a faith (dīn) other than in God, although it is unto Him that whatever is in the heavens and on earth surrenders itself (aslama), willingly (ṭaw'an) or unwillingly (karhan), since unto Him all must return?*"¹⁷⁷ As for the legislative aspect of His Will, it manifests in the worlds of humans, Jinn, and angels as God's commands and prohibitions in relation to their beliefs and actions. This Legislative Will is His *Sharia* or Divine Law: "*For each We have appointed a divine law (shir'a=sharia) and a traced out way (minhāj). Had Allah willed He could have made you one Community; but that He may try you by that which He hath given you, (He hath made you as ye are). So vie one with another in good works. Unto Allah ye will all return, and He will then inform you of that wherein ye differ.*"¹⁷⁸ Unlike the rest of creation, human beings (and *Jinn*) were bestowed free will, so that they can voluntarily choose to accept or reject God's ordinances, thereby

¹⁷⁵ Q 2:253.

¹⁷⁶ These theological constructions of the divine Creative Will and the Legislative Will have been called *al-qaḍā' al-kawniyya* and *al-qaḍā' al-shar'iyya* respectively in the MHT. The Muslim political thinker Sayyid Qutb referred to them as *al-mashi'a al-kawniyya* and *al-mashi'a al-shar'iyya*. See *Sharḥ aqīda al-ṭahāwī*, eds. al-Albānī *et al* (Beirut: al-Maktaba al-Islāmī, 1984), 8th edition, 447-48; Sayyid Qutb, *Ma'ālim fil-ṭarīq* (KSA: Dār al-Sharūq, 1979), 6th edition, 99-104; Sayyid Qutb, *Milestone*, USA: SIME journal (<http://majalla.org>), 2005), 58-64.

¹⁷⁷ Q 3:83 (Asad).

¹⁷⁸ Q 5:48 (Pickthall).

incurring reward or punishment. The one who accepts the Islamic Call is a Muslim (literally, “one who surrenders or submits”); and the one who rejects it is a disbeliever or *kāfir* (plural, *kāfirūn*, *kuffār*; from the verb *kafara*, literally “to cover up,” implying that he or she knows the truth about God but chooses to conceal it.¹⁷⁹ In sum, the creative and legislative aspects of God’s Will reflect His supreme divine sovereignty (*mulk*): “Knowest thou not that it is Allah unto Whom belongeth the sovereignty (**mulk**) of the heavens and earth.”¹⁸⁰ The Qur’an depicts God as the absolute Sovereign (*al-mālik*)¹⁸¹, possessing all objects of sovereignty (*malakūt*)¹⁸² and granting aspects of it to whomsoever He pleases.¹⁸³

n. Politics of Divine Sovereignty in the Qur’an

Manifestation of the Divine Legislative Will as *Sharia* is one of the chief distinguishing characteristics of the Islamic State established by the Prophet in Madīna and is examined in the next chapter. Here the subject of investigation is how the construct of divine sovereignty in the Qur’an is represented or interpreted as a political concept in the Islamic Call. We have seen that, according to the Qur’anic paradigm, God is the Sovereign or *Mālik* of “the heavens and the earth,”¹⁸⁴ the King of kings,¹⁸⁵ and the Sole Possessor of Sovereignty: “Say: ‘O Allah! Owner of Sovereignty (**Mālik al-mulk**)! Thou givest sovereignty unto whom Thou wilt, and Thou withdrawest sovereignty from whom Thou

¹⁷⁹ *Lisān al-‘arab*, vol. 5, 3897-3902.

¹⁸⁰ Q 2:107; 35:13(Pickthall).

¹⁸¹ Q 1:4; 114:2 (Asad).

¹⁸² Q 23:88 (‘Alī).

¹⁸³ Q 2:247 (Pickthall): “Allah bestoweth His sovereignty (**mulk**) on whom He wills.”

¹⁸⁴ Q 2:107.

¹⁸⁵ Q 59:23; 114:2.

wilt. . . .”¹⁸⁶ Sovereignty is predicated on His eternal attribute of power. Those unto whom He bestows of His sovereignty, as He pleases, are prophets, messengers, kings (*mulūk*; sing. *malik*), and other leaders who become sovereigns themselves, albeit by proxy, since God alone is the Owner of Sovereignty. Proxy sovereigns are either blessed or wretched.¹⁸⁷ When they strive to “judge by that which Allah has revealed,”¹⁸⁸ they are blessed. But when they are averse to rule by the Divine Legislative Will, they are wretched “disbelievers”, “oppressors” or “transgressors”: “Whoso judgeth not by that which Allah hath revealed: such are disbelievers (*kāfirūn*)”; “Whoso judgeth not by that which Allah hath revealed: such are oppressors (*ẓālimūn*)”; and “Whoso judgeth not by that which Allah hath revealed: such are transgressors (*fāsiqūn*)”¹⁸⁹ Classical examples of blessed rulers in the Qur’an are David,¹⁹⁰ Solomon,¹⁹¹ Saul,¹⁹² and Joseph,¹⁹³ whereas the tyrannical Pharaoh in Moses’ time, Rameses II, is the classic example of the wretched ruler. He misdirected state sovereignty, deifying himself and committing great corruption (*fāsād*) in the land.¹⁹⁴ Just as the state’s sovereignty ultimately belongs to God, as do all objects of sovereignty, so does its legal authority, for He ordains that proxy sovereigns judge by that which He was revealed of commands and prohibitions in order to regulate society.

¹⁸⁶ Q 3:26 (Pickthall).

¹⁸⁷ Cf Patricia Crone, *Medieval Islamic Political Thought* (Edinburgh: Edinburgh University Press, 2004), 6-7.

¹⁸⁸ Q 5:44.

¹⁸⁹ Q 5:44, 45, 47:

¹⁹⁰ Q 2:251.

¹⁹¹ Q 38:35.

¹⁹² Q 2:247.

¹⁹³ Q 12:101 - *Whoso judgeth not by that which Allah hath revealed: such are evil-livers.*

¹⁹⁴ Q 79:17-24.

Political power is identified as *material* and *ideational*, which include human, ideological, informational, material, and symbolic resources in political anthropology; or as *abstract* (sovereignty, knowledge, nationalism, etc) in political philosophy, political science, and international law. Sovereignty factors in the equation of any state. For comparative purposes, sovereignty in the western political discourse and in early Islamic political thought is concisely examined here. The word “sovereignty” (ME *soverainte*) first entered the English language in the fourteenth century via the Old French *soverainete* (“sovereign”), denoting “authority” or “rule,” according to the *Random House Dictionary*. Perhaps its earliest use as a political term, albeit at the family level, is found in Chaucer’s (d. 1400) “The Wife of Bath’s Tale” (*‘Wommen desiren to have sovereyntee, As wel over hir housbond as hir love’*), seemingly advocating female autonomy and ability to make her own decisions. Sovereignty resurfaced later in the writings of Jean Bodin (d. 1596), designating the autocratic authority of kings; thereafter, its precise definition became a matter of dispute. In the early twentieth century, Bullowa, in his *History of the Theory of Sovereignty*, traced the origins of various constructs of political sovereignty in western political thought—from Greek philosophers, the Church, early modern political philosophers, to Proudhon and Burgess—and wrote, “The development of these (historical) conceptions has progressed from the unreasoned notions of an unlimited sovereignty to the highly abstract analytical conception of the illimitable power of the political sovereign people and the equally absolute authority of a complex organized determinate legal sovereignty.” He concluded that the conceptual problem of sovereignty finds at least one solution in “a

union of the three elements of [i] *force* or effectiveness; [ii] *universality* or reference to interests and activities of society as a whole; and [iii] *determinateness* or specific modes of operation,' a union brought about by the combination of the legal and the political sovereignties of the community."¹⁹⁵ On the other hand, Lindsay, after critically examining Austin's legal approach (i.e. law is based on sovereignty and not the reverse) and Bosanquet's political philosophical approach (sovereignty stems from the general will of society), advanced his own theory of 'sovereignty of the constitution,' maintaining that "the will between the social and juristic aspect of the state is the adherence by the great mass of the members of a society to a definite principle of settling differences."¹⁹⁶ Lion focused on sovereignty in the context of international law, positing that the "international organized community" has become a necessary adjunct to the State and its sovereignty, requiring each member-state to give up or sacrifice a portion of its political sovereignty in order to enable the new international body to enforce sovereign rights of member-states against each other and against other non-member states.¹⁹⁷ To sum up, sovereignty in western political thought is polysemous, meaning different things to different scholars, thereby moving Oppenheimer to propose that "There exists perhaps no conception the meaning of which is more controversial than that of sovereignty. It is an indisputable fact that this conception, from the moment when it was introduced into political science until the present day,

¹⁹⁵ Bullowa, *The History of the Theory of Sovereignty*, 74.

¹⁹⁶ A. D. Lindsay, "Sovereignty" in *Proceedings of the Aristotelian Society*, New Series, Vol. 24 (1923 - 1924), 254.

¹⁹⁷ A. Lion, "Sovereignty" in *Proceedings of the Aristotelian Society*, New Series, Vol. 40 (1939 - 1940), 135.

has never had a meaning which was universally agreed upon.”¹⁹⁸ Much of the controversy concerns the *what* (i.e. nature) of sovereignty, *who* is the sovereign (i.e. the one who commands state power or is authorized to use it), and *where* does sovereignty reside (i.e. its locus). Since ideology is seldom absent from the political discourse on sovereignty, the pursuit of a “universally agreed upon” definition is apparently futile. Acknowledging the incapability of political science to come to terms with the concept and reality of sovereignty, Bartelson, in his *A Genealogy of Sovereignty*, avoided addressing the nature of sovereignty directly; instead, he concentrated on its conceptual history in relationship to knowledge, which involves “a study of what happens today as well as what has happened in the past when others have tried to answer this essentially essentialist question.”¹⁹⁹ His genealogical construction of sovereignty through the Renaissance, Classical Age, and Modernity eras highlighted “epistemic discontinuity,” whether it was over the general conception or as a property of individual states. He argued that the term, concept, and reality of sovereignty should not be studied in isolation from knowledge but within the parameters of broader discursive narratives than the political. Much of Bartelson’s thesis is aimed at reducing ambiguity over the political construct of sovereignty. Lastly, from the SFS perspective, sovereignty in the modern secular state constitutes “the independent legal authority over a population in a particular territory based on the recognized right to self-

¹⁹⁸ Lassa Oppenheim, *International Law: A Treatise*, ed. Sir Arnold D. McNair (London: 1928), 4th edition, 66.

¹⁹⁹ Jens Bartelson, *A Genealogy of Sovereignty* (Cambridge: Cambridge University Press, 1995), 2.

determination.”²⁰⁰ It is located with the people, who have the ultimate right to make political decisions, and is expressed in two ways:

- i.) *Internal sovereignty*, the right, without external intervention, to determine state affairs (i.e. independence of the state), and
- ii.) *External sovereignty*, the right to conclude interstate agreements and treaties.

I think that pertinent issues related to political sovereignty, such as the implications of *independence* (i.e., the notion that state sovereignty is absolutely independent) and *unity* (the absolute indivisibility of sovereignty into equal parts because, theoretically, its locus is one specific place) can be resolved if sovereignty is conceived as the aggregate political power of the state that, although coercive, is not *supreme* in the absolute sense of the word, for it can be affected by greater political powers than itself (e.g. a more powerful state). In this way, we can account for informal powers (lobbies, special interests, etc) in a polity that mitigate the state’s independent exercise of internal sovereignty, just as we can account for great power states, including hegemons, which control spheres of influence that limit weaker states from independently conducting external sovereignty. Thus, the idea of *limited* political sovereignty would hold true for all states irrespective of ideology (communist, democratic, Islamic, etc). As for the nature (i.e. the *what*) of the state’s sovereignty, it remains unchanged, as long as the state endures. The same, however, cannot be said of those that direct the state’s sovereignty—the mortal sovereigns (kings, prophets,

²⁰⁰ Almond *et al*, *Comparative Politics Today*, 11-12.

pharaohs, etc) who come and go continuously, leaving sovereignty behind, since it subsists in the political system as a whole. As for the locus of sovereignty being God, king, people, legal authority, the political system, and so forth, it is a matter of theoretical construct, varying from one polity to the next and one political ideology to the other. We have seen that in early Islamic political thought, God is considered the Supreme Sovereign who grants sovereignty to earthly rulers, holding them responsible for its conduct in accordance with His Legislative Will. In this Islamic schema, sovereignty of the state is neither absolute nor completely independent per se, for such supreme attributes can belong only to the *Mālik al-mulk*.

o. How the Qur'an Undermined Order and Authority in Makka

Against this political backdrop, the Islamic Call blared throughout Makka. Pagans found it to be morbidly strange: “*Maketh he [the Prophet] the gods (ālīha) One God (ilāh wāhid)?*”²⁰¹ *Lo, that is an astounding thing (‘ujāb)!*”²⁰² They regarded his *talbiyya* of *lā ilāha illā allāh* intolerable—not at the decibel level (although that too was a problem) but at the ideological level. That is because *ilāh* (plural, *ālīha*) to Arabs meant much more than simply god or deity (as usually translated into English): it was, at the same time, an object of worship, veneration, and devotion. Muḥammad wished to redirect consecration away from their pantheon to the One God Allah. Their deities were represented in material forms of *awthān* (sing. *wathan*) or *aṣnām* (sing. *ṣanam*), that is, figurines sculpted from wood, metal, and other substances (except the god al-‘Uzzā,

²⁰¹ In *Jāhiliyya*, the Arabs used to refer to their idols, which they worshipped as deities, as *ālīha* (sing. of *ilāh*). See *Lisān al-‘arab*, vol. 3, 115.

²⁰² Q 38:5 (Pickthall).

which was a stately date palm, as mentioned earlier). The Qur'an argued that their *āliha* had no basis in actuality but were mere conceptions in their minds: "*Would ye wrangle with me over names which ye have named, ye and your fathers, for which no warrant from Allah hath been revealed? Then wait (the consequence); lo, I (also) am of those awaiting (it).*"²⁰³ In other words, they called upon gods who were not real but fictitious, for if they truly possessed divine attributes, then chaos—not order—would ensue in the universe: "*If there had been therein (in the heavens and the earth) gods (āliha) besides Allah, then they would have been ruined. . . .*"²⁰⁴ For this reason, as the logic of the Qur'an goes, prophets and messengers were divinely commissioned not only to proclaim *tahlīl* (i.e. *lā ilāha illa allāh*, "there is no god but God") but also to invite to His worship: "*And We sent no messenger before thee but We inspired him, (saying): 'There is no God save Me (Allah), so worship Me.'*"²⁰⁵ The Prophet's Islamic Call consisted of negating divinity of the One God from all forms of polytheism and deficiencies, on the one hand, and ascribing to Him perfect and absolute eternal attributes, on the other hand. Based on this Qur'anic theodicy, it was not enough that people acknowledge the unification of God, but that they had to worship Him alone, submitting to the Divine Legislative Will.

Al-Qinawwajī, in his *al-Dīn al-khālīṣ*, tried to capture the ideological content of *ilāh* as follows.

Ilāh is an object of divinity that is worshiped or is deserving of worship; it does not mean a powerful agent of creation. If one explains *ilāh* as such, believing that the ability to create is the special characteristic of Divinity and the goal of *tawḥīd*, then he commits the error of 'scholastic' theologians (*muttakallimīn*) who, relating from Abū al-Ḥasan [al-'Ash'arī, d. 330/941] and his followers, did not grasp the reality of the *tawḥīd*

²⁰³ Q 7:71 (Pickthall); Q 12:40.

²⁰⁴ Q 21:22.

²⁰⁵ Q 21:25 (Pickthall); 16:36.

with which Allah sent His messengers. For the pagan Arabs did affirm that Allah alone is the Creator of all things; in spite of that belief in Allah, they were still called *mushrikīn* (“polytheists”), as the Qur’an states, “Most of them believe not in Allah except that they attribute partners (unto Him).”²⁰⁶ Commenting on the *āya*, a group among the Pious Forefathers (*al-salaf*) used to say, “(That is, if you) ask them who created the heavens and the earth, they will say ‘Allah,’ yet they worshipped other deities besides Him.’ The Qur’an again states, “Say ‘To whom belong the earth and all beings therein? (Say) if ye know!’ They will say, ‘To Allah.’ Say ‘Yet will ye not receive admonition?’ Say ‘Who is the Lord of the seven heavens, and the Lord of the Throne (of Glory) Supreme?’ They will say, ‘(They belong) to Allah.’ Say: ‘Will ye not then be filled with awe?’ Say: ‘Who is it in whose hands is the governance of all things—who protects (all) but is not protected (by any)? (Say) if ye know.’ They will say, ‘(It belongs) to Allah.’ Say: ‘Then how are ye deluded?’”²⁰⁷ The Qur’an contains many similar *āyāt*. Therefore, not everyone who affirms that Allah is Creator of all things is necessarily a worshiper of Him alone, a supplicant to Him alone, hopeful in Him alone, fearful of Him alone, loving for Him alone, hating for Him alone, a follower of His prophets, or complies with His commands and prohibitions. That is because the majority of polytheists declared that Allah is the Creator of all things; nevertheless, they ascribed intercessors to Him, worshipping them instead. . . .²⁰⁸

Thus, the pagan Arabs’ response that the kernel of the Islamic Call as ‘*ujāb*’ or “an astounding thing” was more than an exclamation of marvel—it was a reaction of dread at the thought of its radical cultural implications. Clearly, it must have dawned on them that the Prophet’s monotheistic message (“*your ilāh is only Allah, than Whom there is no other ilāh. . . .*”²⁰⁹), if heeded *en masse*, would inexorably reorient worship (which, as they practiced it, included visitation to sacred sites housing their gods, animal sacrifice, circumambulation, supplication, and other forms of devotion) away from loosely organized theological system to the new *tawhīd* system. Thus, the Islamic Call stood out as a revolutionary religious ideology that promoted a new set of beliefs, norms, values, and standards with the potentiality of overturning the ‘traditions of forefathers’²¹⁰ status quo in the Makkan body politic. Like verbal propaganda bulletins, the Qur’anic

²⁰⁶ Q 12:106 (Pickthall).

²⁰⁷ Q 23:84-89 (‘Alī).

²⁰⁸ Ṣiddīq Khān al-Qinawwajī, *al-Dīn al-khālīṣ*, ed. Muḥammad S. Sālim (Beirut: Dār al-Kutub al-‘Ilmiyya, 1995), vol. 1, 43.

²⁰⁹ Q 20:98 (Pickthall).

²¹⁰ Q 23:24; 43:22-23.

āyāt circulated widely in Makka and beyond, debunking the Arabian pantheon, proclaiming Allah's indivisible unity, and calling for submission to His Legislative Will. From beginning to end, the Qur'an argues with its critics and opponents, responding to every question, accusation, and challenge hurled against Muḥammad's veracity as the Prophet and Messenger of Allah, as indicated in this āya:

*Yet they say: 'What sort of apostle is this [man] who eats food [like all other mortals] and goes about in the market places? Why has not an angel [visibly] been sent down unto him, to act as a warner together with him? Or: '[Why has not] a treasure been granted to him [by God]?' Or: 'He should [at least] have a [bountiful] garden, so that he could eat thereof [without effort]!' And so these evildoers say [unto one another], 'If you were to follow [Muḥammad, you would follow] but a man bewitched!' See to what they liken thee, [O Prophet, simply] because they have gone astray and are now unable to find a way to the truth! Hallowed is He who, if it be His will, shall give thee something better than that [whereof they speak] - gardens through which running waters flow - and shall assign to thee mansions [of bliss in the life to come].'*²¹¹

But the Qur'an was not simply reactionary, for it often took the verbal offensive, scathingly attacking structures and ramparts of *Jāhiliyya*:

(i) **The rich and powerful Makkan elite or *mala'***: The Qur'an characterized them as obstinate, haughty, hedonistic, impostors, and ignorant²¹²: "*Leave Me alone [to deal] with him whom I have created alone, and to whom I have granted resources vast, and children as [love's] witnesses, and to whose life I gave so wide a scope, and yet, he greedily desires that I give yet more! Nay, verily, it is against Our messages that he knowingly, stubbornly sets himself*"²¹³;

(ii) **Makka's most visible cultural symbols**: namely, their gods, which the Qur'an lampooned: "*Have you, then, ever considered [what you are worshipping in] al-Lāt and al-'Uzzā, as well as [in] Manat, the third and last [of this triad]? . . . These [allegedly divine*

²¹¹ Q 25:7-10 (Asad); cf Q 31:27; 13:31; 17:90-93. See also Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1,

²¹² See Q 45:7-8, 18; 43:5, 31.

²¹³ Q 74:11-16 (Asad). This āya is said to have been revealed in connection with al-Walīd b. al-Mughīra, a Qurasyh chief opposed to the Prophet's message. See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 303-04.

- beings] are nothing but empty names which you have invented - you and your forefathers - [and] for which God has bestowed no warrant from on high. They [who worship them] follow nothing but surmise and their own wishful thinking - although right guidance has now indeed come unto them from their Sustainer”²¹⁴;*
- (iii) **The Arab kinship system**—the very nexus of Makkan society—was not spared in the Qur’an: “When the trumpet [of resurrection] is blown, no ties of kinship (**ansāb**) will on that Day prevail among them, and neither will they ask about one another”²¹⁵;
- (iv) **Worldly pursuit** was condemned in the Qur’an: “Wealth and sons are allurements of the life of this world: But the things that endure, good deeds, are best in the sight of thy Lord, as rewards, and best as (the foundation for) hopes”²¹⁶;
- (v) **Pagan (i.e. polytheistic) worship**: The Qur’an repudiated it: “Surely pure religion (**al-dīn**) is for Allah only. And those who choose protecting friends beside Him (say): ‘We worship them only that they may bring us near unto Allah. . . .’”²¹⁷);
- (vi) **Makkan government’s regulatory policy**: The Qur’an utterly rejected it—“Say: ‘Have you ever considered all the means of sustenance which God has bestowed upon you from on high, and which you thereupon divide into ‘things forbidden’ and ‘things lawful?’ Say: ‘Has God given you leave [to do this] or do you, perchance, attribute your own guesswork to God?’”²¹⁸); and “Hence, do not utter falsehoods (**kadhib**) by letting your tongues determine

²¹⁴ Q 53:19-23 (Asad).

²¹⁵ Q 23:101 (Asad).

²¹⁶ Q 18:46 (Y. ‘Alī).

²¹⁷ Q 39 :3 (Pickthall).

²¹⁸ Q 10:59 (Asad).

[at your own discretion], ‘This is lawful (**ḥalāl**) and that is forbidden (**ḥarām**),’ thus attributing your own lying inventions to God.”²¹⁹

(vii) **Wa’d or female infanticide:** The Qur’an criminalized and promised to chastise those who perpetrated it: “When the female (infant), buried alive, is questioned, for what crime she was killed.”²²⁰

(viii) **Misappropriation of Divine Legislative Authority** - “They have taken their rabbis and their monks—as well as the Christ, son of Mary—for their lords beside God, although they had been bidden to worship none but the One God, save whom there is no deity. . . .”²²¹

When ‘Adī b. Ḥātim (d. circa 69/688), a Christian convert to Islam,²²² heard the Prophet’s recite the āya, he said, “But they do not worship them.” The Prophet explained to him: “Indeed, they do because they declare lawful what God has made unlawful and declare unlawful what He has made lawful (and the people follow them), so that is their worship of them!”²²³ This āya is Madanite or post-Hijra; nevertheless, it throws light on the political dimension of the Islamic Call and its wide scope.

Consequently, the Qur’an’s cultural impact on Makkan society was indelible at two conspicuous levels. The first level was the style and register of the Arabic Qur’an: “And We know well that they say: ‘Only a man teacheth him’; the speech of him at whom they

²¹⁹ Q 16:116 (Asad).

²²⁰ Q 81:8-9 (Y. ‘Alī).

²²¹ Q 9:31 (Asad).

²²² For more biographical data, see Ibn al-Athīr, *Asad al-ghāba* (entry no. 3610), vol. 4, 7-10.

²²³ Variations of this exegetical narration with the general meaning is found in Ibn Abī Ḥātim, *Tafsīr*, vol. 6, 1784; al-Ṭabarī, *Tafsīr*, vol. 11, 416-21; al-Suyūfī, *al-Durr al-manthūr*, vol. 7, 323-24. It is also reported as a *ḥadīth* with several pathways in al-Ṭabarānī, *al-mu‘jam al-kabīr* (*ḥadīth* no. 218), vol. 17, 92; al-Tirmidhī, *Sunan* (*ḥadīth* no. 3095 - *ḥasan*), 694; al-Bukhārī, *al-Ta’rīkh al-kabīr* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1986), vol. 7, 106.

falsely hint is outlandish, [but] this is clear Arabic speech."²²⁴ The *sabab al-nuzūl* reported for the āya is that the Prophet used to pass by two literate non-Arab sword-makers in Makka and listen to their readings of the Gospel. The pagans began to gossip that Muḥammad was learning the Qur'an from the Christian swordmakers.²²⁵ The Qur'an emerged in a cultural context in which Arabic eloquence, rhetoric, oratory, typically delivered via poetry (*shi'r*), prose (*nathr*), and rhymed prose (*saja'*), had evolved to its quintessence in the Peninsula, especially North Arabia. The historian Ya'qubi (d. 897) described the pride of poetry in Arabian society in these words: "The Arabs had nothing to refer to for their opinions or actions except poetry. It was with poetry that they fought; it was poetry that they quoted; in it they vied in virtue, through it they exchanged oaths and with it they exerted themselves against each other; in it they were praised or blamed."²²⁶ The Qur'an forthrightly challenged its detractors to reproduce its unique style, raising the linguistic bar very high at first and then lowering it when the challenge was not met: "*Or they say: 'He hath invented it.' Say: 'Then bring ten suwar (sing. sūra), the like thereof, invented, and call on everyone ye can beside Allah, if ye are truthful!'*"; and "*Or say they: 'He hath invented it?' Say: 'Then bring a sūra like unto it, and call (for help) on all ye can besides Allah, if ye are truthful.'*"²²⁷

The second level was the semantics of the Qur'an, that is, the meanings of its āyāt. Thus, both the Qur'an's form and content baffled, intrigued, and challenged the

²²⁴ Q 16:103 (Pickthall).

²²⁵ See al-Wāḥidī, *Asbāb al-nuzūl* (no. 566 – *mursal* and *ḍa'if*), 281; al-Suyūṭī, *Lubāb al-nuqūl* (no. 632 – *mural ḍa'if*), 144; al-Shawkānī, *Fath al-qadīr*, 802-03.

²²⁶ See Khalidi, *Arabic Historical Thought in the Classical Period*, 2.

²²⁷ Q 11:13; 10:38 (Pickthall).

linguistic repertoire of eloquent pagan Arabs, particularly their celebrated poets. Was the Qur'an poetry? Was it rhymed prose? Or was it enchanting speech of an untruthful sorcerer? The Makkans concluded that the latter seemed the most rational theory to explain the Qur'an phenomenon and Muḥammad's claim that he was the Prophet and Messenger of God. 'Utba b. Rabī'a, a Quraysh chief, volunteered to negotiate terms with Muḥammad. These terms consisted of generous offers of wealth, chiefdom, kingship, and medicine, ostensibly to dissuade him from his Islamic Call. After listening to 'Utba, the Prophet responded to him, reciting these āyāt from the Qur'an: "**Ḥā, Mīm.** A revelation from the Beneficent, the Merciful; a scripture whereof the verses are expounded; a Lecture in Arabic for people who have knowledge; good tidings and a warning; but most of them turn away so that they hear not. And they say: 'Our hearts are protected from that unto which thou (O Muḥammad) callest us, and in our ears there is a deafness, and between us and thee there is a veil.' Act, then. Lo! We also shall be acting."²²⁸ 'Utba returned to Quraysh to report the outcome of his negotiations. As he approached, they said, "We swear by Allah! Here comes Abū al-Walīd with a different face from that with which he left!" He informed them: "Verily, I heard a speech that I have never heard before. It is not poetry, magic, or divining. O Quraysh, obey me and leave the affair to me. Separate this man (Muḥammad) from his message. Shun him. I swear by Allah, the speech that I heard from him will become a great news; if it reaches other Arabs, you would have sufficed him instead of them; and if it prevails over them, your sovereignty (*mulk*) will become his sovereignty and your might and glory, his might and glory, and you would be the

²²⁸ Q 41:1-5 (Pickthall).

happiest people for it!” Disappointed, the chieftains thought that ‘Utba somehow had been mesmerized by Muḥammad’s enchanting speech. He retracted, stating “It is just my opinion. Do whatever you like.”²²⁹ Among those who heard Qur’anic recitals, a few of them secretly accepted Islam, while the rest staunchly opposed it. The latter used to put their fingers in their ears, so as not to listen to the Qur’an when it was recited in public.²³⁰ The recitation of the Qur’an was heard everywhere in Makka—in private and in public, in hushed tones and in loud tones. The āyāt generated the day’s topics for discussions among supporters and critics of the Qur’an. The Qur’anic broadcasts compelled Quraysh to issue a public order banning anyone from listening to its recitals, deeming them frivolous, and warning about becoming spellbound by them. When the Prophet recited the Qur’an audibly in public, people would disperse, refusing to listen to him. Often a Makkan would defy the ban and eavesdrop on his recital during performance of the ritual prayer (*ṣalāh*) and quickly flee thereafter, fearing punishment if he were to caught doing so. Sometimes the Prophet recited the Qur’an silently, fearing that his audible recitation might provoke unbelieving listeners to curse it; at the same time, his silent recital did not benefit his own Companions, since they too could not hear it. The Qur’an solved the problem by recommending a middle course between audible and inaudible recitations: “*And thou (O Muḥammad!), be not loud voiced in thy worship nor yet silent therein, but follow a way between.*”²³¹

²²⁹ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 322-24; al-Suhaylī, *al-Rawḍ al-unf*, vol. 2, 43.

²³⁰ Ibn Hajar, *al-Ujāb fī bayān asbāb*, vol. 1, 226.

²³¹ Q 17:110 (Pickthall). See also Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 340-41; al-Bukhārī (*ḥadīth* no. 4722) in Ibn Hajar, *Fath al-bārī*, vol. 10, 301; al-Tirmidhī, *Sunan* (*ḥadīth* nos. 3145-46 - *ṣaḥīḥ*), 705-06.

After a decade of the incessant Islamic Call reverberating throughout Arabia and showing no signs of abating, nay, intensifying, the Quraysh *mala'* perceived it as an existential threat to the Makkan state, even though Muḥammad and the nascent Muslim community were not a military force with which to be reckoned, a mass movement numerically superior to the pagan community, an aristocratic majority, or economic powerhouse that demanded a seat at the elite Quraysh table. Rather, in the eyes of Quraysh, the perceived Islamic threat had everything to do with the reality that the Qur'an's rhetoric, reinforced by Muḥammad's steely resolve and commitment to his prophetic mission, had progressively discredited the prevailing order in Makka. By denigrating their gods, ridiculing the political elite, taunting their best poets, while, at the same time, offering an alternative *dīn*, the Qur'an had undermined Makkan institutions and structures and eroded legitimacy of the ruling *mala'*. The new Islamic faith was attracting adherents from across the social strata: the new Muslims were of the noblest lineage, aristocrats, Arabs, non-Arabs, Quraysh, non-Quraysh, clients, slaves, strong, weak, males, females, and foreigners. Unbelieving Makkans who fully comprehended the ideological force behind the Islamic Call ultimately admitted to Muḥammad, “*If we were to follow the Guidance with thee, we should be torn out (nutakhḥaṭṭuf) of our land!*”²³² This fear of ‘uprootedness’ (*takhḥaṭṭuf*)—borne out of political perception and not grounded in social reality—more than any other cultural factor instigated Quraysh to mobilize all resources at their disposal to crush the Islamic movement in Makka once and for all. They conspired to rid themselves of Muḥammad but without

²³² Q 28:57 (Pickthall). See Ibn Abī Hātim, *Tafsīr*, vol. 9, 2995; al-Ṭabarī, *Tafsīr*, vol. 18, 286-89; al-Suyūṭī, *al-Durr al-manthūr*, vol. 11, 494-95.

provoking a backlash from Banū Hāshim. The plot was to kill him, involving all the major Quraysh tribes opposed to the Prophet: a representative of each tribe would take part in the assassination; in this way, if the conspiracy was discovered, Banū Hāshim and their allies would be hardpressed to retaliate against a larger and unified Quraysh political alliance.

Receiving information about the murder conspiracy, the Prophet organized and directed a secret migration or *hijra* of Muslims from Makka to Madīna.²³³ After almost 13 years of the Islamic Call in Makka, the very survival of the nascent Muslim community was now at stake. The Prophet realized that to prosecute the Islamic Call fruitfully in the Arabian Peninsula and beyond would require nothing less than state power, as alluded to in the Qur'an: "Say: 'O my Lord! Let my entry be by the Gate of Truth and Honor (**mudkhal ṣidq**), and likewise my exit by the Gate of Truth and Honor (**mukhraj ṣidq**); and grant me from Thy Presence an authority (**sulṭan naṣīr**) to aid (me).'"²³⁴ The āya is said to have been revealed on the eve of his planned migration or *Hijra* from Makka to Yathrib.²³⁵ Commenting on it, Qatāda (d. 117/735) stated, "It means Allah's taking him out of Makka and placing him in Madīna. The Prophet knew that he would have no strength concerning the affair (of Islam) without political authority (*sulṭan*); therefore, he asked Allah for it and succor in order to implement His Book, limits, and ordinances. That is because political might is a power that Allah bestows upon His servants. For in

²³³ Ibn Hishām, *al-Sīra al-nabawīyya*, vol. 1. 297-300, 319-26; al-Suhaylī, *al-Rawḍ al-unf*, vol. 2, 290; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 2, 89-90; al-Shāmī, *Subul al-hudā*, vol. 3, 311-402.

²³⁴ Q 17:80 (Y. 'Alī).

²³⁵ Al-Wāhidī, *Asbāb al-nuzūl*, 291; al-Tirmidhī, *Sunan (ḥadīth no. 3139 – mursāl and ḍa'īf al-isnād)*, 704; al-Qurṭubī, *al-Jāmi' lil-aḥkām al-qur'ān*, ed. Abdul Muḥsin al-Turkī (Beirut: al-Resala Publishers, 2006), 1st edition, vol. 13, 152-53; al-Suyūṭī, *Lubāb al-nuqūl*, 150.

its absence, people would attack one another and the strong would prey on the weak.”²³⁶ According to Hamid, “the theoretical framework conceived (by the Prophet) in Makka was to be implemented by realistic political action in Madīna to complete the structure of Islam as an established religion and state.”²³⁷ In the remaining chapters, the structure of the early Islamic State and implementation of its political ideology into policy functions internally and externally will be explored.

²³⁶ See al-Ḥākim, *al-Mustadrak* (*ḥadīth* nos. 4318-19 - *ṣaḥīḥ*), vol. 3, 3-4; Ibn Qayyim, *Zād al-ma‘ād*, vol. 3, 60.

²³⁷ Hamid, *The Qur’an and Politics*, 7.

Madīna: Structure of the Islamic State

Introduction

Migrating from Makka, the Prophet arrived in Yathrib on Friday, September 24, 622 CE.¹ He renamed it Madīna.² His “good entry” (*mudkhal ṣidq*)³ into the city was not by invasion but by invitation, as he reportedly said, “Every city is conquered (*futiḥat*, literally ‘opened’) with violence (*‘unwa*), except Madīna, which was conquered by the Qur’an.”⁴ This statement reflects Islam’s concern with spirituality and politics and non-separation of religious and secular domains. Prior to his arrival, he was widely acknowledged by the dominant Madanite Arab clans as the Messenger of Allah and their de facto political leader, as indicated by the ‘Aqaba oaths of allegiance, which

¹ The date approximately corresponds to Rabīul-Awwal 12, 1 *Anno Hegira* (AH) of the Islamic lunar year, according to the Philosophia Islamica’s Hijri-Gregorian converter at www.muslimphilosophy.com. The dates July 16 and July 22, 622 CE are also widely used. Twelve years after the Prophet’s transition, ‘Umar, the second caliph, instituted the *anno hegira* or *hijri* calendar in order to reconcile conflicts in the reckoning of time in the rapidly expanding Islamic State. ‘Umar backdated the Prophet’s Hijra to the first month, Muḥarram, making it the start of the Islamic lunar year; thus, the official commencement of the Hegira era is not identical with the actual date of the Prophet’s Hijra from Makka to Madīna. The Hijra was an epoch-making event, altering the course of world history. See al-Ṭabarī, *Ta’rīkh*, vol. 2, 6; Ali, *The Spirit of Islam*, 49; W. Montgomery Watt, “Hidjra,” in *Encyclopaedia of Islam, Second Edition*, eds. Bearman et al, Brill, 2010; “*Ta’rīkh* (a.), *ET*”.

² The Prophet reportedly referred to the city of Yathrib by 10 other names, including Madīna, Ṭayyiba, and al-Mubāraka. Al-Samhūdī counted some 94 names for Madīna found in Islamic literature, underlying its great veneration among Muslims. See al-Samhūdī, *Wafā’ al-wafā’* (Madīna: Mu’assasa al-Furqān, 2001), 1st edition, vol. 1, 61-92; al-Ya’qūbī, *Kitāb al-buldān* (Leiden: Brill, 1860), 97-99; al-Hamdhānī, *Mukhtaṣar kitāb al-buldān* (Leiden: Brill, 1884), 23-27; ‘Amr b. Baḥr al-Jāhiz, *Kitāb al-buldān*, ed. Saleh A. al-‘Alī (Baghdad: Government Press, 1970), 485-88.

³ See Q 17:80.

⁴ The *ḥadīth* is reported as such by al-Balādhuri. It is also narrated with slight variations: “*Cities* (qurā) have been opened with the sword, but Madīna was opened with the Qur’an” and “*Countries* (bilād) have been opened with swords, but Madīna. . . .” Al-Albānī classified the last two reports as *munkar* (“denounced”), that is, a type of “weak” (*ḍa‘īf*) *ḥadīth* reported by one trustworthy narrator but which contradicting the reports of other trustworthy narrators. See al-Balādhuri, *Futūḥāt al-buldān* (Beirut: Mu’assa al-Ma’ārif, 1987), 1414; al-Albānī, *Silsila al-āḥādīth al-ḍa‘īfa wal-mawḍū‘a* (nos. 1847 and 6458) (Riyadh: Maktaba al-Ma’ārif, 2004), 1st edition, vols. 4, 326-27; vol. 13, 1029-32; al-Suyūṭī, *Tadrīb al-rāwī* (Beirut: Dār al-Fikr, 1988), vol. 1, 238.

occurred three years prior to the Hijra.⁵ Among his first priorities was founding Madīna as the first Islamic state through principally ‘voluntaristic’ means⁶, which is perhaps the earliest of its kind in political history. Demarcating its political borders, he organized Muslims into two broad interest groups (one group comprised Believers who emigrated from Makka; the other, Madanite Believers), subordinated Arab kinship loyalty to an over-arching faith-based fraternity with reciprocating rights and duties, instituted good relations with non-Muslim groups, and demanded from all groups—Muslims and non-Muslims—respect for life and property and readiness for defense of the state. The emigration (*Hijra*) of Muslims from Makka to Madīna signaled a new phase in propagating Islam, an ideological separation between Islam and Jāhiliyya, and a change in Qur’anic tone, rhetoric, and content. As an example, *āyāt* no longer

⁵ Altogether, the ‘Aqaba pledges were 3 not 2, as some have thought. The First Pledge occurred at al-‘Aqaba, on the outskirts of Makka toward Mīna, during Hajj. There the Prophet met 6 male Anṣār members, all of whom belonged to al-Khazraj. He invited them to Islam, which they all accepted, culminating in an oath of allegiance. They said to him: “We have left our people in a state of war. We shall return and call them to what you have invited us. Perhaps Allah will gather them for you. If they are united in word for you and follow you, then no one will be mightier than you!” They returned to Madīna, spreading the message of Islam. The next year, a company of 12 male Anṣār members, including 10 Khazrajites (5 of whom had taken the First Pledge the previous year) and two Awsites. They took the ‘women’s pledge’ with the Prophet, meaning that it was not a war pledge to defend him against his enemies. He sent Ibn b. Maktūm and Muṣ‘ab b. ‘Umayr to teach Islam and the Qur’an to the new converts in Madīna. The next Hajj season, a group of 70 Madinites of mixed al-Aws and al-Khazraj members, including 2 women, met the Prophet at al-‘Aqaba, where they took the Third Pledge—a pledge of war against the enemies of Islam. He appointed from among them the 12 *nuqabā’*. So at the time of his arrival in Madīna, most of its Arab inhabitants had embraced Islam. Ibn Abdul Barr, *al-Durarū fī ikhtishār al-maghāzī wal-siyar*, 70-79; Muḥammad Ḥamīdullāh, *Majmū‘ al-wathā‘iq al-siyāsa lil-‘ahdi al-nabawī wal-khilāfatil-rāshida* (Beirut: Dār al-Mafā’is, 1987), 6th edition, 46-51.

⁶ Political anthropology recognizes four major theories on the origin of the state: (i) *voluntaristic*, (ii) *coercive*, (iii) *synthetic*, and (iv) *political*. The first theory, akin to Rousseau’s social contract, argues that people freely create a state for the common weal; the second theory, opposite to the first, views state formation as the conquest of one polity by another; the third theory blends the *ecological* approach—early states were dependent on fertile land and access to adequate water resources—with the *Marxist* idea of materialist class system; and the fourth stems from practice theory, highlighting the role of human agency in state creation. See Kurtz, *Political Anthropology: Paradigms and Power*, 170.

addressed audiences with “O people!” (*yā ’ayūhal-nās*⁷) but with “O you who believe!” (*yā ’ayūhal-ladhīna ’āmanū*⁸).⁹ If the pre-Hijra phase of Islam represented a passive appeal to faith and perseverance in the face of persecution and intolerance, the post-Hijra phase represented an active appeal to righteousness, social solidarity, and a clarion call to defend the faith with arms.

Part I

a. Prophethood and Political Acumen

There is a dearth of topographical information in the MHT on Madīna in the Early Islamic Period. But this much can be gleaned that the city was situated in a mostly

⁷ Q 2:21.

⁸ Q 2:103.

⁹ Al-Wāhidī (d. 478/1085) reported that the ‘verse’ (*āya*) “O people!” (*yā ’ayūhal-nās*) in the Qur’an is *makkī* [i.e. it is addressed to Makkans] and that the *āya* “O you who believe!” (*yā ’ayūhal-ladhīna āmanū*) is *madanī* [i.e., it is addressed to the people of Madīna]. Muslim exegetes differ, however, on the meaning of “people” (*al-nās*) in the *āya*. Al-Māwardī (d. 481/1058) gave two interpretations of it: (i) unbelievers and (ii) a general term that includes believers. Ibn Hibbān (d. 354/965) held that it refers to every intelligent person. Al-Hasan al-Basrī (d. ca. 109/728) and Mujāhid (d. ca. 101/719) believed that it specifically refers to Jews. Muqātil (d. 150/767) added that “people” are the Hypocrites, while al-Sadī (d. 128/745) said that they designated the polytheists of Makka. Ibn Hajar (d. 852/1448) reconciled these conflicting statements, stating “There is a difference between those who say *yā ’ayūhal-nās* is *makkī* and those who say it addressed the people of Makka, because the former is more specific than the latter and because there is [general] agreement (among exegetes) on the technical usage of *makkī* and *madanī*. *Makkī* is that which was revealed before the Hijra—even though outside of Makka like Tā’if, Baṭnu Nakhl, and ‘Arafa—and *madanī* is that which was revealed after the Hijra, even in places such as Makka and other areas outside of Madīna where the Prophet conducted military campaigns. If that (typology) is acknowledged, then those who say *yā ayūhal-nās* is *makkī* mean pre-Hijra, which would exclude the Hypocrites who appeared in the post-Hijra period but may include Jews. And those who say that *yā ’ayūhal-nās* is addressed to the Makkan people, they include both pre-Hijra and post-Hijra *āyāt* but have specified Makkans to the exclusion of other pagans. As for *al-Baqara* (Q 2) being *madanī*, despite its having *yā ’ayūhal-nās*, it is explained by the first meaning—that is, wherever it is found in the Qur’an, as in *al-Baqara* (e.g. Q 2:21) and in *al-Nisā*’ (e.g. Q 4:1), it is Pre-Hijra.” According to al-Suyūṭī, al-Ja’barī (d. 732/1331) has offered a serviceable criterion on *makkī* and *madanī*: “There are two paths to knowing the *makkī* and the *madanī*: oral transmission (*samā’i*) and analogy (*qiyāsī*). The *simā’i* is the path by which the revelation has reached us orally. The *qiyāsī* path, which is known by every *sūra* containing *yā ayūhal-nās* alone (and not *yā ayūhal-ladhīna āmanū*), the particle of repelling *kallā* (“by no means!”), begins with a ‘particle of attraction’ (*ḥarfū tahajjin*)—except the *zahrāwayn* (*al-Baqara* and *‘Āli ‘Imrān*; i.e. Q 2 and 3 respectively) and *al-Ra’d* (Q 13)—or has a story about ‘Ādam or ‘Iblīs—except *al-Baqara*—is *Makkī*, including every *sūra* that has stories of prophets and past nations. And every *sūra* that has a religious mandate (*farīda*) or sanction or ‘limit’ (*ḥadd*) is *madanī*.” See al-Wāhidī, *Asbāb al-nuzūl*, 22; Ibn Hajar, *al-‘Ujāb*, vol. 1, 244; al-Suyūṭī, *al-Itqān fī ‘ulūmil-qur’ān* (Beirut: al-Maktaba al-‘Asriyya, 2006), 1st edition, 51.

barren highland north of Makka. Mainly surrounded by stony tracts of land, the most important of which were Wāqim to the east and al-Wabara to the west, Madīna was bordered to the north by Mount Uḥud and to the south by Mount ‘Asīr and the suburb of Qubā’. Within its territory were a number of inhabited wadis, including Buṭḥān, Mudhaynīb, Mahzūr, al-Qanāt, and al-‘Aqīq, stretching from the south to the north.¹⁰ During heavy rainfall, the wadis were filled with torrents of water, which was distributed over a wide expanse of terrain, contributing to the area’s fertility and making Madīna a flourishing oasis. Some wadis were dammed for agricultural purposes.

Concerning the political environment of Madīna, it appears that the Prophet was not oblivious of it before he came. For we know from the three ‘Aqaba pledges that some Awsites and Khazrajites had apprised him of the city’s conflictual political culture—the enmity among tribal factions, fragile alliances, a precarious peace, and the urgent need for an effective leader, that is, a stable government. Indeed, it was at al-‘Aqaba, near Makka, following the Third Pledge, where he had appointed 12 *nuqabā’* (sing. *naqīb*, “overseer”), assigning one to each of the dominant Madanite Arab clans (9 from al-Khazraj and 3 from al-Aws) and appointing Abū ‘Amāma ‘As‘ad b. Zarāra as the chief *naqīb* to whom the *nuqabā’* reported.¹¹ He addressed them with these words: “You are guardians (kufāla’) of the people in their affairs like the guardianship of the Helpers (al-ḥawāriyīn) to Jesus, son of Mary; and I am the guardian (kafil) of my people.”¹² The political institution of *niqāba* (a type of decentralized administration) marked a preliminary step

¹⁰ Al-‘Umarī, *Mujtama‘ al-madīna al-munawwara qabla al-hijra*, 3rd World Sīra Conference, vol. 6, 359; Wensinck, *Muhammad and the Jews of Medina*, 6-17;

¹¹ Ḥamīdullāh, *Majmū‘ al-wathā‘iq*, 32.

¹² Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 143-45.

toward introducing a semblance of order and authority in Madīna prior to the Hijra. Later in the post-Hijra period, he did not abolish the *niqāba*. Whenever a *naqīb* died in office, the Prophet replaced him with another, indicating that the *niqāba* institution was politically expedient to his administration and, at the same time, respected the tribal structure of Madinite society. As the leader of a persecuted religious movement with a vision of a new society and in search of a hospitable environment for his prophetic mission, it would have been remiss of him not to be informed about the political climate of the city that had willingly opened its gates to him. Other evidence of his acquaintance with the political situation is seen in his entry into Madīna. When he entered astride his camel Qaṣwa, he released its reins that the Arab chiefs vied to grab, each of them lauding the size and strength of his tribes as means of enticing him to honor them with his residence. Instead the Prophet beckoned them to leave his mount alone: “. . . *for she is divinely commanded.*” His camel finally stopped at a cultivated spot belonging to two orphans. (Later he purchased the land whereupon he built the first mosque in Madīna proper, which was known as *al-masjid al-nabawī* or the Prophet’s Mosque). Eventually, Abū Ayyūb Khālīd b. Zayb b. Kalīb of Banī Ghanam b. al-Najjār gathered the reins of his camel, while the Prophet reportedly said to his competitive Arab hosts: “*A rider stays with his mount.*”¹³ This symbolic act and speech of the Prophet—deferring the decision on his shelter to fate and then accepting temporary residence from an unsolicited third party in the person of Abū Ayyūb—not only demonstrated his

¹³ Al-Ṭabarī, *Ta’rīkh*, vol. 2, 8.

political acumen but also his keen awareness of the rivalrous Arab kinship. In this manner, he tactfully avoided pleasing—or displeasing—any one tribe directly.

b. Social Make-Up of Madīna

The Prophet encountered two distinct interest groups vis-à-vis Islam in Madīna. The first group comprised the Muslim bloc subdivided into Makkan émigrés—the Muhājirūn—and Muslim converts among the al-Aws and al-Khazraj—the Anṣār (“Helpers”).¹⁴ The second group was made up of non-Muslims who were Jews, pagan Arabs, and the Qur’anic category of “Hypocrites” (*munāfiqūn*)—those few native Madanites who outwardly professed Islam but inwardly rejected it and belied it in some of their activities. The various interest groups participated in the process level of the political system, articulating certain demands that they expected the Prophet’s government to address. To illustrate, the poor and dispossessed Muhājirūn grieved for Makka and worried about their future in Madīna; at the same time, they were assuaged by their newly found freedom to practice their faith without persecution. Madanite Jews, who used to rehearse the prophecy of an Arabian messiah¹⁵ or prophet foretold in their scripture, expected Muḥammad to restore their political and military ascendancy over their pagan Arab compatriots. Indeed, whenever they had felt threatened by al-Aws and al-Khazraj, the Jews would warn them that the prophet will appear soon and that they would rally behind him, killing their enemies like “the killing of ‘Ād and

¹⁴ In the post-Hijra period, the Muslims of al-Aws and al-Khazraj became known as Anṣār. Watt suggested that the word Anṣār may be traced back to certain passages of the Qur’an. Most likely, however, it is derived from the second pledge at al-‘Aqaba, as in al-Ya‘qūbī’s narration, in which it is stated that the al-Aws and al-Khazraj shall fight with the Prophet against all those who fight him and that “they should help him” (ينصروه = *yanṣūrūh*; hence, Anṣār, “Helpers”) against those near and far. If they fulfill that, he promised them Paradise. See Ḥamīdullāh, *Majmū‘ al-wathā‘iq*, 50.

¹⁵ H. Graetz, *History of Jews* (Philadelphia: Jewish Publication Society of America, 1894), vol. 3, 58.

‘Iram!’”¹⁶ Thus, the greater Jewish community, at the outset, had slight or no grounds to oppose Muḥammad’s political leadership of Madīna. And why should they not welcome his government? Did he not, among other things, pray toward their *qibla* (a place the direction of which a worshiper faces in prayer) the Holy Temple (*bayt al-maqdis*) in Jerusalem and fasted with them on ‘Āshūrā, the 10th of Muḥarram, commemorating the day in which God had saved Moses and the Children of Israel from Pharaoh and his Egyptian hordes? On the eve of the Prophet’s arrival, Madanites had been poised collectively to crown Abdullah b. Ubayy b. Salūl, chief of al-Khazraj, as their king.¹⁷ But Islam had spread in Madīna like wildfire, effectively incinerating his rise to power. Ibn Salūl responded by grudgingly accepting Islam, following the Madanite bandwagon but proved to be recalcitrant. He is characterized as the “Chief Hypocrite” (*ra’is al-munāfiqīn*) in the MHT, and his role in opposition to Islam is further discussed in the chapter on the Islamic State’s relations with its non-Muslim subjects. As for the Awsite leader Abū ‘Āmir, he rejected Islam and fled to Makka after an altercation with the Prophet over which of the two of them was the stricter follower of *al-ḥanaḥfiyya*, the Abrahamic religion. Later, when the Prophet conquered Makka, Abū ‘Āmir fled to Ṭā’if; and when Ṭā’if fell to Islam, he fled to Syria where he ultimately died as a non-Muslim.¹⁸

In sum, weary of war that was reluctant to lay down its burdens, inhabitants of Madīna,

¹⁶ Ibn Hishām reported it with a chain of authorities (*sanad*) that is *ḥasan* (“sound”). See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 427; Ibn Qayyim, *Zād al-ma’ād*, vol. 3, 44.

¹⁷ A crown fit for an Arab king, in the form of strung gems, had already been made for him. Kingship was not foreign to the culture of the Azdite Arabs of Madīna, for their ancestors, the descendants of Qaḥṭān, had established a monarchy in Yemen. It is said that among the Arabs only the Qaḥṭānites were crowned and that the first of them to be crowned was Saba’ b. Yashjub b. Ya’rub b. Qaḥṭān. See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 226-29; al-Suhaylī, *al-Rawḍ al-unuf*, vol. 3, 20; al-Balādhurī, *Ansāb al-ashrāf*, 274.

¹⁸ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 226-27; al-Samhūdī, *Wafā’ al-wafā*, vol. 1, 389; al-Suhaylī, *al-Rawḍ al-unuf*, vol. 3, 19-21.

regardless of their religious orientation, tribal affiliation, and ethnic background, perceived Muḥammad as a new leader whom they hoped could unite the society and establish an enduring peace. He was not crowned as king but recognized as the de facto ruler of Madīna, although a resistant minority still regarded Ibn Salūl was the de jure leader.

Before examining how the Prophet's government responded to inputs of the political system, the historical settlement of Madīna's principal populations—Jews and Arabs—and their belligerent, convenient, and uneasy alliances will be retraced briefly, so as to contextualize the cultural dynamics of Yathrib leading up to the Islamic period. Watt has profiled the various Arab and Jewish tribes by name, genealogy, and geographic dispersion in Yathrib/Madīna and its environs in detail,¹⁹ which need not be restated here. Rather our examination will be confined to aspects of Madīnite society pertinent to political analysis. When Muḥammad came to Yathrib/Madīna, Sa'd b. Mu'ādh was the chief of al-Aws and Sa'd b. 'Ibāda, the chief of al-Khazraj. According to some historical reports²⁰, al-Aws and al-Khazraj were originally two sons of Ḥārith b. Tha'laba b. 'Amr Mazayqiyā b. 'Āmir, leader of the Azdites, descendants of the Qaḥṭānites who had replaced the Chaldeans in Yemen. One of Qaḥṭān's sons, Ya'rib, succeeded him and it is believed that he gave his name to the land and people of Arabia. Ya'rib was succeeded by his son Yishhad who founded the state of Ma'rib. Yishhad's son was the father of Abdul-Shams (also called Saba'), progenitor of the Sabaens. After the

¹⁹ *Muhammad at Medina*, 151-80.

²⁰ Al-Balādhurī, *Futūḥ al-Buldān*, 13; Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 21-22; Ibn Kathīr, *al-Bidāya wal-nihāya*, 446.

fall of Ma'rib, Qahtanite power and fortunes rapidly declined. Under the leadership of Muzayqiyā, the Azdites sold out their possessions in Yemen and pushed northward ca. 207 CE.²¹ Along their trek, they clashed with 'Akk, dispersing to various regions of the Peninsula. The tribe of Āli Jafna b. 'Āmir settled in al-Shām, while other Azdite tribes settled in Ghassān, Najrān, and Makka where they fought the Jurhamites. Stricken by plague in Makka, many Azdites later fled to Ammān, al-Sāra, Anbār, and Hīra, while those who remained in Makka became known as Khuzā'a.²² Some Azdites reached Yathrib and found it inhabited by Jews. The majority view among Muslim historians, after the second destruction of their Temple in 70 CE, several Jewish groups had migrated to Arabia, settling in Yathrib, Tīm, and al-Qurā.²³ In Yathrib, Jews became acculturated with the remaining Jurhamites and 'Amāliq (Amalekites) and eventually replaced them, establishing a strong Jewish cultural presence. The Azdites stayed on the outskirts of Yathrib, outside Jewish control, becoming rich, multiplying their numbers, and forming two powerful tribes—al-Aws and al-Khazraj—who overran Yathrib around 492 CE, wresting it from Jewish political control. Consequently, Jews became their clients under the *wilāya* ("clientage") system. Al-Khazraj comprised 5 clans, each of which was divided into smaller tribal units under the sons of al-Khazraj:

²¹ The cause of the Azdite migration from Yemen to Arabia is a matter of conjecture among historians. Some have suggested that the bursting of the Ma'rib dam and the subsequent al-'Aram flood (ref. Q 34:15-16) prompted their departure, while others thought that it was a mix of political upheavals and the lure of economic prosperity stemming from Roman control of the Red Sea, which had considerably expanded trade with India. It is theoretically possible that their migration was due to a mix all these historical, political, and economic factors. The Azdites were divided into some 27 tribes. See al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 229-30.

²² The *ansāb* sources agree that the Khuzā'a clan were descendants of 'Amr b. Luḥayy but differ on their progenitor and tribes. See Ibn 'Abdul Barr, *al-Qaṣd wa-l umam*, 92-95.

²³ Several theories account for the origins of Jews in Arabia up to the Islamic period, which are discussed in the chapter on the Prophet's relationships with non-Muslims.

Ka'b (or Banū Sā'ada), 'Amr (Banū al-Najjār who comprised the Banū Mālik, Banū 'Adī, Banū Māzin, Banū Dīnār), 'Awf (Banū Sālim and Banū al-Qawāfil), Jashm (Banū Ghaḍab and Banū Tazīd), and al-Ḥārith (Banū Khadra and Banū Ḥarām). Similarly, al-Aws comprised many clans, including the Banū 'Awf, Banū al-Nabīt, Banū Jashm, Murra, and Banū Imra' al-Qays, having a number of smaller tribal units.²⁴ Acculturation among the co-existing Arab and Jewish communities occurred at many levels, including the social, religious, political, and linguistic. Some Arabs became Judaized and Jews spoke Arabic and took Arabic names. Jews, however, kept their faith, viewing their monotheism as superior to Arab paganism, and lived in enclaves that were virtual strongholds (*āṭām*; sing. *uṭum*). Even though they lost political dominance in Yathrib, Jews remained economically and militarily powerful, maintaining a complex web of alliances with one and another as well as with both al-Aws and al-Khazraj. At the time of Islam, Jewish colonies were mainly found in the environs of Madīna, while smaller groups of broken Jewish lineage dwelled inside the city. Three Jewish tribes figure prominently in Muslim history primarily because of their vehement opposition to the Prophet and Islam: Banū Qaynuqā', Banū Qurayza, and Banū al-Naḍīr. Their contentious relationship with the Islamic State is fully explored in the next chapter.

c. Madīna's Conflictual Political Culture

Cultural relations among the diverse Madinite groups prior to Islam were hostile, pitting Arabs against Arabs, Arabs against Jews, Jews against Jews, and Arabs

²⁴ Ibn 'Abdul Barr, *al-Qaṣd wal-umam*, 106-10; Ibn Khaldūn, *Ta'rīkh*, 467-68; 'Umar Riḍā, *Mu'jam qabā'il al-'arab al-qadīma wal-ḥadītha* (Beirut: al-Resala Publishing House, 1997), 8th edition, vol. 1, 50-51, 342-43; 'Alī, *al-Mufaṣṣal*, vol. 4, 134-36.

and Jews against Arabs and Jews. Usually the motives behind the violent conflicts were political, economic, or social but never religious, embroiling individuals and their tribes. These intermittent feuds and battles²⁵ had culminated in the war of Bu‘āth ca. 617 CE.²⁶ Bu‘āth was a place situated in the south-eastern quarter of the Madanite oasis inside the territory of Qurayṣa.²⁷ The Bu‘āth War pitted the weaker forces of al-Aws, including the nomadic Muzayna led by Ḥuḍayr b. Simāk and their Jewish allies Qurayṣa and al-Naḍīr, against the mightier al-Khazraj supported by warriors from the nomadic Juhayna, Ashja‘, and Bayāḍa led by ‘Amr b. al-Nu‘mān. Fierce fighting ensued and al-Aws ultimately gained the upper hand. Many leaders from both warring sides perished. But not all the clans of al-Aws and al-Khazraj were involved. For the Awsite Ḥāritha clan remained neutral, as did two major Khazrajite leaders ‘Abdullāh b. ‘Ubayy and Amr b. al-Jamūḥ. Watt summed up the aftermath of Bu‘āth as follows: “No formal peace was made after Bu‘āth, but the combatants were too exhausted to continue the struggle actively. For the most part the enemy groups avoided one another, but there was a state of hostility, and, if a man was careless and gave his opponents an opportunity, he was liable to be murdered. This was the uneasy position in Medina when negotiations with Muḥammad commenced.”²⁸

Spearheaded by eight members of the al-Khazraj, the negotiations had begun at ‘Aqaba, resulting in the First Oath of Allegiance (*bay‘a al-‘aqaba al-ūlā*), as alluded to

²⁵ See Watt, *Muhammad at Medina*, 156-58.

²⁶ Conflicting reports are given on its date, ranging from 40 to 5 years before the Hijra. According to Ibn Hajar, the most authentic report is that it occurred 5 years before the Hijra. See Ibn al-Athīr, *al-Kāmil fil-ta’rīkh*, 188-89; al-Samhūdī, *Wafā’ al-wafā*, vol. 1, 385-88; “Bu‘āth,” *EF*².

²⁷ Al-Baghdādī, *Mu‘jam al-buldān*, vol. 1, 451-52.

²⁸ Watt, *Muhammad at Medina*, 158.

earlier.²⁹ The Prophet invited them to Islam and, after they accepted it, he commanded them to guard his back until he had successfully conveyed his Lord's Message. They said to him: "We will strive in the cause of Allah and His Messenger. You know that enemies mutually hate one another. This is the first year since Bu'āth—the day on which we fought one another. If you come to us while we are disarrayed, we will not be a united group for you; so pray for us until we return to our tribes. Perhaps Allah shall set things right in the interval between now and our meeting you in the pilgrimage season next year."³⁰ Thus, prior to the Hijra, it is evident from the report that the Prophet was already considered by several leading Awsite and Khazrajite members as the most suitable political leader to bring stability to Madīna. As the 'Aqaba dialogues suggest, Muḥammad himself appeared cognizant of that fact and expressed his own concerns. He knew that because the pagan Makkan state was resolved to silence the Islamic Call permanently, he needed a safe haven in order to continue his propagation and guarantee his followers' safety, which Madīna and the conversion of al-Aws and al-Khazraj to Islam provided. "Bu'āth was (an opportune) day that Allah granted His Messenger, 'Ā'isha (d. 57/676), one of the Prophet's wives, commented. "When he came (to Madīna), its *mala'* were divided, their leaders had been killed, and they were wounded. In this way, Allah gave it to him, causing them to enter into Islam."³¹

Part II

d. The Founding of the First Islamic State

²⁹ Ḥamīdullāh, *Majmu'at al-wathā'iq*, 28-33.

³⁰ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 1, 186.

³¹ Al-Bukhārī (*ḥadīth* no. 3777) in Ibn Hajar, *Fath al-bārī*, vol. 8, 482.

Upon his arrival in Madīna, the Prophet wasted no time in asserting his recently acquired political authority, laying the foundations of the Islamic State, preparing it as the staging ground for his Islamic Call, and organizing its defense against the enemies of Islam, especially the Quraysh in Makka. “The sole purpose of this political arrangement was to make Medina an indivisible unit which would contribute towards the success of Islam also beyond the limits of the town,” Wensinck wrote.”³²

Reorganization of the political system in Madīna was accomplished through the Prophet’s fruitful negotiation of a series of treaties with binding legal effect on all parties, the most important of which were collectively known as the Madīna Constitution (Ar. *dustūr al-madīna*, *wathīqa al-madīna*, or *ṣaḥīfa al-madīna*). One of the earliest legal documents in Muslim history, the Madīna Constitution is central to understanding the political evolution of the Islamic State. Many works have been written on it, though scholars—non-Muslims and Muslims alike—differ on its title, authenticity, legal purpose, and modern relevance. While many had no qualms calling it the “Constitution of Madīna,” a few, such as Serjeant, attached the phrase “so-called” before it or, like Watt, put ‘Constitution’³³ in quotes, implying that they did view it as such but in a metaphorical sense. Yet others, like Lecker, hesitated to call it a constitution in the first place, finding such a title “disorienting”³⁴ and preferring *kitāb* (literally, “prescript” or “book”) instead, since the document in question begins, after

³² Arent Jan Wensinck, *Muhammad and the Jews of Medina*, trans. Wolfgang Behn (Berlin:Klaus Schwarz Verlag, 1975), 51.

³³ Watt, *Muhammad at Medina*, 221.

³⁴ Michael Lecker, *The “Constitution of Medina”: Muhammad’s First Legal Document* (NJ: The Dārwin Press, Inc., 2004), 2.

the *basmala*³⁵, with the words “This is a *kitāb* from Muḥammad. . . .” *Kitāb*, however, is mentioned only twice in the document, whereas it refers to itself as *ṣaḥīfa* (“document,” “letter,” and is synonymous with *kitāb*³⁶) no less than 8 times. It will be identified as *Ṣaḥīfa* throughout this chapter.

Like the word “state,” as shown in the previous chapter, much of the confusion over recognizing the *Ṣaḥīfa* as a constitution or not stems from the fact that the word “constitution” is polysemous or polysemic, having two or more related meanings and not only one fixed meaning in time.³⁷ The issue should not be whether the *Ṣaḥīfa* can be called a constitution but what one intends by it, using such a term. If a person means by constitution, for example, a set of decision rules issued by a political authority, approved by a legislative body, or ratified by voting, it may be said that such a usage is decidedly modern and perhaps anachronistic in relation to the *Ṣaḥīfa*, which definitely did not come into being by those procedures. If a person uses the term figuratively, as in the “so-called constitution” or “‘Constitution’ of Madīna,” it suggests that he or she does not think that it is literally a constitution perhaps in the modern sense of the word. If by calling it a constitution, one means by it the basic set of rules agreed upon on how public decisions are made in a polity, then the usage is appropriate, since such is the function of all state constitutions past and present. In modernity, constitutions pertaining to governance manifest in various forms and contents—written, unwritten,

³⁵ *Basmala* is an Arabic verbal noun that refers to the Qur’anic phrase *bismillā al-raḥmān al-raḥīm* (“In the Name of Allah, the Beneficent, the Merciful”).

³⁶ See Lane, *Arabic-English Lexicon* 1655.

³⁷ Edward Finegan, *Language: its Structures and Use* (US: Thomson and Wadsworth, 2008), 5th edition, 187.

Iroquois, democratic, communist, and the like—all of which provide, from the Structural-Functionalist-System (SFS) perspective, the “basic rules concerning decision making, rights, and the distribution of authority in a political system.”³⁸ The naming of a thing is usually the last stage in the human cognitive process. Firstly, the phenomenon is perceived through one’s physical senses or objective faculties (seeing, hearing, etc) as an image; secondly, the image is then transmitted to the brain where it is mentally interpreted; thirdly, the conceived reality of the phenomenon is articulated in word; and fourthly, the name that designates its meaning is written down. Again, there should be no confusion over names or terms if their meanings are first of all understood. Moreover, it comes as no surprise that the *Ṣaḥīfa* operated as a constitutional document in the seventh-century Islamic State. For constitutions might be old as the origins of states, dating back thousands of years ago. In his *Political Order in Changing Societies*, Huntington wrote, “The idea and practice of constitutionalism are similarly ancient. Constitutions, laws, and courts all existed in highly developed forms long before the appearance of the modern state;”³⁹ so too did assemblies, bureaucracies, cabinets, councils, elections, parliaments, and other structures of a political system. In sum, the reality of a phenomenon lies not in its name but in its function. As we shall see shortly, the *Ṣaḥīfa* not only offered a basic set of rules agreed upon on how public decisions are made in the Islamic State but it also served as a political agreement or treaty, social compact, and a protocol on the required political behavior of the different interest groups in Madīna.

³⁸ Almond *et al*, *Comparative Politics Today*, 101.

³⁹ Huntington, *Political Order in Changing Societies*, 89.

e. Madīna Constitution: Reliability and Accuracy

After 100 years of scholarly inquiry into the *Ṣaḥīfa*, two majority views have emerged. The first is that it is composed of two (or more) documents. The second is that at its core it is factual, thereby rendering it an authentic and reliable document of the historical period. Today few scholars claim that it is a forgery.⁴⁰ In the west, Wellhausen's (d.1918) seminal work on the *Ṣaḥīfa* posited that "If the document had been a fabrication, its author would have conformed to the criteria of later periods. No true Muslim writing under the Umayyads or the Abbasids would have included non-Muslims in the *Umma*, no one would have dwelt to such an extent on the hate of the Quraysh as the true enemies of God; and no one would have fabricated an ordinance in which the Prophet made so little direct use of his divine authority. Not only the content, but also the form, speaks for the authenticity of the document."⁴¹ Building on the linguistic evidence, Ḥamidullāh, in his monograph entitled *First-Written Constitution in the World*, stated that the *Ṣaḥīfa*'s "diction is very old, almost in archaic Arabic. There is spontaneity and directness, and no traces of artificiality of later generations in the style."⁴² He further argued that as head of state, Muḥammad promulgated the *Ṣaḥīfa* and reduced it to writing, which was unprecedented in the annals of constitution law.

⁴⁰ Yūsuf al-'Ush, in his *Kitāb al-dawla al-'arabiyya wa suqūtiḥā*, doubted its authenticity, joining a short list of Muslim and non-Muslim scholars. His claims, as al-Umarī pointed out, were based solely on Ibn Ishāq's report of the *Ṣaḥīfa*, which omitted the chain (*sanad*) of authorities, making it a type of *ḍa'īf* or "weak" *ḥadīth* but not necessarily a fabricated *ḥadīth* or a forgery (*mawḍū'*). See al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 274. The variant reports about the *Ṣaḥīfa* are discussed in the chapter.

⁴¹ Julius Wellhausen, "Muhammad's Constitution of Medina"; an excursus contained in Arent Jan Wensinck, *Muḥammad and the Jews of Medina*, trans. Wolfgang Behn (Berlin: Klaus Schwarz Verlag, 1975).

⁴² Muḥammad Ḥamidullāh, *The First Written Constitution in the World* (Lahore: Sh. Muhammad Ashraf, 1968), 2nd edition, 39; al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 275.

El-Awa claimed that the *Ṣaḥīfa* is the first political document recorded by the Prophet.⁴³ But it might be predated by the written political directive that the Prophet sent to Mus'ab b. 'Umayr, ordering him to establish the *Jumu'a* (Friday) congregational prayer: "Look at the day in which the Jews come out with their Torah to observe their Sabbath; then, when the Sun is at its zenith on Friday, gather the women and children, and approach Allah with two units of ritual-prayer."⁴⁴ That was before the Prophet's arrival in Madīna. Hence, Lecker's description of the *Ṣaḥīfa* as "Muḥammad's first legal document" (the subtitle of his book) and not his "first political document," as El-Ewa opined, is more apt.

f. Variant Reports of the Ṣaḥīfa

Here is the full text of the *Ṣaḥīfa* as translated by Ḥamidullāh and based on its variant reports⁴⁵:

With the name of God, the Most Merciful, the All-Merciful

1. This is a prescript (**kitāb**) of Muḥammad, the Prophet [the Messenger of God⁴⁶] to operate among the Faithful Believers (**mu'minīn**) and the Submissive to God (**muslimīn**) from among the Quraysh and [the people of⁴⁷] Yathrib and those who may be under them and join them,⁴⁸ and take part in wars in their company.
2. Verily they constitute a political unit (**Umma**) as distinct from the people (of the world).
3. The Emigrants from among the Quraysh [**Muhājirūn**] shall be (responsible) for their ward (**rab'a**); and shall pay⁴⁹ their blood-money in mutual collaboration, and shall secure the release of their prisoners by paying their ransom themselves, so that the mutual dealings between the Believers⁵⁰ be in accordance with the principles of recognized goodness (**ma'rūf**) and justice.

⁴³ El-Awa, *On the Political System of the Islamic State*, 22.

⁴⁴ Ḥamidullāh, *Majmu'a al-wathā'iq*, 35.

⁴⁵ Ḥamidullāh, *The First Written Constitution in the World*, 41-54. The following footnotes (nos. 47-98) belong to the translator.

⁴⁶ Added from 'Abū 'Uбайд (henceforth AU).

⁴⁷ Added from AU.

⁴⁸ Instead of "join" (*laḥiqa*), AU's version is "settle among."

⁴⁹ AU adds "as heretofore." But that is the mistake of the copyist.

⁵⁰ AU adds "and the Submissive [i.e. Muslims]."

4. *And the Banū 'Awf shall be responsible for their own ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵¹ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
5. *And Banū al-Ḥarīth⁵² shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵³ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
6. *And Banū Sā'ida shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵⁴ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
7. *And Banū Jusham shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵⁵ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
8. *And Banū al-Najjār shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵⁶ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
9. *And Banū 'Amr b. 'Awf shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵⁷ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
10. *And Banū al-Nabīt shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵⁸ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*
11. *And the Banū al-Aws shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group⁵⁹ shall secure the release of their own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.*

⁵¹ AU adds "of them."

⁵² AU adds "of the Khazrajites."

⁵³ AU adds "of them."

⁵⁴ AU adds "of them."

⁵⁵ AU adds "of them."

⁵⁶ AU adds "of them."

⁵⁷ AU adds "of them."

⁵⁸ AU adds "of them."

⁵⁹ AU adds "of them."

12. a. And verily the Believers shall not leave anyone hard pressed with debts, without helping⁶⁰ him in recognized goodness with regard to ransom or blood-money.
12. b. And no Believer shall oppose the client of another Believer against him (i.e., this latter).⁶¹
13. And verily the [hands of⁶²] pious Believers shall be raised against [every⁶³] such person as rises in rebellion or⁶⁴ attempts to acquire anything by force, or is guilty of any violation of pledge or excess or attempts to spread mischief among the Believers; and verily their hands shall rise all together against such a person, even if he be son of anyone of them.
14. And⁶⁵ no Believer shall kill (yaqtulu) another Believer in retaliation for an unbeliever (**kāfir**), nor shall he help an unbeliever against a Believer.
15. And verily the protection of God (**dhimma**) is one: the humblest (**adnā**) of them (i.e., the Believers) can, by extending his protection to anyone, put the obligation on all of them⁶⁶; and verily the Believers are brethren to one another (mawālī) as against the other people (of the world).
16. And verily those who will obey us from among the Jews will have help⁶⁷ and equality; neither shall they be oppressed nor shall any help be given against them.
17. And verily the peace of the Believers shall be one; [and⁶⁸] if there be any war in the path of Allah, no mu'min shall make any peace (with the enemy) apart from other mu'minīn, unless it (i.e., this peace) be the same and equally binding on all.
18. And verily every detachment that will fight on our side will be relieved by turns.
19. And verily the Believers as a body shall take vengeance for each other of the bloodshed in the path of God.⁶⁹
20. a. And undoubtedly the pious Believers are the followers of the best and the straightest guidance.
20. b. And no Polytheist (**mushrik** Arab subject) shall give any protection to property and to life of any Qurayshite, nor shall he come in the way of⁷⁰ any Believer in this matter.

⁶⁰ So according to AU; in Ibn Hishām (IH): “giving” (i.e. the requisite).

⁶¹ And so according to Ibn Hishām: missing in AU. The following isolated report of Ibn Ḥanbal (3/342) may be a variant of the same clause: “Jābir says, ‘the Messenger of Allah prescribed for each clan its blood-money, and then wrote: Verily, it is not permitted that a contract of clientage of a Muslim individual should be entered into without the permission of his patron (*walī*).’” Maybe the word *yukhālifu* (‘oppose’) by IH is to read *yuhālifu* (‘enter into contact’).

⁶² AU adds this.

⁶³ AU adds this.

⁶⁴ In IH: “or,” and in AU: “and.”

⁶⁵ AU omits the word “and.”

⁶⁶ AU omits first part of the clause.

⁶⁷ In IH: “help”; in AU: “recognized goodness.”

⁶⁸ AU adds this word.

⁶⁹ AU omits this entire clause.

⁷⁰ In AU, “shall be helped against.”

21. And verily if anyone intentionally murders a Believer and it is proved, he shall be killed in retaliation, unless the heirs of the murdered person agree [to blood-money⁷¹]; and verily all the Believers shall actually stand for this, and nothing else shall be lawful for them to do.⁷²
22. And verily it shall not be lawful for any Believer, who has accepted the contents of this document (**Ṣahīfa**) and has faith in God and in the Last Day, to give help or protection to any murderer (**muḥdith**)⁷³; and verily whoever gives help or protection to such a person, God's curse and wrath shall be on him on⁷⁴ the Day of Resurrection, and no expense or compensation will be accepted from him (i.e., from the protector of the murderer to exonerate him).
23. And whenever ye differ about anything, its reference⁷⁵ shall be to God and to Muḥammad.⁷⁶
24. And verily the Jews shall bear (their) expenditure along with the Believers so long as they fight in conjunction.
25. And verily the Jews of Banū 'Awf⁷⁷ shall be considered as a community (**umma**) along with⁷⁸ the Believers, for the Jews have their dīn ("religion") and the Muslims⁷⁹ have their dīn, be one client or original member of the tribe; but whosoever shall be guilty of oppression or⁸⁰ violation (of treaty), shall put to trouble none but [his] own person and the members of his house (**ahli-l bayt**).
26. And verily the Jews of Banū 'al-Najjār shall have the same rights as the Jews of Banū 'Awf.
27. And verily the Jews of Banū al-Ḥarīth shall have the same rights as the Jews of the Banū 'Awf.
28. And verily the Jews of Banū Sā'ida⁸¹ shall have the same rights as the Jews of the Banū al-'Awf.
29. And verily the Jews of the Banū Jusham⁸² shall have the same rights as the Jews of the Banū 'Awf.
30. And verily the Jews of the Banū'l-Aws⁸³ shall have the same rights as the Jews of Banū 'Awf.

⁷¹ Added from AU's version.

⁷² The phrase "and nothing. . .to do" is omitted by AU.

⁷³ For this sense of the word *muḥdith*, see IH, pp. 344 and 690-1; Balādhurī, *Futūḥ*, p. 173, among others.

⁷⁴ In AU, "till the day."

⁷⁵ AU: "its decision."

⁷⁶ AU: "the Messenger may Allah bless him and protect."

⁷⁷ AU adds, "and their clients and their original members." Note that these words come later in the clause where AU has omitted them.

⁷⁸ So in Ibn Ishāq (Ibn Hishām): "along with" (*ma'a*); in AU, "of" (*min*). It may not be out of place to add that Ibn Hajar has attacked one of the narrators of the text cited by Ibn Ishāq, saying that he invented things. He gives no other details to justify his accusation. It would be permissible to suppose that Ibn Hajar was shocked by this phrase, which says that the Jews form a community along with the Believers. But as we have suggested above, the clause even in its most "shocking" form means nothing more than this that the Jews are also believers in God, monotheists. So there is nothing therein for a pious Muslim to be shocked at.

⁷⁹ In AU, "for the believers."

⁸⁰ AU: "and."

⁸¹ AU: "Banū al-Jusham."

⁸² AU: "Banū Sā'idiya."

⁸³ AU: "Jews of al-Aws."

31. *And verily the Jews of the Banū al-Tha'laba shall have the same rights as the Jews of the Banil 'Awf⁸⁴; but whosoever shall be guilty of oppression and violation of treaty shall put to trouble none but his own person and the members of his house.*
32. *And verily the Jafna is a branch of the (tribe of) Tha'laba, even like them.⁸⁵*
33. *And verily Banū'sh-Shuṭayba shall have the same rights as the Jews of Banū 'Awf; and verily there shall be fulfillment and not violation.*
34. *And verily the clients of the Tha'laba shall have the same rights as the original members.*
35. *And verily the sub-branches (**biṭāna**) of the Jews shall have the same rights as the principal members.*
36. *a. And verily none of them shall go out (on a military expedition) except with the permission of Muḥammad.*
36. *b. And verily no obstruction shall be placed in the way of (anyone's) retaliation of a wound; and whosoever sheds blood shall be personally responsible for it even as the members of his house, or else (i.e. to do otherwise) it will be injustice; and verily God is along with those who observe this most scrupulously.⁸⁶*
37. *a. And verily the Jews shall bear their expenses (of war) and the Muslims shall bear their expenses; and verily there shall be aid between them as against⁸⁷ those who fight the parties (ahl) to this document (**Ṣaḥīfa**), and there shall be sincere counsel and well-wishing between them; and there shall be fulfillment (of pledge) and not violation.*
37. *b. And verily no one shall violate the pledge of his ally (**ḥalīf**); and verily help⁸⁸ shall be given in favor of the oppressed.*
38. *And verily the Jews shall bear (their) expenditure along with the Believers so long as they fight in conjunction.⁸⁹*
39. *And verily the valley (jawf) of Yathrib⁹⁰ shall constitute an inviolable territory⁹¹ for the parties to this **Ṣaḥīfa**.*
40. *And verily the protected person (**jār**) shall be considered just like the original member (i.e., who has given protection); neither shall he (the protected person) be harmed, nor shall he violate the pledge.⁹²*

⁸⁴ The whole Clause up to this point is omitted in AU.

⁸⁵ All these Clauses (nos. 32-35) are missing in AU.

⁸⁶ Missing in AU.

⁸⁷ The first part of this clause is missing in AU, which begins "there shall be aid against," etc.

⁸⁸ AU: "and between them good counsel and help," etc.

⁸⁹ Missing in AU; in fact, a repetition of Clause no. 24 above.

⁹⁰ AU: "Madīna."

⁹¹ "Ḥaram" by AU; and "ḥarām" by IH.

⁹² Clauses 40 and 41 are missing in AU.

41. *And verily no refuge will be given (i.e., by the protected person to others) without the permission of the original people of the place.*
42. *And verily if any murder (**ḥadath**) or quarrel⁹³ takes place between the parties to this **Ṣaḥīfa**, from which any trouble may be feared, it shall be referred to God and to Muḥammad, Messenger of God, may God bless him and protect⁹⁴; and verily God is the guarantee of the most faithful and scrupulous observance of the contents of this document.*
43. *And verily the Quraysh shall be given no protection [or] those who help them.⁹⁵*
44. *And verily there shall be aid between them (i.e. the Muslims and the Jews) against those who invade Yathrib.*
45. a. *And if they (i.e., the Jews) are invited to a peace to participate in and to adhere to it, they shall participate in and adhere to it; and verily if they invite likewise, the same shall be incumbent upon the Believers in their favor, excepting one who fights for the cause of religion.⁹⁶*
45. b. *On every group shall rest the responsibility for the part⁹⁷ [of the city?] which faces them.*
46. *And the Jews of al-Aws, clients as well as original members, shall have the same rights as the parties to this document (**Ṣaḥīfa**), with the purest fulfillment with regard to the parties to this document; and verily there shall be fulfillment and not violation⁹⁸; no evil-doer earns anything except against his own self; and verily Allah is the guarantee of the most truthful and most scrupulous observance of the contents of this document.*
47. *And verily this prescript (**kitāb**) shall not protect any oppressor or violator of pledge; and verily whoever goes out (on a military expedition) shall have security, and whoever stays in Madīna shall have security, except one who commits oppression and violation of the pledge; and verily God is the protector of those who fulfill and observe the pledge scrupulously, even as Muḥammad, the Messenger of Allah (may God bless and protect him) is (i.e., the protector).*

The oldest report of the **Ṣaḥīfa** is Ibn Ishāq's, which is found in his *sīra*⁹⁹ and has come down to us mainly through Ibn Hishām's version of the *sīra*. Therein the **Ṣaḥīfa** is

⁹³ The words "or quarrel" missing in AU.

⁹⁴ In AU, "to Muḥammad the Prophet" only; the rest of the clause is missing.

⁹⁵ Clauses 43 and 44 missing in AU.

⁹⁶ AU: "If they [the Muslims] ask the Jews to make peace with any ally of theirs, they shall make peace with him; and if they ask us for a similar thing, the same shall be incumbent upon the believers, except one who fights for the cause of religion."

⁹⁷ In AU, "part of the expenditure"; the rest of the clause is omitted.

⁹⁸ AU: "*And the Jews of al-Aws and the clients and the original members shall have the best fulfillment from the parties to this document; and verily the Banu'sh Shuṭayba are a branch (baṭn) of the Jafna; and verily there shall be fulfillment and not violation, therefore no evil-doer,*" etc.

⁹⁹ Quite a few efforts have been made to publish Ibn Ishāq's work separately, including Suhayl Zakkar's *Kitāb al-siyar wal-maghāzī* (Damascus: Dār al-Fikr, 1978) and Muḥammad Ḥamīdullāh's *Sīrat Ibn Ishāq* (Rabat: Ma'had al-Dirasat wa'l Abhath lil-Ta'rib, 1976). In fact, from 1860-1998, there have been nine published works on Ibn Ishāq's *sīra*, including two German editions. More recently it was published as *al-Sīra al-nabawiyya libni Ishāq*, ed. Aḥmad Farīd al-Mazīdī, 2 vols., 1st edition (Beirut: Dār al-Kutub al-

conveyed minus any chain of authorities (*sanad* or *isnad*).¹⁰⁰ Like many who have inquired into it, Denny incorrectly assumed that Ibn Ishāq's account is the sole historical account of the *Ṣaḥīfa*.¹⁰¹ On the contrary, there are several variant reports of it, some of which are inclusive of *isnād*. The following is a list of 8 historical sources of the *Ṣaḥīfa* recorded in the genres of *sīra* and *ḥadīth*:

- 1) Ibn Ishāq's (d. 151/768) report, which Ibn Hishām (d. ca. 313 or 318/925 or 930) transmitted without *isnād*: "*The Prophet wrote a contract (**kitāb**) for the Muhājirūn and Anṣār and agreed with the Jews to a treaty, confirming them in their religion and wealth and stipulating conditions for them: 'In the Name of Allah, the Beneficent, the Merciful. . . .'*"¹⁰²
- 2) Aḥmad's (d. 241/855) report. It is narrated with the following *isnād*: "From Naṣr b. Bāb ⇒ Ḥajjāj [b. Arṭa'a] ⇒ Amr b. Shu'ayb ⇒ his father ⇒ his grandfather who narrated that "*the Messenger of Allah wrote a **kitāb** for the Muhājirūn and Anṣār that they pay their bloodwits and ransom their prisoners of war in recognized goodness and justice (**ma'rūf**) and conciliate Muslims. . . .*"¹⁰³
- 3) Ibn Abī Khaythama's (d. 279/892) report. It is found in Ibn Sayyid al-Nās' (d. 734/1333) *Uyūn al-athar*. After presenting Ibn Ishāq's report, he stated, "Ibn Abī Khaythama also reported it with this *isnād*: 'Aḥmad b.

‘Arabiyya, 2004) based on a Karabacek manuscript (no.1140) at the Turkish Kubrīlī library and the Aḥmad Tīmūr Pāshā copy at Dār al-Kutub al-Misriyya, Cairo.

¹⁰⁰ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 143-46.

¹⁰¹ Frederick M. Denny, "Umma in the Constitution of Medina," *Journal of Near Eastern Studies*, Vol. 36, No. 1 (Jan., 1977), 1.

¹⁰² Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 143-46

¹⁰³ Aḥmad, *Musnad* (*ḥadīth* no. 6904), 524.

Janāb Abul-Walīd ⇒ ‘Īsā b. Yūnus ⇒ Kathīr b. Abdullah ‘Amr b. al-Muzanī
⇒ his father ⇒ his father ⇒ that “the Messenger of Allah wrote a **kitāb** for
the Muhājirūn and Anṣār. . . .”¹⁰⁴

- 4) Abū ‘Ubayd al-Qāsim b. Salām’s (d. 224/837) report. Two narrations of it
are found in his *kitāb al-amwāl*: i) Abdullah b. Ṣāliḥ ⇒ al-Layth b. Sa’d ⇒
‘Uqayl ⇒ Ibn Shihāb who narrated that “the Messenger of Allah wrote this
kitāb: ‘From Muḥammad, the Prophet, for the believers and Muslims of Quraysh
and the People of Yathrib and those who followed and joined them, liberating
and fighting with them. . . (the rest of the text is similar to Ibn Ishāq’s; and
he also related it with this *isnād*: Yaḥyā b. Abdullah b. Bukayr ⇒ al-Layth
b. Sa’d ⇒ ‘Uqayl ⇒ Ibn Shihāb); ii) Abū ‘Ubayd (al-Qāsim b. Salām) ⇒
Ḥujjāj ⇒ Ibn Jurayj who narrated that “in the **kitāb** of the Prophet between
the believers and Muslims of Quraysh and the People of Yathrib and those who
followed and joined them and fought with them, (it is stipulated) that they
should not give up their happiness (i.e., they should not be overburdened in their
religion) to give in **ma’rūf** concerning ransom and bloodwit.”¹⁰⁵
- 5) Ḥumayd b. Zanjawī (d. 251/865)’s report. A student of Abū ‘Ubayd, he
also wrote a *kitāb al-amwāl* work in which he recorded his report of the
Ṣaḥīfa with this *isnād*: from Ḥumayd ⇒ ‘Abdullah b. Ṣāliḥ ⇒ al-Layth ⇒
‘Uqayl ⇒ Ibn Shihāb who narrated that “I was informed (balaghanī) that
the Messenger of Allah wrote this prescript (**kitāb**) between the mu’minīn and

¹⁰⁴ Ibn Sayyid al-Nās, *Uyūn al-athar*, vol. 1, 320.

¹⁰⁵ Abū ‘Ubayd al-Qāsim b. Salām, *Kitāb al-amwāl* (Beirut: Dār al-Shuruq, 1989), 1st edition, 210-11.

muslimīn of Quraysh and the people of Yathrib and those who follow, join, and take up residence with them. . . .”¹⁰⁶ Its contents are similar to Ibn Ishāq’s, including the section dealing with Jews. He also recorded abbreviated reports of the *Ṣaḥīfa*, explaining that women and children have the same rights as men concerning prisoner ransom and that it is the duty of the leader (imam) and Muslims to free them from the polytheists by any means, including men and wealth.¹⁰⁷

- 6) Al-Bayhaqī’s (d. 458/1065) report. He recorded two narrations of it in his *al-sunan al-kubrā*.¹⁰⁸ The *isnād* of the first narration reads “Abū Abdullah al-Ḥāfiẓ ⇒ Abū al-‘Abbās Muḥammad b. Ya‘qūb ⇒ Aḥmad b. Abdul Jabbār ⇒ Yūnus b. Bukayr ⇒ Ibn Ishāq ⇒ ‘Uthmān b. Muḥammad b. ‘Uthmān b. al-Akhnas b. Sharīq who narrated that “I took this *kitāb* from the family of ‘Imrān b. al-Khaṭṭāb, which was attached to another *kitāb* on alms that ‘Umar had written to his tax-collectors (as follows):

In the name of Allah, the Beneficent, the Merciful. This is a kitāb from Muḥammad, the Prophet, for among the Believers and Muslims of Quraysh and Yathrib, and those who follow, join, and fight with them. Verily, they constitute a single Umma, separate from the people. The Muhājirūn of Quraysh shall be (responsible) for their ward (rab’a), pay their blood-money in mutual collaboration, and secure the release of their prisoners by paying their ransom themselves, so that mutual dealings between the Believers are in accordance with ma’rūf and justice (al-qist).

And Banū ‘Awf shall be responsible for their own ward and shall pay their blood-money in mutual collaboration as heretofore; and every group shall secure the release of their own prisoners by paying their ransom themselves, so that mutual dealings between the Believers are in accordance with recognized goodness and justice.

[The tribes of al-Hārith, Sā’ada, Jusham, al-Najjār, ‘Amr b. ‘Awf, al-Nabīt, and al-Aws, continuing:]

¹⁰⁶ Ḥumayd b. Zanjawī, *Kitāb al-amwāl*, ed. Shākir Zayb Fayyād (Riyadh: King Faisal Center for Research and Islamic Studies, 1986), 1st edition, 466-73.

¹⁰⁷ Zanjawī, *Kitāb al-amwāl*, 331-33.

¹⁰⁸ Al-Bayhaqī, *al-Sunan al-kubrā* (*ḥadīth* no. 16369), (Beirut: Dār al-Kutub ‘Ilmiyya, 2003), vol. 8, 184-85.

And verily the Believers shall not abandon anyone from amongst them, granting him ransom (fidā') or mulct ('aql) in recognized goodness and justice.

The second narration contains the following *isnād*—"Abū Abdullah al-Ḥāfiẓ ⇒ Abū Bakr al-Qāḍī ⇒ Abū al-'Abbās Muḥammad b. Ishāq al-Ṣaghānī ⇒ Mu'āwiya b. 'Amr ⇒ Abū Ishāq al-Fazārī ⇒ Kathīr b. Abdullah," having similar content as the first.¹⁰⁹

- 7) Ibn Abī Ḥātim's (d. 327/938) report in his *al-Jarḥ wal-ta'dīl*. He related it from 'Abdur Raḥmān ⇒ al-'Abbās b. al-Walīd b. Mazīd Qirā'a ⇒ his father ⇒ al-Awzā'ī (d. ca. 158/774) who narrated that he wrote to 'Abdullah b. Muḥammad, the Commander of the Faithful (*amīr al-mu'minīn*), an excerpt of which reads: "*al-Zuhrī (d. 125/743) informed me that there was, in the kitāb that the Messenger of Allah wrote for the Muhājirūn and Anṣār that they should not be overburdened in their religion to assist in the ransom and bloodwit. . .*"¹¹⁰

- 8) Ibn Ḥazm's (d. 456/1063) report. It is found in his *al-Maḥallā* with this *isnād*: From Ḥamām ⇒ Abdullah b. Muḥammad b. 'Alī al-Bājī ⇒ Abdullah b. Yūnus ⇒ Baqiyy b. Mukhlad ⇒ Abū Bakr b. Abī Shayba ⇒ Ḥifṣ b. Ghiyāth ⇒ Hajjāj b. Arṭa' ⇒ al-Ḥakam b. Muqsim ⇒ Ibn 'Abbās who narrated that "*the Messenger of Allah wrote a*

¹⁰⁹ Al-Bayhaqī, *al-Sunan al-kubrā (ḥadīth no. 16370)*, vol. 8, 185.

¹¹⁰ Ibn Abī Ḥātim, *al-Jarḥ wal-ta'dīl* (Beirut: Dār al-Kutub al-'Ilmiyya, 1953), 1st edition, vol. 1, 195-97; Zanjawī, , 337-38; Abū Na'im al-Iṣbahānī, *Ḥilya al-'awliyyā' wa ṭabaqāt al-aṣfiyā'* (no. 354) (Beirut: Dār al-Kutub al-'Ilmiyya, 1988), vol. 6, 135; al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 273.

kitāb for the Muhājirūn and Anṣār that they pay their bloodwits and ransom their prisoners of war in recognized goodness and justice (ma'rūf) and conciliate Muslims. . . ."¹¹¹

In light of the research methodologies of the ḥadīth sciences, as Ḍīdān b. Abdur Raḥmān al-Yāmī demonstrated in his *bayān al-haqīqa fil-ḥukm 'alal-wathīqa* ('wathīqa al-madīna'),¹¹² none of the aforementioned eight historical sources of the *Ṣaḥīfa* satisfy the "acceptance" (*qubūl*) criteria of ḥadīth scholars or *muḥaddithūn*, so they cannot be graded *ṣaḥīḥ*; rather, each report constitutes a ḥadīth *ḍa'īf* due to a defect(s) of the narrator or a missing link in the *isnād/sanad* between the narrator and the Prophet. Thus, Ibn Ishāq's report is *ḍa'īf* because he omitted (as did Ibn Hishām) its *isnād*, making it *mu'ḍal*.¹¹³ Aḥmad's ḥadīth report is *ḍa'īf* because one of the *isnād*'s authorities, Ḥajjāj b. Arṭa'a (d. 45 /665), is classified as *mudallis*, that is, he narrated from authorities that he did not personally meet.¹¹⁴ Commenting on Aḥmad's report, al-Sā'atī wrote, "Its *sanad* is *ṣaḥīḥ*. Ibn Kathīr mentioned it in his *Ta'rīkh*, stating 'Aḥmad alone reported this ḥadīth. . . .'"¹¹⁵ But al-Sā'atī may have overlooked the impugment of Ḥajjāj b. Arṭa'a concerning *tadlīs*.¹¹⁶ Ibn Abī Khaythama's report is not accepted because in its *isnād* is Kathīr b.

¹¹¹ Ibn Ḥazm, *al-Maḥallā* (Riyadh: International Ideas Home, 2003), 2011.

¹¹² Ḍīdān b. Abdur Raḥmān al-Yāmī, *Bayān al-haqīqa fil-ḥukm 'alal-wathīqa* ('wathīqa al-madīna'), (Riyadh, Maktaba al-Ma'ārif, 1987), 1st edition; Aḥmad, *al-Sīra al-nabawiyya*, 307-12.

¹¹³ A ḥadīth that is *mu'ḍal* has two or more authorities who are missing in the *isnād*. See Aḥmad Shākir, *al-Bā'ith al-ḥathīth (sharḥ ikhtisār 'ulūm al-ḥadīth lil-ḥafīz ibn kathīr* (Beirut: Dār al-Kutub al-'Ilmiyya), 1st edition, 48; al-Albānī, *Difā' 'an al-ḥadīth al-nabawī wa-s sīra* (Damascus: Mu'assasa/Maktaba al-Khāfiqīn, 1976), 25-26.

¹¹⁴ Ibn Hajar, *Taqrī al-tahdhīb*, 222; Shākir, *al-Bā'ith al-ḥathīth*, 51-52; al-Yāmī, *Bayān al-haqīqa*, 12-16.

¹¹⁵ See Aḥmad 'Ubayd al-Raḥmān al-Banā (al-Sā'atī), *al-Fath al-rabbānī* (Beirut: Dār al-Iḥyā), 2nd edition, vol. 21, 10-11; Ibn Kathīr, *al-Bidāya wal-nihāya*, 463.

¹¹⁶ Al-Albānī, *Difā' 'an al-ḥadīth*, 80-81.

Abdullah ‘Amr b. al-Muzanī who is *ḍa‘īf* and is also accused of lying.¹¹⁷ Concerning Abū ‘Ubayd’s two reports, the first is unacceptable because Abdullah b. Ṣāliḥ (also known as Muḥammad b. Muslim Abū Ṣāliḥ) is classified as *kathīr al-ghalaṭ* (“prone to errors”) and because it is *mursal*,¹¹⁸ since Shihāb (al-Zuhrī) did not witness the *Ṣaḥīfa* incident; the second is also unacceptable because its *sanad* authority, Ibn Jurayj (d. ca. 150/767),¹¹⁹ used to generate *mursal* and *mudallas* narrations and did not witness the event.¹²⁰ Ḥumayd b. Zanjawī’s report is defective for the same reasons as those pertaining to Abū ‘Ubayd’s. Al-Bayhaqī’s first report is unacceptable because of its truncated version in comparison to Ibn Ishāq’s, because of Aḥmad b. Abdul Jabbār al-‘Uṭaridī (d. 72/691) who is *ḍa‘īf*, though “his hearing of the *sīra* is *ṣaḥīḥ*. . . ,”¹²¹ and because of ‘Uthmān b. Muḥammad b. ‘Uthmān b. al-Akhnas b. Sharīq who is suspected of *wajāda*—i.e. taking knowledge from a document without having heard it directly read to him by an authority (*samā’*)—permission (*ijāza*), or having it handed it to by an authority for transmission (*munāwala*)¹²²; his second report includes the aforementioned Kathīr b. Abdullah ‘Amr b. al-Muzanī who is *ḍa‘īf*.¹²³ Ibn Abī Ḥātim’s report is *mursal*, going back to al-Zuhrī, as discussed earlier. As for Ibn Ḥazm’s report, he himself critiqued it: “Many people say that these reports are to be relied upon because they are *ṣaḥīḥ*. Besides these, other reports exist, in which there is no harm to mention them, even though

¹¹⁷ Ibn Hajar, *Taqrīb al-tahdhīb*, 808; al-Yāmī, *Bayān al-haqīqa* 16-19.

¹¹⁸ A *ḥadīth* by a Follower (*tābi‘ī*; plural, *tābi‘ūn*), a Muslim of the generation after the Companions, narrating that the Prophet reportedly said such and such, and the like. Shākir, *al-Bā‘ith al-ḥathīth*, 45.

¹¹⁹ *Taqrīb al-tahdhīb*, 624.

¹²⁰ Al-Yāmī, *Bayān al-haqīqa*,

¹²¹ Ibn Hajar, *Taqrīb al-tahdhīb*, 93.

¹²² M. M. Azami, *Studies in ḥadīth Methodology and Literature* (IN: American Trust Publications, 1978), 16; Shākir, *al-Bā‘ith al-ḥathīth*, 122-26.

¹²³ Al-Yāmī, *Bayān al-haqīqa* 26-32.

they lack any aspect of proof, so as to be known. [After presenting his report of the *Ṣaḥīfa*, Ibn Ḥazm added:]. . . Ḥajjāj b. Arṭa' is *sāqīṭ* (literally, 'one who drops something'; it is synonymous with *mudallis*) and Muqsim, *ḍa'īf*."¹²⁴

Based on the foregoing assessment, al-Yāmī, like many others, maintained that these variant reports of the *Ṣaḥīfa* cannot be accepted and are therefore unreliable historical accounts related to the *sīra*. But al-Yāmī's position is influenced partially by his belief that the *Ṣaḥīfa*'s legal accommodation of Jews as an *Umma* within the majority Muslim polity with political rights and duties contradicts the *Sharia*'s ultimatum decree of *jizya*, which was imposed on Jewish and Christian subjects of the Islamic State, and partially by his ultra-conservative notions about the non-Muslim "other" (as seen in his introduction, for example, when he mentioned "the warlike Jews of Madīna, which is not unusual. May Allah curse and render them abominable!"¹²⁵). Otherwise, he might have mistaken the wood for the trees. Zanjawī did draw attention to the possibility that the *Ṣaḥīfa* was written soon after the Prophet's arrival in Madīna and before his issuance of the *jizya* decree, thereby eliminating contradiction between the constitution of Islamic State and the poll-tax policy.¹²⁶ Furthermore, had al-Yāmī spared no effort investigating the *Ṣaḥīfa* reports, he would have discovered that they could be reconciled using the same methods of the *ḥadīth* sciences, as others have done. Al-'Umarī summed up his findings on the *Ṣaḥīfa* as follows.

¹²⁴ Ibn Ḥazm, *al-Maḥallā*, 2011; al-Yāmī, *Bayān al-haqīqa*, 34.

¹²⁵ Al-Yāmī, *Bayān al-haqīqa*, 4.

¹²⁶ Zanjawī, *Kitāb al-amwāl*, 472-73.

Texts of the Constitution (*wathīqa*) are found in *āḥādīth* with *asānīd* that are unbroken (*muṭṭaṣil*), some of which are reported by al-Bukhārī¹²⁷ (d. 256/869) and Muslim (d. 261/874). Such texts are *āḥādīth ṣaḥīḥa* that jurists (*fuqahā'*) have used as evidence and derived rulings from them. Just as some texts have been reported in Aḥmad's *Musnad*, Abū Dāwūd's (d. 275/888) *Sunan*, Ibn Māja's (d. 273/886) *Sunan*, and al-Tirmidhī's (d. 279/892) *Sunan*, which came down from different pathways to those of the Constitution. Thus, even if the Constitution, by the collectivity of its reports, is not appropriate for evidence in legal rulings (*al-aḥkām al-sharī'a*)—except that which is reported in the books of *ḥadīth ṣaḥīḥ*—nevertheless, their foundation is appropriate for historical study that does not require the grade of authenticity like legal rulings, especially since the Constitution has come down to us in a number of pathways that mutually assist one another in acquiring strength, and al-Zuhrī is a great scholar among the early researchers on the Prophet's *sīra*. Moreover, the most important *sīra* works and historical sources mention the Prophet's agreement with the Jews and his writing of a treaty between them, just as they mention his writing of a treaty between the Muhājirūn and Anṣār.¹²⁸

He concluded that multiple traditions of the *Ṣaḥīfa* reinforce one another, thereby raising its level from *ḍa'īf* to *ḥasan* ("good"); specifically, *ḥasan li ghayrih*.¹²⁹ In other words, the *Ṣaḥīfa* report is technically neither *ṣaḥīḥ* nor *ḍa'īf* but somewhere in the middle, according to methods of the *ḥadīth* sciences. The explanation of *ḥasan li ghayrih* is that the report is not "sound" per se but "sound" in respect of relevant multiple, variant reports that strengthen it. As for the usage of *ḥasan li ghayrih* as legal (*shar'ī*) proof in Islam, scholars differ; it is lengthy discourse that need not concern us here.¹³⁰

In his *Ta'rīkh*, Ibn Kathīr (d.775/1373) broached the reports of some *muḥaddithīn* that speak to certain aspects of the *Ṣaḥīfa*:

¹²⁷ For example, Abū Jaḥīfa asked 'Alī, "Do you have any revelation (*wahyī*) besides the Qur'an?" 'Alī replied: "No! I swear by Him who spilt the seed and created the soul, I only have the understanding that Allah gives a man regarding the Qur'an and what is in this *Ṣaḥīfa*." Abū Jaḥīfa asked him about its contents. 'Alī said, "Blood-money (*'aql*), freeing prisoners of war (*al-asīr*), and the non-killing a Muslim for an unbeliever." It is possible that he was referring to the *Ṣaḥīfa*, the Constitution of Madīna, as recorded by Ibn Ishāq, or another legal document containing similar clauses. The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī, Aḥmad, al-Dārāmī, al-Ṭaḥāwī, Ibn Abī Shayba, Ibn al-Jārūd, al-Bayhaqī, al-Nasā'ī, Abū Dāwūd, and al-Tirmidhī; see al-Albānī, *Irwā' al-ghalīl* (*ḥadīth* no. 2209), vol. 7, 266.

¹²⁸ Al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 275-76.

¹²⁹ Al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 276.

¹³⁰ For more information on the evidentiary aspects of reports graded *ṣaḥīḥ*, *ḥasan*, *ḍa'īf* and the like, see Ṣiddīq Khān al-Qinnawjī, *al-Ḥittā fī dhikr al-siḥāḥ al-sitta* (Beirut: Dār al-Jayl), 1st edition, 225-32; al-'Irāqī, *al-Taḥqīd wal-īdāh limā 'aṭlaqa wa 'a'laqa min muqaddima ibn al-Ṣalāḥ* (Beirut: Mu'assa al-Kutub al-Thaqafiyya, 1993), 132.

Aḥmad reported (from ‘Affān ⇨ Ḥamād b. Salma ⇨ ‘Āṣim al-Aḥwāl ⇨ Anas b. Mālik who narrated) that “the Messenger of Allah made an alliance between the Muhājirūn and Anṣār” at his home. Aḥmad, al-Bukhārī, Muslim, and Abū Dāwud reported from different pathways (emanating from ‘Āṣim b. Sulaymān al-Aḥwāl ⇨ Anas b. Mālik who said) that “the Messenger of Allah made an alliance between Quraysh and Anṣār at my home.” Aḥmad also reported (from Naṣr b. Bāb ⇨ Ḥajjāj [b. Arṭa’a] ⇨ Amr b. Shu’ayb ⇨ (Shu’ayb’s) father ⇨ (Shu’ayb’s) grandfather who narrated that “the Messenger of Allah wrote a kitāb for the Muhājirūn and Anṣār that they pay their bloodwits and ransom their prisoners of war in recognized goodness and justice (ma’rūf) and conciliate Muslims.” He is also singular in reporting a similar statement from Surayj ⇨ ‘Abbād ⇨ Ḥajjāj ⇨ al-Hakam ⇨ al-Muqsim ⇨ Ibn ‘Abbās. Muslim reported from Jābir who narrated that “the Messenger of Allah stipulated bloodwit (‘uqūla) for every tribe (of Madīna).” [After presenting Ibn Ishāq’s report of the *Ṣaḥīfa*, he concluded:] Abū ‘Ubayd b. Salām has discussed it at length in the book *al-gharīb*, as have others, but which is too lengthy to recount here.”¹³¹

Finally, in his unpublished Master’s thesis *Ṣaḥīfa al-madīna*, which is filed with King Saud University in Riyadh, Hārūn Rashīd Muḥammad Ishāq recounted about 27 āyāt of the Qur’an and 8 *āḥādīth* (found in Aḥmad’s *Musnad*, Abdur Razzāq’s *al-Muṣannaf*, Abū Dāwud’s *Sunan*, and al-Khaṭṭābī’s *Ma’ālim al-Sunna*), which bear testimony to the writing of the *Ṣaḥīfa* and its origin in Muslim history: “They are all *ṣaḥīḥ* or *ḥasan*—except Abdur Razzāq’s report, which is *mursal*.”¹³² It is noteworthy that just a few of the large Muslim histories mention the *Ṣaḥīfa* in its entirety as per Ibn Ishāq’s report. For example, reports about it are omitted in al-Wāqidī’s (d.207/823) *al-Maghāzi*, Ibn Sa’d’s (d. 230/845) *Ṭabaqāt*, al-Balādhurī’s (d.279/892) works, al-Ṭabarī’s (d.310/923) *Ta’rīkh*, Ibn al-Athīr’s (d. 630/1232) *al-Kāmil fīl-ta’rīkh*, and al-Dhahabī’s (d. 748/1347) *Ta’rīkh al-islām*. As for Ibn Khaldūn (d. 808/1405), he briefly referred to it in his *Ta’rīkh* with these words: “The Prophet made an agreement with the Jews, writing a *kitāb* for them, stipulating their rights and duties.”¹³³ Was this glaring omission of the *Ṣaḥīfa* in the better known works of Muslim historians selective? Ḥamīdullāh, Wensinck, and others

¹³¹ Ibn Kathīr, *al-Bidāya wal-nihāya*, 463-64.

¹³² See Aḥmad, *al-Sīra al-nabawiyya*, 313-16.

¹³³ Ibn Khaldūn, *Ta’rīkh*, 499.

speculated that the omission was deliberate, since al-Wāqidī *et al* did not find the Prophet's political accommodation of Jews in Madīna palatable; therefore, they rejected the *Ṣaḥīfa* reports purely on dogmatic grounds.¹³⁴ But the charge of selective omission is a hasty generalization, for we know that some of those Muslim historians, who were also *sīra* specialists, did refer to it in their writings, albeit indirectly. As Wellhausen noted, "al-Wāqidī does not cite the text of the constitution but mentions its content in several passages (in his *al-maghāzī*)."¹³⁵ So did Ibn Sa'd, al-Ṭabarī, al-Maqrizī, and others.¹³⁶

g. Structure and Unity of the Ṣaḥīfa

Those scholars who accepted the *Ṣaḥīfa*'s authenticity differed on whether it is comprised of one or more documents. Serjeant insisted that it contained eight separate documents written during the first seven of the Prophet's ten years in Madīna.¹³⁷ His claim, however, is problematic. Firstly, he relied mainly on the reports of other documents issued by the Prophet that post-date the writing of the *Ṣaḥīfa* (which we shall come to shortly). Secondly, his contextualization of Qur'anic verses in support of his thesis was highly speculative (as he himself admitted)¹³⁸ and was not grounded in Muslim history as conveyed in the MHT, especially the genres of *sīra* and *asbāb al-nuzūl* ("occasions of Qur'anic revelation"); the latter is an early narrative on the Early Islamic

¹³⁴ Wensinck, *Muhammad and the Jews of Medina*, 62-63; Ḥamīdullāh, *The First Written Constitution in the World*, 39.

¹³⁵ Wellhausen, as cited in Wensinck, *Muhammad and the Jews of Medina*, 129.

¹³⁶ See also Aḥmad, *al-Sīra al-nabawiyya*, 315.

¹³⁷ R. B. Serjeant, "The 'Sunna Jāmi'a,' Pacts with the Yathrib Jews, and the 'Tahrīm' of Yathrib: Analysis and Translation of the Documents Comprised in the So-Called 'Constitution of Medina,'" *Bulletin of the School of Oriental and African Studies, University of London*, Vol. 41, No. 1 (1978), 1.

¹³⁸ R. B. Serjeant, "The 'Sunna Jāmi'a,' Pacts," 6.

Period, providing historical context for a significant portion of the Qur'an. Thirdly, Serjeant's view never gained traction as a credible proposition in western scholarship on Islamic Studies. The majority scholarly opinion is that the *Ṣaḥīfa* is composed of two separate treaties: one is between the Muhājirūn and Anṣār and the other between Jews and Muslims of Madīna.¹³⁹ That the *Ṣaḥīfa* is a meld of two treaties is evident from the aforementioned reports of Ibn Ishāq, Ibn Abī Khaythama, and Zanjawī, whereas those of al-Bayhaqī, Aḥmad, al-Bukhārī, Muslim, and Abū Dāwūd, do not mention Jews along with the Muhājirūn and Anṣār. As an example, Aḥmad reported (from a narration by Ibn Abbās): "*The Messenger of Allah drew up a document between the Muhājirūn and the Anṣār to wit they shall pay their own blood-money and secure the release of their own prisoners in recognized goodness and setting things right amongst the people.*"¹⁴⁰ Take, as another example, the previously mentioned narration of 'Amr b. Shu'ayb's grandfather.¹⁴¹ The two reports make no mention of Jews as parties to the treaty between both groups of Muslims. Additionally, Muslim historians have almost invariably recorded that when the Prophet arrived in Madīna, he made an agreement with the Jews. According to al-Wāqidī, "when the Messenger of Allah came to Madīna, he made an agreement with all the Jews, drawing up a document between himself and them, affiliating every group with their confederates, and stipulating among them trust and conditions, such as not to aid an enemy against him."¹⁴² Al-Wāqidī's student Ibn Sa'd recorded that the

¹³⁹ See al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 276-81; Aḥmad, *al-Sīra al-nabawīyya*, 313.

¹⁴⁰ Aḥmad, *Musnad* (ḥadīth no. 2443), 229; Ibn Ḥazm, *al-maḥallā*, 2011.

¹⁴¹ Ibn Kathīr, *al-Bidāya wal-nihāya*, 463-64.

¹⁴² Al-Wāqidī, *Kitāb al-maghāzī*, ed. Marsden Jones (London: Oxford University Press, 1965); reprinted Beirut: 'Alīm al-Kutub, 1984), 3rd edition, vol. 1, 76.

Prophet's pact with Banū Qaynuqā', allies of Abdullah b. Abī b. Salūl and the "bravest" among the Jews, was made at the time of Badr.¹⁴³ Al-Balādhurī (d.279/892) wrote that when the Prophet came to Madīna, he drew up a treaty between himself and the Jews.¹⁴⁴ Muslim historians are in agreement that the Battle of Badr did not occur until the second year of the Hijra. Altogether, these historical accounts indicate that when the Prophet arrived in Madīna, he made treaties between the Muhājirūn and Anṣār as well with the Jewish groups and pagan Arabs; therefore, it is plausible that the *Ṣaḥīfa* is an amalgamation of two treaties but not more than that and certainly not 8 documents.

h. Dating the Ṣaḥīfa

Scholars also differed on the date when the *Ṣaḥīfa* was written. Al-Awzā'ī (d. 157/774) stated that it was written in the first year of the Hijra (1/622).¹⁴⁵ According to Ḥamidullāh¹⁴⁶ and Ṣāliḥ al-'Alī,¹⁴⁷ the second section—the treaty with Jews—was inked after Badr. Ḥamidullāh further claimed that the first section was drawn up in Anas' house, implying a date before construction of the Prophet's mosque¹⁴⁸, that is, in 1/622, and the second section after the battle of Badr. Al-'Umarī held the opposite view, dating the second section before Badr and the first section before it.¹⁴⁹ The majority view (Gil, Lecker, *et al*) is that it was written before Badr, that is, in 1/622, while a few, including Buhl, dated it around the middle of 2/623,¹⁵⁰ as did Wensinck.¹⁵¹ Watt stood alone in

¹⁴³ Ibn Sa'd, *al-Ṭabaqāt al-Kubrā*, vol. 2, 26.

¹⁴⁴ Al-Baladhurī, *Futūḥ al-Buldān* (Beirut: Mu'assa al-Ma'arif, 1987), 26-27.

¹⁴⁵ Al-Aṣḥabānī, *Ḥilya al-'awliyā'*, 135; Zanjawī, *Kitāb al-amwāl*, 337-38.

¹⁴⁶ Ḥamidullāh, *The First Written Constitution in the World*, 16.

¹⁴⁷ Al-Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 276.

¹⁴⁸ Ḥamidullāh, *The First Written Constitution in the World*, 39.

¹⁴⁹ Al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 276.

¹⁵⁰ Lecker, *The 'Constitution' of Medina*, 182.

dating the entire document after 6/627.¹⁵² The question of which section of the *Ṣaḥīfa* had been written first arose because of the need to reconcile its composition as two separate parts linked together in a unitary document. But none of the early historical accounts are unequivocal that it was written after Badr; rather, they suggest that when the Prophet came to Madīna, he made agreements with the Muhājirūn, Anṣār , and Jews, before the occurrence of any battles that consequently consolidated his power, status, and authority, as can be clearly seen in Zanjawī's report: "This *kitāb*, according to what has been narrated, took place when the Prophet arrived in Madīna before Islam was manifest and strong and before he was ordered (in the Qur'an) to take *jizya* from the People of the Book."¹⁵³

An objection can be raised here that there is historical evidence to support the writing of the *Ṣaḥīfa* after Badr, which—if true—would support the claim of Ḥamidullāh and others. The reasoning would be that the Prophet, after his great victory at Badr, wielded sufficient power to establish treaties with the Jews of Madīna. When they approached him, after the Battle of Badr, complaining about the killing of Ka'b al-Ashrāf, the Jewish poet, the Prophet reportedly told them: "If he had fled like the others who are of the same opinion (against me), he would not have been killed. But he hurt us with his poetry and aroused hatred and enmity against us. If anyone of you does something like that, he too (like al-Ashrāf) will be met by the sword." He then summoned the Jews to draw up a treaty between his government and them, which was

¹⁵¹ Wensinck, *Muhammad and the Jews of Medina*, 48.

¹⁵² Watt, *Islamic Political Thought*, 5.

¹⁵³ Zanjawī, *Kitāb al-amwāl*, 472-73.

done and copied for both parties in the house of Ramla, the daughter of al-Hārith.¹⁵⁴

The reply to such an objection is that Ka'b b. al-Ashrāf's assassination did not occur until the third or fourth year of the Hijra.¹⁵⁵ Therefore, the second part of the *Ṣaḥīfa* has to be read or interpreted as a renewal of terms agreed upon in a previous treaty or treaties between the two groups—Muslims and Jews—in order to keep the peace; in this way, we can reconcile the apparently conflicting reports of the Muslim historians—all of whom agreed that the Prophet brokered agreements with the Jews upon his arrival in Madīna.¹⁵⁶ In my research, I have come across a statement that agrees with it¹⁵⁷:

“Concerning the reports indicating that the drawing up of a treaty with the Jews occurred after the killing of Ka'b al-Ashrāf, it may be considered as a repeat to emphasize the first treaty. The following āya, according to the *mufasssīrīn*, indicates multiple treaties between the Messenger and Jews: “*As for those with whom thou hast made a covenant, and who thereupon break their covenant ('ahd) on every occasion, not being conscious of God.*”¹⁵⁸ Indeed, treaty making and committing it to writing appears to be the Prophet's favorite choice of policy instrument during his ten-year rule in Madīna.

i. Jewish Identity in the *Ṣaḥīfa*

The third major scholarly disagreement on the *Ṣaḥīfa* concerns Jewish identity. Three theories have been put forward. The widely accepted view (held by Serjeant, Wellhausen, Wensinck, Gil, Denny, Ḥamidullāh, and the majority of Muslim scholars) is

¹⁵⁴ Ḥamidullāh, *Majmū'a al-wathā'iq*, 68.

¹⁵⁵ The assassination of Ka'b b. al-Ashrāf will be discussed in detail in the chapter on the Islamic State's relations with non-Muslims.

¹⁵⁶ See Ibn Qayyim, *Zād al-ma'ād*, vol.3,

¹⁵⁷ Aḥmad, *al-Sīra al-nabawiyya*, 313.

¹⁵⁸ Q 8:56 (Asad). See also Ibn Abī Ḥātim, *Tafsīr*, vol. 5, 1719; al-Suyūṭī, *al-Durr al-manthūr*, vol. 7, 150; al-Ṭabarī, *Tafsīr*, vol. 11, 235.

that they refer to the Madanite Jewish tribes, including the powerful Qaynuqā', al-Naḍīr, and Qurayẓa. Another view, proffered by Sprenger, is that they were Judaized Arabs; it was faulted by Wensinck.¹⁵⁹ A third view (Watt, Lecker, and Rubin) asserted that they do not refer to Qaynuqā', al-Naḍīr, and Qurayẓa but the smaller Jewish or Judaized social units—affiliates of Arab tribes—who lost their distinct tribal organization.¹⁶⁰ The latter group argued that the dominant Jewish tribes were not mentioned by name in the document and that al-Samhūdī (d. 911/1505) listed a number of smaller Jewish tribes that had remained in Yathrib after the entry of al-Aws and al-Khazraj, which “seem identical with the Jews of the ‘Constitution’ where they are called ‘the Jews of such-and-such an Arab tribe’” (clauses 25-31 of the *Ṣahīfa*).” Watt also suggested that the bigger Jewish tribes were first mentioned in the *Ṣahīfa* but were later removed,¹⁶¹ which is speculative. I uphold the majority view. It is theoretically possible that, in light of these reports, the *Ṣahīfa* is inclusive of both the dominant tribes (Qaynuqā', al-Naḍīr, and Qurayẓa), the clients of al-Aws and al-Khazraj, implied in clause no.1, and the smaller Jewish groups, explicitly mentioned in such as clauses nos. 25-33, which read as follows:

This is the prescript (kitāb) of Muḥammad, the Prophet [the Messenger of God] to operate among the Believers and the Muslims from among the Quraysh and [the people of] Yathrib and those who may be under them and join them, and take part in wars in their company (clause no.1). . . .

And verily the Jews of Banū 'Awf shall be considered as a community (Umma) along with the Believers, for the Jews being their religion and for the Muslims their religion, be one client or original member of the tribe; but whosoever shall be guilty of oppression or violation (of treaty), shall put to trouble none but his own person and the members of his house (no.25)

¹⁵⁹ Wensinck, *Muhammad and the Jews of Medina*, 69.

¹⁶⁰ Watt, *Muḥammad in Medina*, 226-27; Lecker, *The 'Constitution' of Medina*, 69; Uri Rubin, “The ‘Constitution of Medina’ Some Notes,” in *Studia Islamica*, No. 62 (1985; 5-23) 4.

¹⁶¹ Watt, *Muḥammad in Medina*, 227.

And verily the Jews of Banū al-Najjār shall have the same rights as the Jews of Banū 'Awf (26)

And verily the Jews of Banū al-Ḥārith shall have the same rights as the Jews of Banū 'Awf (27)

And verily the Jews of Banu Jusham shall have the same rights as the Jews of Banū 'Awf (28)

And verily the Jews of Banū al-'Aws shall have the same rights as the Jews of Banū 'Awf (29)

And verily the Jews of Banū Tha'laba shall have the same rights as the Jews of Banū 'Awf; but whosoever shall be guilty of oppression and violation of treaty shall put to trouble none but his own person and the members of his house (30)

And verily the Jafna is a branch of Tha'laba, even like them (31)

And verily Banū al-Shuṭaybiyya shall have the same rights as the Jews of Banū 'Awf; and verily there shall be fulfillment and not violation (32)

*And verily the clients of Tha'laba shall have the same rights as the original members
And verily the sub-branches (**biṭāna**) of the Jews shall have the same rights as the principal members (33)*

In this way, both opinions about Jewish identity in the *Ṣaḥīfa* can be reconciled without excluding any Jewish group, large or small. According to Ḥarakāt, “The reality is that this text (the *Ṣaḥīfa*) is concerned with the smaller Jewish tribes but encompasses the larger Jewish tribes (Qaynuqā', al-Naḍīr, and Qurayza) as a collective group. It means that the smaller Jewish clans were in greater need of the text per se, since the large Jewish tribes were already included in the general name “Jew” (*yahūdī*) or “Jews” (*yahūd*) and had the least sense of inferiority, possessing military power.”¹⁶²

Part III

j. Form and Content of the *Ṣaḥīfa*

We turn now to the form of the *Ṣaḥīfa*, which consists of two sections broken down into concise and, in several places, repetitive clauses in an Arabic register reminiscent of the period. The first section—the treaty between the Muhājirūn and Anṣār—contains 23 clauses, as per Wellhausen's numbering that is adhered to by most

¹⁶² Ḥarakāt, *al-Siyāsa wal-mujtama'*, 98.

scholars. Maintaining this numbering, Ḥamidullāh further divided clauses nos.12 and 20 into 2 parts each—part *a* and part *b*. His translation of the *Ṣaḥīfa* has been relied upon throughout this chapter; it is based on an expertly linguistic reconciliation of the reports by Ibn Ishāq and Abū ‘Ubayd’, and has been slightly edited here and modified for English usage and transliteration consistency. The second section begins at clause no. 24 and runs until no. 47. As he did with the first section, Ḥamidullāh also subdivided some clauses (nos. 36-37, 45) of the second section into two parts each (part *a* and part *b*) but retained Wellhausen’s format. Thus, the total number of clauses in both sections is 52, as per Ḥamidullāh.

The content of the *Ṣaḥīfa* will be contextualized here through a typology of i) what is not new (i.e., pre-Islamic or *jāhili*) and ii) what is new (Islamic). Pre-Islamic is its utilization as a policy instrument in the regional politics of the time. Arab and non-Arab tribes in Arabia extensively used the *ṣaḥīfa*, *kitāb*, or ‘*ahd*’, and the like as a political means of solemnizing their collective and reciprocal duties and rights, mediating their conflicts, forming new alliances, or renewing old ones. The *ṣaḥīfa* was in use in the Makkan phase of Muḥammad’s mission, for example, when Qurayshite leaders decided to sever ties with Banū Hāshim, Banū ‘Abdul Muṭṭalib, and Banū ‘Abd Manāf, in order to thwart his proselytizing in the sixth year before the Hijra. Except for Abū Lahab, one of the Prophet’s uncles and sworn enemies, they were confined to an enclave and barred from trade, marriage, conversation, and assembly with Quraysh, until they either withdraw their support for Muḥammad or handed him over to Quraysh, so that they could have their own way with him; that is, to kill him, as discussed in the last chapter.

Quraysh conspirators to the socio-economic embargo endorsed their pact in a *ṣaḥīfa*, suspending it from the roof inside the Ka‘ba.¹⁶³ Also pre-Islamic is the *ṣaḥīfa*’s recognition of political institutions related to kinship, blood-money transactions, ransom of prisoners, granting of political immunity (*‘ijāra*)—policies that maintained social (though not necessarily just) equilibrium, preventing society from being rendered ungovernable. And Pre-Islamic is the *ṣaḥīfa*’s retention of “Yathrib,” the name of the city. Opinions vary on the founding and naming of Yathrib. It is said that it was settled by Yathrib b. Qāniya, a distant descendant of Noah through Iram, who named it or that it was named after him by early settlers.¹⁶⁴ The Prophet reportedly disliked its name, renaming it al-Madīna (literally, “the city”) and other names.¹⁶⁵ Ibn Hajar (852/1448) opined that the reason for his dislike of the name Yathrib is because it is derived either from the verbal noun *tathrib* (“to censure”) or from *tharb*, meaning “corruption” (*fasād*), both of which are detested from the standpoint of Islamic values.¹⁶⁶ The Qur’an refers to Yathrib once,¹⁶⁷ indicating that in it was not out of vogue in the post-Hijra period, and al-Madīna proper in four places.¹⁶⁸

¹⁶³ The person who wrote it was Manṣūr b. ‘Ikrima b. ‘Āmir b. Hāshim, or al-Naḍr b. al-Ḥārith (or Baghyad b. ‘Āmir b. Hāshim), the latter is correct, according to Ibn Qayyim. The severe social embargo lasted for three years. It was terminated abruptly in the tenth year of the Prophet’s mission, when it was discovered that the *ṣaḥīfa* had been eaten by worms, which allowed for the stratagem to have the boycott lifted. See Ibn Qayyim, *Zād al-ma‘ād*, vol. 3, 30.

¹⁶⁴ Al-Baghdādī, *Mu‘jam al-buldān*, vol. 1, 430-31; al-Samhūdī, vol. 1, 292; ‘Alī, *al-Mufaṣṣal*, vol. 4, 126-30.

¹⁶⁵ Muslim (*ḥadīth* nos. 1382 and 1385) in al-Nawawī, *al-Minhāj*, 859-60; al-Ṭayālīsī, *Musnad* (*ḥadīth* no. 798 - *ṣaḥīḥ*), ed. Muḥammad b. Abdul Muḥsin al-Turkī (Cairo: Hajar, 1999), 1st edition, vol. 2, 124; Abū Ya‘lā, *Musnad* (*ḥadīth* no. 7444 - *ḥasan*), (Beirut: Dār al-Ma‘mūn, 1988), vol. 13, 441; al-Nasā‘ī, *al-Sunan al-kubrā* (*ḥadīth* nos. 1/4260, 2/4261) (Beirut: Dār al-Kutub al-‘Ilmiyya, 1991), 1st edition, vol. 2, 482; Ibn Ḥibbān (*ḥadīth* nos. 3715, 3718 - *ṣaḥīḥa*),) in al-Albānī, *al-Ta‘līqāt al-ḥissān ‘alā ṣaḥīḥ ibn ḥibbān* (Jedda: Abū Wāzir, 2004), 1st edition, vol. 5, 467-69; al-Ṭabarānī, *al-mu‘jam al-kabīr* (*ḥadīth* no. 1892), vol. 2, 217.

¹⁶⁶ See al-Bukhārī (*ḥadīth* nos. 1871-72) in Ibn Hajar, *Fath al-bārī*, vol. 5, 185-88.

On the other hand, what is new or Islamic about the *Ṣaḥīfa* is its political construct of legal sovereignty of the state expressed as “protection of God”(*dhimma Allāh*) (e.g., clause no.15) and “recourse to Allah and Muḥammad” (clause no.24); its theological orientation (clauses 22 and 47); its recognition of the tribe as a new political unit or *Umma* (clauses nos. 2 and 25,) within the Muslim polity on the basis of religious faith; its guarantee of equality of protection and security for every resident of the city irrespective of creed; its recognition of religious freedom for all, social equality between clients and their patrons regardless of ethnicity, and judicial autonomy for Jews; its territorial conception of state borders (clause no.39); its affirmation of personal liability for commission of crimes within the state, individually and collectively; and, last but not least, its pragmatic approach to establishing a new state based on mutual agreements and not by coercive means or imagined social compacts. That the Islamic State was *voluntaristic* is evident from the fact that the various Madanite interest groups were not forced into agreements, even though, as Lewis remarked,¹⁶⁹ the *Ṣaḥīfa* was a unilateral decision of the Prophet and not a negotiation among parties. Rather, the Jews acceded to the *Ṣaḥīfa*’s constitutionality at the Prophet’s behest because the Madanite political culture facilitated such acquiescence; for, as clients they were morally obliged to follow their Arab patrons in matters of war and peace in spite of the intrigue that wired the clientage structure. Therefore, the *Ṣaḥīfa* represented a blend of *jāhiliyya* (i.e., pre-Islamic) and Islamic conventions. In the

¹⁶⁷ Q 33:13.

¹⁶⁸ Q 9:101, 120; 33:60; 63:8.

¹⁶⁹ Lewis, *History of the Arabs*, 42; Ḥamīdullāh, *The First Written Constitution in the World*, 17.

following paragraphs, it will be examined how the Islamic State's structures and institutions, as outlined in the *Ṣaḥīfa*, responded to the challenges as well as the threats of fresh inputs within and without the political system that ultimately shaped and defined early Muslim political culture.

k. Umma Membership in the *Ṣaḥīfa*

The *Ṣaḥīfa* unequivocally affirmed Muḥammad, the Prophet or Messenger of God, as the head of state (clause nos. 1, 23, 36a, and 47). At the same time, it identified believers (*mu'minūn*) and Muslims (*muslimūn*) from among the Muhājirūn and Anṣār, pagan Arabs, Jews, and their confederates, as subjects of the state—all of whom were bound by the prescript. The *mu'minūn* of the *Ṣaḥīfa* follow the Qur'anic meaning of “believers.”¹⁷⁰ Denny considered *mu'minūn* and *muslimūn* ranked terms: “This preponderance of *mu'minūn* [over *muslimūn*] may indicate an early date for much of the Constitution, before *muslim* was used as the name for the followers of Muḥammad, or at least before it gained a clear technical sense limited to the followers of Muḥammad.”¹⁷¹ The Islamic usage of *muslimūn* / *mu'minūn* is nuanced. In the Qur'an and Ḥadīth, they are associated with three distinct semantic fields: antonyms, hyponyms, and synonyms.¹⁷² As a pair of synonyms, they are found in *sūra al-dhāriyāt* (Q 51), “We brought out of (the city) those who were al-mu'minūn, but we did not find therein except one house of al-muslimīn.”¹⁷³ The exegetes agreed that the believers “brought out” of the city belonged to the same house of Muslims. As antonyms, *muslimūn* refers to outward

¹⁷⁰ See, for instance, Q 12:17: “And you are not a believer (*mu'min*) in us.”

¹⁷¹ Denny, *Umma in the Constitution of Medina*, 43.

¹⁷² Al-Ghazzālī, *Iḥyā' 'ulūm al-dīn* (Beirut: Dār al-Kutub al-'Ilmiyya, 1992), 3rd edition, vol. 1, 138.

¹⁷³ Q 51: 35-36.

acceptance of Islam—the verbal confession that there is only the one god Allah and Muḥammad is his Messenger—whereas *mu'minūn* refers to those who accepted the faith outwardly and inwardly, as in *sūra al-Ḥujjarāt* (Q 49)¹⁷⁴: “The Bedouins said: ‘We have believed (*āmana*¹⁷⁵).’ Say: ‘You have not believed. Say instead we have accepted Islam.’”¹⁷⁶ As a pair of hyponyms, that is, subordinate, specific words belonging to a superordinate, general class, *mu'minūn* and *muslimūn* are sub-categories of the generic “followers of Muḥammad” or “those who believe in Allah and Muḥammad the Messenger of Allah.” Many such examples of hyponyms are found in Ḥadīth. For example, the Prophet was reportedly once asked: “Which actions are best?” He replied, “*Islām*.” He was then asked: “And which Islam is best?”¹⁷⁷ He replied: “*Imān*,” thus making internal faith an integral part of the external observance of Islam. In light of the foregoing, their usage of antonyms is ruled out for the obvious reason that they are both applied to the Madanite Muslim *Umma*, leaving the remaining two semantic meanings of *muslimūn* and *mu'minūn* possible in the *Ṣaḥīfa*’s context; namely, their usage as synonyms and hyponyms. Their usage as synonyms seems less likely given the need for concise and precise language in such a document of immense political and legal import. The most likely connotation is, as Donner put it, the preponderance of *mu'minūn* over *muslimūn*, buttressing the narrative that the Qur’anic phrase “O you who believe!” (*yā ayuhal-ladhīna āmanū*) is Madanite (*madanī*), that is, post-Hijra revelation, whereas “O people!”

¹⁷⁴ Q 49:14 ().

¹⁷⁵ *Āmannā*, from the Arabic verb *Āmanā*, “to believe,” the active participle of which is *mu'min* (pl. *mu'minūn*) and the verbal noun is *īmān*.

¹⁷⁶ *Āslamnā*, from the Arabic verb *Āslama*, “to accept Islam,” the active participle of which is Muslim (pl. *muslimīn*).

¹⁷⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by Aḥmad, *Musnad* (*ḥadīth* no. 17152), 1225.

(yā ayuhal-nās) is Makkan, that is, pre-Hijra, according to the majority view of *mufasssirūn* most exegetes of the Qur'an, as discussed earlier in this chapter. After the Hijra, Madīna was the site for the new phase of community building and constructing Islamic identity, which leads to the next point about *Umma*.

The *Ṣahīfa* further treated the Muslim groups—Muhājirūn and Anṣār—equally as believers, characterizing them as a distinct *umma* or political community “to the exclusion of other people” (clause no. 2). The word *umma* in the *Ṣahīfa* has given rise to various interpretations: a political federation with a theocratic orientation, any political community, or religious community. Zanjawī interpreted the “*Umma* of Jews” in the *Ṣahīfa* (e.g., clause no. 25) as “their help (*naṣr*)” and “cooperation” (*mu'āwana*) with Muslims toward the war expense (*nafaqa*) against the Islamic State's enemies.¹⁷⁸ His interpretation appears ideological, falling outside the lexical scope of *umma* in Arabic. In *Muḥammad in Medina*,¹⁷⁹ Watt thought that *Umma* refers to a theocratic politico-social order akin to Moses' Israelite community; later, in his *Islamic Political Thought*,¹⁸⁰ he modified it, stating that *Umma* meant nothing more than a “natural” group of people without any specific religious connotation. In general, Islamicists held that *umma* designates community, nation, or religious society. Denny suggested that there is a chronological development of the Qur'anic *umma*'s meaning from a generic application to religious communities to a more focused reference to the emerging Islamic community: “That is, if by the Medinan period *Umma* tends to refer more

¹⁷⁸ Zanjawī, *Kitāb al-amwāl*, 472.

¹⁷⁹ Watt, *Muhammad in Medina*, 241.

¹⁸⁰ Watt, *Islamic Political Thought*, 10.

exclusively to the Muslims, it nevertheless also carries with it the more inclusive meaning of humanity in its potential toward becoming Muslim.”¹⁸¹ Al-Ghazzālī’s survey of *umma* in the Qur’an and early Arabic Islamic tropes unveiled eight referents:

- i) *Umma* = ‘group’ (*jamā’a*), as in *sūra al-Qaṣṣas* (Q 28): “he found an **umma** (i.e., “group”) of people who were watering. . . .”¹⁸²;
- ii) *Umma* = ‘a person imbibed with goodness and emulated,’ as in *Sūra al-naḥl* (Q 16): “Verily, Abraham was an **umma** devoted to Allah”¹⁸³;
- iii) *Umma* = ‘religion’ (*dīn*), as in *sūra al-Zukhruf* (Q 43): “Verily, we found our forefathers on an **umma**”¹⁸⁴;
- iv) *Umma* = ‘a period or era’ (*zamān*), as in *Sūra Hūd* (Q 11): “until an **umma** is determined”¹⁸⁵;
- v) *Umma* = ‘a while’ (*hīn*), as in *Sūra Yūsuf* (Q 12): “and he remembered after an **umma**”¹⁸⁶;
- vi) *Umma* = ‘stature’ (*qāma*), as in the expression: “This person is of good **umma**”;
- vii) *Umma* = ‘a person who is unique in religious matters that no one shares with him,’ as in the Prophet’s saying: “Zayd b. ‘Amr Nufayl was sent as an

¹⁸¹ F. M. Denny. “Umma,” *EF*², 39-47.

¹⁸² Q 28:23.

¹⁸³ Q 16:120.

¹⁸⁴ Q 43:22.

¹⁸⁵ Q 11:8.

¹⁸⁶ Q 12:45.

umma alone¹⁸⁷ or “He will come as an **umma** by himself on the Day of Judgment”¹⁸⁸; and, lastly,

viii) Umma = ‘mother’ (**umm** or **umma**), as it is said, “She is Zayd’s **umma**.”¹⁸⁹

Based on al-Ghazzālī’s findings above, only the first and third meanings of *umma*, that is, “group” and “religion” are relevant to the *ṣahīfa*, aligning with the opinion of Wellhausen and Wensinck that *umma* stands for a religio-political social unit.¹⁹⁰ In this sense, the Prophet recognized not only the Muslims of Madīna as an *umma* but also the Jews who have the right of coexistence within the nascent Muslim polity and equal status with their pagan Arab patrons. It does mean that the Muslim and Jewish *umam* (plural of *umma*) polities) shared a common faith—the reason for designating them *umam*, as Rubin opined¹⁹¹; rather, Muslims and Jews were distinct and separate interest groups but, under the *ṣahīfa*, they shared the same political rights and duties, including collective responsibility for replenishing the war chest and levy in defense of the Islamic State, which did not diminish in the least their tribal responsibilities toward their respective wards and patrons in matters pertaining to blood-money and prisoners. Moreover, *umma* was already part of the pre-Hijra Qur’anic

¹⁸⁷ Ibn Hishām, *al-Sīra al-nabawwiya*, vol. 1, 255; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 5928 – *mursal*), vol. 3, 539.

¹⁸⁸ Ibn al-Jawzī, *al-Muntaẓam fī ta’rīkh al-mulūk wa-l umam* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1992), 1st edition, vol. 2, 330; al-Dhahabī, *Ta’rīkh al-islām*, vol. 2, 90; Aḥmad, *Musnad* (*ḥadīth* no. 1648), 169; al-Ṭabarānī, *al-Mu’jam al-kabīr* (*ḥadīth* no. 350), vol. 1, 151-52; al-Ṭayālīsī, *Musnad* (*ḥadīth* no. 231), vol. 1, 189-90; al-Haythamī, *Baghiya al-rā’id* (*ḥadīth* no. 16179), vol. 9, 693-94; al-Bazzār, *Musnad* (*ḥadīth* no. 1268), vol. 4, 94-95; Ibn Hajar, *al-Iṣāba*, vol.3, 31-32.

¹⁸⁹ Al-Ghazzālī, *Iḥyā’ ‘ulūm al-dīn*, vol. 1, 345. For more on the Qur’anic usage of *umma*, see Abdullah al-Ahsan, “The Qur’anic Concept of Umma,” *Journal Institute of Muslim Minority Affairs*, vol. 7, July 1986, 606-15.

¹⁹⁰ Wensinck, *Muhammad and the Jews of Medina*, 68.

¹⁹¹ Rubin, *Constitution of Medina: Some Notes*, 13.

narrative—found in several Makkan *suwar*¹⁹²—with reference to a “group” usually associated with religion, the post-Hijra political dimension of which was finally brought into relief with the founding of the Islamic State in Madīna. “The key word for everything that has to do with Islamic culture is *Umma*, Community,” observed Gibb. “*Umma* is at once a religious and a social term; it implies totality, as opposed to *ekklesia*. The first political pronouncement of the Prophet Muḥammad to the infant Muslim community at Madīna was “*Ye are one Umma over against mankind* [cf clause no. 2],” one single society, that is to say, welded together by community of religious purpose and the resulting social relationships and obligations. How to secure, how to maintain, that unity became the continuing question for the members of the Community and the central theme of its history.”¹⁹³

As for the principle of granting protection to an outsider (*tujār*), it was another *Jāhili* institution that the Islamic State retained and is mentioned in the *Ṣahīfa* (Clauses nos. 40-41): “*And verily the protected person (jār) shall be considered just like the original member (i.e., who has given protection); neither shall he (the protected person) be harmed, nor shall he himself violate the pledge*”; “*And verily no refuge will be given (i.e., by the protected person to others without the permission of the original people of the place).*”

Part IV

1. Governance Under the *Ṣahīfa*

¹⁹² The *āyāt* of the Qur’an in which *Umma* is mentioned belong to the Makkan group of *suwar*. See al-Suyutī, *al-Itqān*, 32-43; Denny, *Umma in the Constitution of Medina*, 42-43.

¹⁹³ Hamilton A. R. Gibb, “The Community in Islamic History,” *Proceedings of the American Philosophical Society*, Vol. 107, No. 2 (Apr. 15, 1963), 173-76; 173.

The *Ṣahīfa* devotes at least 14 clauses to matters of blood-money and ransom of prisoners of war. Historically, these quasi socio-judicial institutions were well entrenched in the Arabian body politic, including Madīna, where the tribes of al-Aws, al-Khazraj, and Jews were pitted against one another for political supremacy. The Post-Hijra *āyāt* decried internecine Jewish warfare and expulsion and reminded them that their complicity in it was contrary to their covenant with God:

And when We made with you [Children of Israel] a covenant (saying): 'Shed not the blood of your people nor turn (a party of) your people out of your dwellings.' Then ye ratified (Our covenant) and ye were witnesses (thereto).

*Yet ye it is who slay each other and drive out a party of your people from their homes, supporting one another against them by sin and transgression, and if they came to you as captives ye would ransom them, whereas their expulsion was itself unlawful for you. Believe ye in part of the Scripture and disbelieve ye in part thereof? And what is the reward of those who do so save ignominy in the life of the world, and on the Day of Resurrection they will be consigned to the most grievous doom. For Allah is not unaware of what ye do.*¹⁹⁴

The historical backdrop for these *āyāt* is the rocky and shifting Arab-Jew alliance in Madīna, as recorded in the MHT.¹⁹⁵ Wars among them were frequent and were usually fought over wealth and territory. While the Jews seemed to be aware that fraternal bloodshed was forbidden in the Torah, the pagan al-Aws and al-Khazraj were completely oblivious of divinely ordained precepts concerning the lawful and unlawful. Al-Naḍīr had been allied with al-Khazraj while Qurayẓa had been allied with al-Aws (although some reports switch their affiliations). During the Battle of Sumayr,¹⁹⁶ Qurayẓa and al-Naḍīr fought against each other with the support of their respective allies. The Naḍīr-Khazraj alliance prevailed, displacing and expelling Qurayẓa from

¹⁹⁴ Q2:84-85 (Picktall):

¹⁹⁵ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 181-82; Ibn Abī Hātim, *Tafsīr*, vol. 1, 163-67; al-Ṭabarī, *al-tafsīr*, vol. 2, 208; Ibn Hajar, *al-'Ujāb*, vol. 1, 278-79; al-Suyūṭī, *al-Durr*, vol. 1, 454-57;

¹⁹⁶ A war in the Pre-Islamic Period fought between al-Aws and al-Khazraj. It was named after Sumayr, a man from Banī 'Amr b. 'Awf.

their settlements. As regards Jewish prisoners of war, the Qurayza and al-Naḍīr came together to rescue them, paying the ransom to the captors—much to the consternation of al-Aws and al-Khazraj. The Arab leaders said to the Jews, “Why do you fight them and then turn around and ransom them?!” The Jews’s reply was, “We have been divinely commanded (in the Torah) to ransom them but have been prohibited from fighting them.” They were asked, “Then why then do you fight them (in the first place)?” The Jews answered, “Because we are ashamed of our allies being humiliated (in battle, so we join in the fighting).”¹⁹⁷ The MHT narrative further relates that Jewish Law mandated that that wherever Jews found fellow members enslaved, they were obliged to buy them and set them free, so that they could return to their respective communities. Thus, the Qur’an alluded to this peculiar Jewish behavior, chastising them for conscious adherence to some divine ordinances but deviance from others of the same covenant. There is some biblical support for this MHT narrative, which considers captivity for Jews a punishment worse than starvation or even death. Some Rabbinical authorities explain that the one who refrains from ransoming a captive is guilty of transgressing the commandments expressed or implied in biblical passages like *"Thou shalt not harden thy heart"* (Deut. xv. 7); *"Thou shalt not shut thine hand from thy poor brother"* (ib.); *"Neither shalt thou stand against the blood of thy neighbor"* (Lev. xix. 16); *"He shall not rule with rigor over him in thy sight"* (ib. xxv. 53, R. V.); *"Thou shalt open thy hand wide unto him"* (Deut. xv. 8, 11); *"... that thy brother may live with thee"* (Lev. xxv. 36);

"*Thou shalt love thy neighbor as thyself*" (ib. xix. 18); "*Deliver them that are drawn unto death*" (Prov. xxiv. 11; Maimonides, "Yad," Mattenot 'Aniyim, viii. 10; Shulḥan 'Aruk, Yoreh De'ah, 252, 2). Further, a Jew who delayed in the work of ransoming a fellow member held captive was placed in the category of the murderer (Yoreh De'ah, 252, 3).¹⁹⁸ Therefore, it is possible that the Jews introduced prisoner ransom as a social artifact in Arabia, which gradually entered pagan Arab society by the cultural process of *diffusion*. In the aftermath of Bu'āth, prior to the Prophet's arrival in Madīna, military decisions caused Qaynuqā' to relocate near the environs of Madīna and form an alliance with al-Khazraj, while al-Naḍīr and Qurayza were allied with al-Aws, thereby splitting their clientage between the two dominant Arab tribes in the polarized polity.¹⁹⁹ In light of Madīna's conflictual political culture, the constitutional framework of the *Ṣaḥīfa* took a wise step forward by not overlooking ignore these contrived war conventions of the polity but regulating and modifying them in keeping with Islamic values and political goods of the system, as will be explained.

Another early challenge to Muḥammad's political authority was recognizing his role as chief arbiter, as outlined in the *Ṣaḥīfa* (clause no. 42): "*And verily if any murder (ḥadath) or quarrel takes place among the parties to this Ṣaḥīfa, from which any trouble may be feared, it shall be referred to Allah, may Allah bless and protect him; and verily Allah is the guarantee of the most faithful and scrupulous observance of the contents of this Ṣaḥīfa.*" It is also related that a member of the Anṣār (some reports call him a Hypocrite) named Qays and a Jew argued over a bucket used to draw water from a well, striving to repel

¹⁹⁸ See the article « Ransom » in the *Jewish Encyclopedia* online at <http://www.jewishencyclopedia.com>.

¹⁹⁹ 'Alī, *al-Mufaṣṣal*, vol. 3, 852-53.

each other. The Jew wished to report the altercation to the Prophet, expecting impartiality and hoping to avoid paying a bribe, as was the norm, whereas Qays wished to take the matter to someone else. Unable to reach an agreement, they decided to go to a Jewish soothsayer (*kāhin*) called Abū Burda al-Aslamī, bypassing the Prophet's jurisdiction. The Divine Legislative Authority would not tolerate such infractions, as the Qur'an expressed it: "*Art thou not aware of those who claim that they believe in what has been bestowed from on high upon thee, [O Prophet,] as well as in what was bestowed from on high before thee, [and yet] are willing to defer to the rule of the powers of evil (ṭāghūt), although they were bidden to deny it, seeing that Satan but wants to lead them far astray?*"²⁰⁰

Similarly, regulating the *jāhilī* blood-money institution in Madīna posed a serious challenge to the Prophet. Usually, terms of payment were dictated by the more powerful tribes (Arab and Jewish) to the weaker tribes. Right was determined by might. Whenever Qurayṣa killed a member of al-Naḍīr, they would pay them the full amount of blood-money (*dīya*), totaling 100 *wasq*²⁰¹ of dates and put the killer amongst them to death; in contrast, when a Naḍirite killed a Qurayṣite, they would pay only 50 *wasq* because of their nobility and their power status over other Jewish tribes.²⁰² Inevitably, this inequality of socio-political status became a bone of contention among Jews, with weaker tribes having no course of redress through effective public institutions. Arab tribes fared no better. After a war laid down its burdens, the victorious Arab clan would demand that, in compensation for each of its slaves or women killed in battle, two freed

²⁰⁰ Q 4:60 (Asad). See al-Wāḥidī, *Asbāb al-nuzūl*, 160-62.

²⁰¹ Literally, "load," a dry measurement. One *wasq* = 60 *ṣā'*; 1 *ṣā'* = 4 'amdud (sing. *mudd*); 1 *mudd* = 1 1/3 pints. See Lane, *Arabic-English Lexicon*, 2961.

²⁰² Aḥmad, *Musnad* (ḥadīth no. 260) in al-Banā, *al-Fath al-rabbānī*, vol. 18, 130-31.

men from the defeated clan—one for the dead slave and the other for the dead woman—be killed. It is further related that whenever a free person killed a slave, it entailed *lex talionis* or retaliation. If a slain slave's patrons wished to kill the free person, they could do so; they were also avenged by accepting the *dīya* of a free man but not that of the slave. And if a slave killed a free man, it also triggered retaliation, whereby if the free man's patrons wished, they could kill the slave. Moreover, the *dīya* transaction was tainted by the currying favoring of arbiters with *al-saḥt* or bribery. These internecine conflicts and blood feuds simmered, threatening to spill over at any time and embroil the entire society. The outbreak of widespread violence seemed imminent. Therefore, every interest group in Madīna held the same hidden agenda in relation to the Prophet, expecting him to keep a lid on things; that is, maintain peace and order for the sake of the common weal. They piled these problems at his feet, providing the 'occasion of revelation' (*sabab al-nuzūl*) for the āya: "*Listeners for the sake of falsehood! Greedy for illicit gain (al-saḥt) [bribery]! If then they have recourse unto thee (Muḥammad) judge between them or disclaim jurisdiction. If thou disclaimest jurisdiction, then they cannot harm thee at all. But if thou judgest, judge between them with equity (al-qist), Lo! Allah loveth the equitable.*"²⁰³ The Prophet could either hear the disputes of the non-Muslim, in which case he is obliged to adjudicate on the basis of Islamic Law, or decline jurisdiction. Ibn al-Banā (d.1367/1949) commented that "scholars differ on the interpretation of this (the preceding) āya. One view is that its legal ruling is abrogated (*mansūkh*). That is because, when the People of the Book brought disputes to his attention, the Prophet had the

²⁰³ Q 5:42 (Pickthall); al-Suyūṭī, *Lubāb al-nuqūl*, 96. The *ḥadīth* is *ṣaḥīḥ* and is reported by Aḥmad, Abū Dāwūd, and al-Ṭabarānī; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (no. 2552), vol. 6, 109-16.

choice of ruling on them or declining judgment. It was abrogated by the *āya* (“judge between them by what Allah hath revealed”²⁰⁴), which necessitated him to judge on behalf of all his subjects without the option of disclaiming jurisdiction. That is the legal opinion of Ibn ‘Abbās, ‘Aṭā, Mujāhid, and ‘Ikrima. The other view is that the *āya* is firmly established (*maḥkama*), retaining the option for Muslim judicial authorities to decide on cases brought before them by non-Muslims or decline them. That is the legal opinion of al-Ḥasan, al-Sha‘bī, al-Nakha‘ī, al-Zuhrī, and Aḥmad, since there is no contradiction between the *āyatayn* (sing. *āya*).²⁰⁵

Nonetheless, the Prophet did not rule in favor of a mandatory choice between two public policies concerning murder—*wergild* or *lex talionis*; rather, he ruled in favor of them both, as he reportedly said, “One whose kin has been killed has the option of one of two choices: either to seek blood-money or execution (of the killer).”²⁰⁶ Thus, the Islamic government pragmatically retained the *jāhilī* institutions of retaliation (Ar. *qiṣās*) and *dīya*, making them an integral part of the state’s criminal law, but not without modifying them in accordance with Islamic values, such as the introduction of ‘*afw* or “pardon” into the mix: ‘O ye who believe! The law of retaliation (**qiṣās**) is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female. And for him who is forgiven (**‘ufiyā**) somewhat by his brother, prosecution according to usage (**ma’rūf**) and payment unto him in kindness (**iḥsān**). This is an alleviation (**takhfīf**) and a mercy (**raḥma**) from your Lord. He who transgresseth after this will have a

²⁰⁴ Q 5:48 (Asad).

²⁰⁵ Aḥmad, *Musnad* (ḥadīth no. 260) in al-Banā, *al-Faṭḥ al-rabbānī*, vol. 18, 130.

²⁰⁶ Al-Bukhārī (ḥadīth no. 112) in Ibn Hajar, *Faṭḥ al-bārī*, vol. 1, 359-60; Muslim (ḥadīth no. 1355) in al-Nawawī, *al-Minhāj*, 848-49; al-Nasā’ī, *al-Sunan al-kubrā* (ḥadīth no. 6988/2), vol. 4, 230.

painful doom.”²⁰⁷ Ibn ‘Abbās has explained “forgiveness” (‘afw) as acceptance of dīya in the case of homicide; “prosecution according to usage (ma’ruf), acceding to what is requested in recognized goodness; “payment unto him in kindness” (iḥsān”), doing so in a beautiful manner; “this is an alleviation (*takhfif*) and a mercy (*rahma*) from your Lord,” in respect of that which was divinely ordained regarding dīya to those before you.²⁰⁸ Qiṣāṣ was prescribed for the Children of Israel but not dīya, according to the Qur’an: “And We ordained for them in that [Torah]: A life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth, and a [similar] retribution for wounds; but he who shall forgo it out of charity will atone thereby for some of his past sins. And they who do not judge in accordance with what God has revealed - they, they are the evildoers!”²⁰⁹ That Jews had been forbidden dīya is confirmed in the Old Testament, or Hebrew Bible, as in Num. xxxv: 31-32: “Ye shall take no blood-money for the life of a murderer.” The *Jewish Encyclopedia* states, “It forbids (i) the taking of blood-money for the life of a murderer, allowing him to escape; and (ii) the taking of it for a murderer who has fled to a city of refuge, allowing him to return to his home.”²¹⁰ Al-Shawkānī (d. 1250) wrote, “Undoubtedly, (the Qur’anic) option of one of two choices is broader in scope and lighter than the specification of only one choice; yet the absence of the one does not necessarily mean the absence of the other.”²¹¹ That is to say, there was not a third option: the choice was either dīya or qiṣāṣ. In sum, the Divine Legal Sovereignty,

²⁰⁷ Q 2:178 (Pickthall).

²⁰⁸ Al-Bukhārī (*ḥadīth* no. 4498) in Ibn Hajar, *Fath al-bārī*, vol. 9, 661; al-Dāraqutnī, *Sunan* (*ḥadīth* no. 3104) (Beirut: al-Resala Publishers, 2004), 1st edition, vol. 4, 67; Ibn Ḥibbān (*ḥadīth* no. 5978 - *ṣaḥīḥ*) in al-Albānī, *al-ta’līqāt al-ḥissān ‘alā ṣaḥīḥ ibn ḥibbān*, vol. 8, 401.

²⁰⁹ Q 5:45 (Asad).

²¹⁰ “Blood-money,” in *Jewish Encyclopedia* (<http://www.jewishencyclopedia.com>).

²¹¹ Al-Shawkānī, *Nayl al-awṭār* (Riyadh: Dār Ibn Qayyim, 2005), 1st edition, vol. 8, 420.

as articulated in the Qur'an, permitted the Prophet to either adjudicate matters brought to him by Jews and other non-Muslim *umam* on the basis of the Qur'an or decline, thereby granting them a form of judicial autonomy administered by their own religious authorities and codes. When he did adjudicate, for example, on matters of *dīya*, the Prophet "judged among them with equity (*al-qist*)," that is, equality, making the penalty of *qīṣāṣ* and *dīya* payment the same within Jewish, pagan Arabs, and Muslim groups in Madīna without differentiation based on ethnicity, gender, religion, or social status.²¹² As for the Islamic State's application of *dīya* and *qīṣāṣ* laws that involved members of the different interest groups, the majority of Muslims differ on the Prophet's rulings in this regard.²¹³

Islamic policy also addressed the crime and punishment issues pertaining to adultery. It is related that a Jewish man from Fadak committed adultery and the Jewish community wrote to the Jews of Madīna to inquire from the Prophet concerning the punishment of adultery. They received a reply, stating, "If he orders you *taḥmīm* ("blackening of the face")²¹⁴ and flogging (*jald*), accept it; but if he orders stoning (*rajm*), do not accept it"; hence, "*O Messenger! Let not them grieve thee who vie one with another in the race to disbelief, of such as say with their mouths: 'We believe,' but their hearts believe not, and of the Jews: listeners for the sake of falsehood, listeners on behalf of other folk who come not unto thee, changing words from their context and saying: 'If this be given unto you, receive it but if this be not given unto you, then beware!' He whom Allah doometh unto sin, thou (by thine*

²¹² 'Alī, *al-Mufaṣṣal*, 853.

²¹³ See al-Shawkānī, *Nayl al-awṭār*, vol. 8, 415-30.

²¹⁴ "The face of the fornicator was blackened" (*ḥummima wajhul-zānī*); see Lane, *Arabic-English Lexicon*, 635.

efforts) wilt avail him naught against Allah. Those are they for whom the will of Allah is that He cleanse not their hearts. Theirs in the world will be ignominy, and in the Hereafter an awful doom.²¹⁵ Flogged and his face blackened (*muḥammam*), the Jewish adulterer came to the Prophet. When he saw him, the Prophet summoned Jewish leaders, saying to them: “Is this punishment (*ḥadd*) of the adulterer (*al-zānī*) found in your Scripture (*kitāb*)?” They replied in the affirmative. He then asked one their learned men (from the House of Midrash, according to one report), adjuring him: “By He who revealed the Torah to Moses, is this *ḥadd* of the adulterer in your Scripture?” The man replied, “No, I swear by Allah, if you had not adjured me with it, I would not have informed you. Verily, we find the adulterer’s *ḥadd* in our Scripture to be stoning (*rajm*). Adultery became common among our nobles (*ashrāf*), so that when one of them committed it, we left him alone. But when a lowly person did it, we imposed the *ḥadd* on him. That is because we said, ‘Let us come together and establish something for both the noble and the lowly. So we agreed to blacken the adulter’s face and flog him in replacement of the *ḥadd* of stoning to death.” The Prophet reportedly declared, “By Allah! Verily, I will be the first to revive your affair, since you have killed it!” He then ordered that the adulterer be stoned to death. It is also related that the following *āyāt* were revealed on the occasion: “for they who do not judge in accordance with what God has bestowed from on high are, indeed, deniers of the truth! (*kāfirūn*). . . .evildoers (*ẓālimūn*). . . .iniquitous (*fāsiqūn*).”²¹⁶ There is biblical basis for

²¹⁵ Q5:41(Pickthall).

²¹⁶ Muslim (*ḥadīth* no. 1700) in al-Nawawī, *al-Minhāj*, 1092-93; Aḥmad, *Musnad* (*ḥadīth* no. 258) in al-Banā, *al-Faṭḥ al-rabbānī*, vol. 18, 129-30; Abū Dāwūd, *Sunan* (*ḥadīth* nos. 4447-48 - *ṣaḥīḥ*), 70-71; Ibn Māja, *Sunan* (*ḥadīth* no. 2558 - *ṣaḥīḥ*), ed. al-Albānī (Riyadh: Maktaba al-Ma‘ārif, 1996), 435-36; al-Wāḥidī, *Asbāb al-nuzūl*, 195-96; al-Suyūṭī, *Lubāb al-nuqūl*, 97-98; Ibn Abī Ḥātim, *Tafsīr*, vol. 4, 1130-33; al-Suyūṭī, *al-Durr*, vol. 5, 300-01; al-Ṭabarī, *Tafsīr*, vol. 8, 415-18.

stoning the adulterer to death, in the Old and New Testaments: “*And the man that committeth adultery with [another] man's wife, [even he] that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death*” (Leviticus 20:10); “*And the scribes and Pharisees brought unto him a woman taken in adultery; and when they had set her in the midst, they say unto him, Master, this woman was taken in adultery, in the very act. Now Moses in the law commanded us, that such should be stoned: but what sayest thou? This they said, tempting him, that they might have to accuse him. But Jesus stooped down, and with [his] finger wrote on the ground, [as though he heard them not]. So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her.*” (John 8:3-7).²¹⁷ According to the *Jewish Encyclopedia*,

Unlawful intercourse with a woman betrothed to a man was adultery, because the betrothed woman was deemed as inviolable as the married woman. The punishment for this crime was stoning to death at the place of public execution (*Deut. xxii. 24*). The punishment for Adultery according to the *Mishnah* (*Sanh. xi. 1*) was strangulation; the rabbinical theory being that wherever the death penalty was mentioned in the Bible, without any specific statement of the manner of its infliction, strangulation was meant (*Sifra, Kedoshim, 4, 9*).

The priest's daughter who committed Adultery was burned to death, according to the rabbinical interpretation of the text in *Lev. xxi. 9* (*Sanh. 66b*), and her paramour was strangled (*Maimonides, "Yad ha-Ḥazaqah, Issure Biah," iii. 3*). When the crime is committed with a bondmaid betrothed to a man, it is not Adultery technically, because the woman is not free, and the death penalty is not inflicted, but as she has a quasi-marital status, she and her paramour are scourged (*Lev. xix. 20*). Ibn Ezra (*ad loc.*) takes the view that this case refers to the Hebrew maiden who has been sold by her father and who is intended to be the bride of her master or of his son, but who is not yet betrothed; for the betrothal would have made her free *ipso facto*.

Under the Talmudic law the severity of the Mosaic code was in many instances modified, and the laws relating to Adultery came under the influence of a milder theory of the relation of crime and punishment.²¹⁸

Some of the modifications of the punishment of adultery by death under Rabbinical authorities, which affected men and women differently, included knowledge of the law,

²¹⁷ King James version of the Bible.

²¹⁸ See *Jewish Encyclopedia* (online version):

<http://www.jewishencyclopedia.com/view.jsp?artid=865&letter=A&search=adultery#ixzz1Q2iFTYFX>

scourging, ‘ordeal of the bitter waters’, divorce, flagellation and apparently *taḥmīm*, at least in seventh-century Madīna.

Thus, in the short term, the Prophet’s regime of legal sanctions (e.g., *dīya*, *qisas*, and *rajm*) successfully prevented the outbreak of open hostilities in the tribal society and established a new and functional modicum of law and order. “In *Jāhiliyya*, when a man killed another from a different tribe, conflict and fighting quickly erupted until a large number of people were killed,” Ibn ‘Aṭiyya commented. “But when Allah ordained *qīṣāṣ*, everyone resigned to it.”²¹⁹ As for his legislation of *rajm*, the symbolic aspects of it are that it demonstrated his conviction that he was God’s Messenger and Prophet to his skeptics and followers alike that his political leadership was intent on upholding the Divine Legislative Authority’s mandate over their affairs. The effectiveness of the fledgling Islamic government is seen additional measures that included his ban on bearing weapons of war in the city-state during peace time, so as not to ignite incendiary tribal hostilities and armed conflict: “*It is not lawful for anyone to carry weapons of war (in Madīna).*”²²⁰ Fortifying every direction of Madīna between every two dwellings,²²¹ the Prophet made declaration of war the state’s prerogative, removing it from being the decision of any interest group of the polity—Arab or Jewish, Muslim or

²¹⁹ Ibn Hajar, *Fath al-bārī*, vol. 1, 428. The legal implications of these *āyāt* later gave rise to great debate among jurists and schools of law. The Hanafites held that Q 5:45 abrogated Q 2:178; thus, a slave and a free person were of equal status in *qisas*. But the majority of scholars (*jumhūr*) were not inclined to abrogation (*nashkh*), holding that Q 5:45 is an exposition of Q 2:178; thus, a slave can be killed for a free person but a free person cannot be killed for a slave. This legal debate tells us more about the thinking of jurists than the interpretation of these verses, which are the fundamental proof texts for the laws of *qīṣāṣ*, in the time of the Prophet in which it seemed that equality was the new legal mode in addressing blood-money and retaliation, and the like. For an extensive juristic discussion of these *āyāt*; see Ibn Hajar, *Fath al-bārī*, vol. 16, 24-36.

²²⁰ The *ḥādīth* is *ṣaḥīḥ*; see al-Albānī, *Silsilat al-āḥādīth al-ṣaḥīḥa* (no. 2938), vol. 6, 1052-55.

²²¹ The *ḥādīth* is *ṣaḥīḥ* and is reported by Abū Dāwūd and al-Ṭabarānī; see al-Albānī, *Silsilat al-āḥādīth al-ṣaḥīḥa* (*ḥādīth* no. 3234), vol. 8, 710-12.

non-Muslim—as stated in the *Ṣaḥīfa* (clause no. 36/a): “*And verily none of them shall go out (on a military expedition) except with the permission of Muḥammad.*” Important political and symbolic functions can also be seen in the *Ṣaḥīfa*’s (clause no. 39) designation of Madīna as a holy sanctuary: “*And verily the valley of Yathrib [Madīna]²²² shall constitute an inviolable territory (ḥarām) for the parties to this Ṣaḥīfa.*” Ka’b b. Mālīk narrated that ‘the Messenger of Allah sent me to teach at Ashrāf Makhīḍ, al-Ḥafyā, Dhil-‘Ashīra, and Tīm, which are mountains in Madīna.²²³ They included lands to the east and west, Mt. Thor to the north, Mt. ‘Ir to the south, and the valley of al-‘Aqīq inside the ḥarām precincts.²²⁴ This spatial claim of sacred space had the unintended political consequences of demarcating the territorial sovereignty of the Muslim body politic. In this sense, the Islamic State looks surprisingly modern, since its political borders were demarcated by the founder and ruler. “It is one of the political achievements of the Prophet to have a semi-Arab city like Madīna recognized by the Jews as a sacred territory,” wrote Ḥamīdullāh. “Thus a small town, having some twenty wards, was organized into a City-State; and its small, yet heterogeneous, population was united round one central, elastic and practicable constitution.”²²⁵

m. In Retrospect

In sum, the efficacy of the Islamic State is evaluated in light of the *Ṣaḥīfa*’s provisions. According to El-Awa, “This document—*Dustūr al-Madīna* [*Ṣaḥīfa*]*—in its wording and political features clearly and distinctly reflected the genius of the Prophet.*

²²² Abū ‘Ubayd’s version reads “Madīna” instead of “Yathrib”; see his *Kitāb al-amwāl*, 294.

²²³ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 48.

²²⁴ Al-Ewa, *Islamic Political System*, 19.

²²⁵ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 36.

Although not patterned on any previous example, its provisions covered most of the needs of the nascent state in regulating its political affairs.”²²⁶ Wensinck believed that “It is evidence of his great authority that, after a short stay in Medina, he, the stranger, could lay down the law for all segments of the population. He did this in a manner satisfactory to all, but only for the express purpose of obtaining his objective, namely to lead the arms of Medina to success and to unite the town politically.”²²⁷ Ḥamidullāh wrote that “this new constitution of a City-State brought with it the [sic] very important, and—to Arabia at least—very revolutionary change and improvement, by providing the people with a central public institution for seeking justice, in place of everyone seeking it with the power of his own hand or, at best, that of his family.”²²⁸ Rosenthal saw the *Ṣaḥīfa* as the basic “model for the constitution of the Islamic empire, since it already contains two important elements, *jihad* and *dhimmi*.”²²⁹ But, in fact, there are no references to *jihad*, neither in language nor as understood in classical Islamic jurisprudence; moreover, the usage of *dhimma* (i.e., *dhimma allāh*, “protection of God,” as per Clause no. 15 of the *Ṣaḥīfa*) is a political term, referring to the Islamic government and is not the legal term applied to People of Book later in the post-Hijra period (which is examined in the next chapter). It will be shown that it is not the *Ṣaḥīfa* but the Qur’an and Sunna that serve as the legal basis for the *dhimmī* status of Jews and Christians.

²²⁶ Al-Ewa, *Islamic Political System*, 22.

²²⁷ Wensinck, *Muhammad and the Jews of Medina*, 70.

²²⁸ Ḥamidullāh, *The First Written Constitution in the World*, 18.

²²⁹ Rosenthal, *Political Thought in Medieval Islam*, 25.

From the SFS perspective, political values or goods occur at three levels of a polity: system, process, and policy. Leaving examination of the process and policy levels for other chapters of this dissertation, we are concerned here with the system goods, which “reflect the functioning and effectiveness of the whole political system.”²³⁰ These values directly relate to expectations that subjects have toward the system, such as political stability, predictability, and adaptability. No one knew exactly what Muḥammad would do as a ruler or what his legislative agenda would be, and he himself did not seem to have readymade answers to many challenges of the society, relying on Qur’anic inspiration, *shūrā* or consultation, and his charismatic authority as God’s Messenger and Prophet. In the first year of the Hijra, the Islamic State met the expectation of system stability: the *Ṣaḥīfa* agreement was timely, his political leadership astute, and his public decisions were forceful and decisive. The next major government function to be organized was the defense of the state, which follows shortly.

Finally, some researchers emphasized the primogenial attributes of the *Ṣaḥīfa*, such as “the first written constitution” in political history (Ḥamidullāh); “the first political document recorded by the Prophet” (al-Awa); and “Muḥammad’s first legal document” (Lecker). These propositions are debatable. The *Ṣaḥīfa* was a constitutional document by which the Prophet organized the structure of the Islamic State, a treaty, and “a political-military document of agreement” (Denny). Assented to by the various Madanite interest groups, the *Ṣaḥīfa* was a human agreement and not immune to modification, nullification, or renewal in light of the political evolution of the state. No

²³⁰ Almond *et al*, *Comparative Politics Today*, 149.

political leader enjoys one hundred per cent legitimacy. Muḥammad was no exception. Political cleavages in Madīna—fueled by Jewish opposition and Hypocrites' recalcitrance—flickered in the first year of the Hijra, blazed into political opposition vented at Muḥammad and Islamic policy, and intensified into a conflagration of internal dissension, treason, conspiracy, and war.

Non-Muslim Relations

Introduction

What was the nature of the Islamic State's relationship with non-Muslim subjects? From the outset, when he arrived in Madīna, the Prophet made political accommodation with them a legal fact but did not coerce them to accept Islam. Jews were granted the same political rights and duties as Muslims, including a substantive degree of judicial autonomy, as discussed in the previous chapter on the structure of the Islamic State. Following the Hijra, non-Muslims in Arabia comprised three distinct groups in relation to the Prophet's political leadership, according to Ibn Hajar. He stated that one group made an agreement not to wage war against him or make common cause with his enemies: this group comprised the three main Madanite Jewish tribes: Qaynuqā', al-Naḍīr, and al-Qurayza. A second group was belligerent and fought him—the Quraysh. A third group put off hostilities, awaiting the outcome of the Islamic affair in Madīna, and included (i) pagan Arab tribes in general—some of whom like Khuzā'a wished that the Prophet would prevail; others like Banū Bakr wished the complete opposite—and (ii) those Arabs who professed Islam, openly siding with him, but they were secretly loyal to his enemies: they were the Hypocrites (*munāfiqūn*).¹

From the Structural-Functionalist-System (SFS) perspective, interest groups represent a structural feature of the political system. At the system level, they function as agents of socialization, shaping political attitudes; at the process level, they articulate and aggregate collective interests and demands through political activities;

¹ Ibn Hajar, *Fath al-bārī*, vol. 9, 86. See also Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 126.

and at the policy level, they accept, remain neutral, or oppose certain public decisions. Ultimately, the politics of interest groups is aimed at maintaining, modifying, or replacing policy. For our purpose here, in the context of the early Islamic State, non-Muslims in general fit the pattern of a ‘nonassociational’²-type group because of their ethnic, religious, and kinship backgrounds; although united in opposition to Muslims, they were not well organized or coordinated in their sporadic activities due to wavering alliances among them. Jews (and, by extension, Christians), a subset of the broader nonassociational group, can be likened to an ‘institutional’³ group given their delineated *umma* status under the Madīna Constitution. As for pagan Arabs and Hypocrites, they were not institutional per se but can be placed under the general rubric of the nonassociational interest group as political subjects; but, unlike the Muhājirūn and Anṣār, they were not loyal to the Islamic State.

Throughout his ten-year-rule, the Prophet’s relationship with non-Muslims was not predicated on a one-size-fits-all approach; rather, it was calibrated to respond to their constantly shifting political stances (e.g. neutral, friendly, or hostile) vis-à-vis his political authority. In terms of political evolution, his dealings with them involved treaties, proselytizing, polemics, socio-economic ties, hostilities, and wars. Although he rejected forced conversion to Islam, when polemics yielded little or no results, the

² “A second type of *nonassociational* group is the small village or economic or ethnic subgroup whose members know each other personally. The small, face-to-face group has some important advantages and may be highly effective in some political situations. If its members are well connected or its goals unpopular or illegal, the group may prefer to remain informal or even inconspicuous.” See Almond *et al*, *Comparative Politics Today*, 66.

³ *Institutional* groups are formal and organized with vested political interests. They usually derive their power and influence from their parental or primary organizational base. See Almond *et al*, *Comparative Politics Today*, 67.

Prophet was prepared to resort to the ultimate theological litmus test—‘*ibtihāl*’ (a congregational liturgy, involving entreating God’s help against the perceived enemy)⁴—in order to establish his veracity as the Messenger of Allah. This chapter examines the politics of the non-Muslim interest groups in the Islamic State, the manifestations of their opposition to Islam, aggregation of their concerns into rebellions, and the impact of their agitation on Islamic policy.

a. ‘People of the Book’

The construct phrase *ahl al-kitāb* (“People of the Book”) is mentioned 33 times in the Qur’an and the synonym *ūtul-kitāb* (“those who have been given the Book”), 18 times. People of the Book designate Jews and Christians in Islamic parlance, which has a basis in the axial texts.⁵ The Qur’an indirectly refers to both groups in several places; specifically, it calls Jews *yahūd*⁶ (sing. *yahūdī*⁷) but also refers to them by the verbal form *hādū*, “those who follow Judaism”⁸ or “have been Judaized,” and by the generic *banū isrā’īl* (“Children of Israel”).⁹ As for Christians, the Qur’an calls them *naṣārā*¹⁰ (sing, *naṣrānī*¹¹) as well as “People of the Gospel” (*ahl al-injīl*).¹² On the etymology of *naṣārā* (sing. *naṣrāniya*), scholars in the east and west differ. It is believed to have been derived

⁴ See Q 3:61.

⁵ Q 4:153, 171: “*The people of the Book ask thee to cause a book to descend to them from heaven: Indeed they asked Moses for an even greater (miracle). . . .*” and “*O People of the Book! Commit no excesses in your religion: Nor say of Allah aught but the truth. Christ Jesus the son of Mary was (no more than) an apostle of Allah, and His Word, which He bestowed on Mary, and a spirit proceeding from Him. . . .*” See also Ibn Kathīr, *Tafsīr*, 73-75.

⁶ Q 5:64. Cf the Hebrew *yehudi* (“Judean,” hence “Jew”), the usage of which dates back to the fifth century CE.

⁷ Q 3:67.

⁸ Q 2:62.

⁹ Q 2: 40.

¹⁰ Q 3:67.

¹¹ Q 3:67.

¹² Q 5:47.

from the Syriac *naṣrūyū* or *naṣrāyā*, from the Hebrew “Nazarenes,” the name that Jews gave to followers of Jesus, or from the town al-Nāsira, hence “Nazarenes”

(“Naṣārenes”).¹³ While some held that the linguistic origins of *naṣārā* are unknown, others opined that it was derived from *anṣār*—a broken plural of *naṣrānī*, as in the Qur’an: “Who are my helpers [*anṣārī*] for Allah?”),¹⁴ or named after the city Naṣrān.¹⁵ *Naṣārā* is also found in *jāhilī* Arabic poetry, referring to Jesus’ followers but offering little etymological evidence.¹⁶ In the final analysis, it appears that the Qur’an co-opted a name for Jews and Christians already in Arabic usage in *Jāhiliyya*.

Why does the Qur’an call Jews and Christians the “People of the Book”? Muslim exegetes are silent on the question. Based on the Qur’an’s contents, I theorize that the epithet stems from their description as recipients of divine revelations or scriptures brought to them by prophets and messengers in the past. This belief is reflected in the Prophet’s statements, asserting that they had in their possession portions of the “original” scriptures, much of which were compatible with the Qur’an and Islamic teachings in general. In Jewish religious traditions, the word “Torah” is polysemic, meaning the word of God received by Moses on Mt. Sinai, the first five books of the Old Testament or Hebrew Bible (namely, the canonical *Genesis*, *Exodus*, *Leviticus*, *Numbers*, and *Deuteronomy*) collectively known as the Pentateuch, or the entire corpus of Jewish religious literature. When Muḥammad refers to their “book” (*kitāb*), it is as though he

¹³ ‘Alī, *al-Mufaṣṣal*, vol. 6, 580-84.

¹⁴ Q 3:52.

¹⁵ Al-Ṭabarī, *Tafsīr*, vol. 2, 22-24.

¹⁶ ‘Alī, *Mufaṣṣal*, vol. 6, 584; *Lisān al-‘arab*, vol. 6, 4440-41; see also articles “*ahlul-kitāb*,” “*naṣārā*,” and “*yahūd*,” *ET*².

means the Mosaic Torah—the revelation that Moses received from God—that he strongly believed they had in their possession in the form of a *kitāb* (pages, books, or scriptures) and about which they were knowledgeable, as stated in the Qur'an. Two narratives are intertwined here. The first is that the Qur'an is a "confirmation" (*muṣaddiq*) of earlier revelations brought by biblical prophets. The second is that previous divine books foretold Muḥammad's advent. Concerning the first narrative, the Qur'an says, "(O Children of Israel!) Believe in what I have sent down (to Muḥammad), confirming (**muṣaddiq**) that which is with you"¹⁷; and "Say: 'Did you see that it was (sent) from Allah? Yet you disbelieved in it, even though a witness from the Children of Israel testified to its likeness and believed. But you have become arrogant.'"¹⁸ The "likeness" is the Qur'an's likeness with the Torah and Muḥammad's likeness with Moses, since both of them were prophets who received divine revelations.¹⁹ As for Muḥammad's prophecy in Judeo-Christian scriptures, the second narrative, the Qur'an says, "Those who follow this messenger (Muḥammad), the unlettered prophet (**nabī**) whom they will find written (**maktūb**) about in the Torah and the Gospel, which are with them."²⁰ In the Pre-Hijra Period, the significance of these beliefs are portrayed in Muḥammad's encounters with learned Christians, such as Bahīrā²¹ and Waraqa b. Nawfal²² who both recognized him as the *al-nabī al-maktūb* in their scriptures, as depicted in the *sīra* literature. We shall return to

¹⁷ Q 2:41. Ibn Hajar, *al-'Ujāb*, vol. 1, 252-52.

¹⁸ Q 47:10.

¹⁹ Q 46:10. See al-Ṭabarī, *Tafsīr*, vol. 21, 124.

²⁰ Q 7:157.

²¹ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 122-23; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 204-07; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 313-15.

²² Ibn Ishāq, *al-Sīra al-nabawiyya*, 163, 168-71; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 1, 216-17; al-Suhaylī, *al-Rawḍ al-unf*, vol. 1, 407-11.

their stories toward the end of this chapter. In the post-Hijra period, the Qur'an says, "Those whom We have given the Book know him, as they know their own sons."²³ The *asbāb al-nuzūl* literature relating to the early āyāt of second sūra of the Qur'an, which is Madanite or post-Hijra in terms of chronology, reflects this fundamental belief.²⁴ When the Prophet came to Madīna, Abdullah b. Salām, a prominent Jewish scholar, was among the first Jewish converts to Islam.²⁵ 'Umar said to him, "Allah revealed to his Prophet in Makka that the People of the Book know him, as they know their own sons."²⁶ What is this knowledge?" Abdullah b. Salām replied, "When we see him among you, it is the same as when one of us sees his own son among other children. I swear that I know him better than my own son!" 'Umar asked, "How so?" He said, "I know him by Allah's descriptions of him in our Book. He is indeed him! As for my own son, I don't know if his mother was unfaithful."²⁷ A more telling narration involved the Jews' polemic with the Prophet over the punishment for adultery. Shortly after his arrival in Madīna, learned Jews gathered in the House of Midrash to discuss the affair of a married man who had committed adultery with a married woman. They said, "Send the couple to

²³ Q 2:146.

²⁴ In general, Western scholars on the life of Muḥammad have ignored these traditions about him being foretold in Judeo-Christian scriptures as not worthy of historical merit, an embellishment of Muslim historians projected back in order to historically validate the Qur'an's claims on this matter, or lacking comparative corroboration in Judeo-Christian sources. A few Christian scholars, however, accepted Muḥammad's claim, as found in the *Chronicle of Zuqin* and a Syrian king's list; see Robert G. Hoyland, "Earliest Christian Writings on Muhammad" in Motzki, *The Biography of Muhammad*, 285-86. Sarah Stroumsa also discussed the Muḥammadan prophethood claim in her paper entitled "The Signs of Prophecy: The Emergence and Early Development of a Theme in Arabic Theological Literature" in *Harvard Theological Review*, 78 (1985), 16-42. Perhaps the first among the early Muslim historians to collect the traditions on the Prophet's description in Judeo-Christian scriptures is Ibn Sa'd in a lengthy section in his *al-Ṭabaqāt al-kubrā*, vol. 1, 192-209.

²⁵ Al-Wāḥidī, *Asbāb al-nuzūl*, 44; Ibn Hajar, *al-'Ujāb*, vol. 1, 398-400.

²⁶ Cf Q 6 :20, which is the same as Q 2:146 and is a Makkan sūra.

²⁷ Ibn Hajar, *al-'Ujāb*, vol. 1, 399.

Muḥammad and ask him about the ruling concerning them. Defer to him. If he, like you, prescribes *al-tajbiyya* (i.e. flogging with a rope made of bundle fibers), *taḥmīm* (i.e. blackening their faces), and parading them backwards atop donkeys, then follow him in that and accept him as being truthful, for he is a king. But if he rules stoning for them, then beware of him in what you have, for he will deprive you of it.” When they approached the Prophet to adjudicate the matter, he walked over to the House of Midrash and addressed the Jews gathered there: “*Bring out your learned men to me.*” When Abū Yāsir b. Ahkṭab, Wahb b. Yahwadhā, and Abdullah b. Šūriyā came forward, the Prophet asked Ibn Šūriyā, who was considered the most knowledgeable of them, “*I adjure you by Allah, reminding you of His days with the Children of Israel, do you know that Allah mandated stoning in the Torah for the married person who commits adultery?*”²⁸ Ibn Šūriyā replied, “O Allah! Yes, they know that you are the prophet sent, but they envy you.” The Prophet then ordered that the Jewish couple be stoned to death at the door of the mosque, near the location of Banū Ghanm b. Mālīk b. Najjār. It is also reported that Ibn Šūriyā later denied Muḥammad’s prophethood.²⁹

In fact, so strong was Muḥammad’s conviction that the Qur’an is the last divine revelation and that he was Allah’s final prophet and messenger—the *Aḥmad* (“praised

²⁸ This changing punishment of adultery over time and place in Jewish history is widely acknowledged. In the Hebrew Bible, stoning to death in public is prescribed for the married person found guilty of adultery; for example, *Deut.*xxii.24 prescribed stoning to death. In the *Mishnah* (Sanh. xi.1), adultery still carried the death penalty—except that stoning was replaced with strangulation. Apart from stoning to death or strangulation, Jewish Law has also meted out burning to death, scouring, or the ‘jealousy offering’ for the crime of adultery. See the online *Jewish Encyclopedia* (<http://www.jewishencyclopedia.com/view.jsp?artid=865&letter=A&search=punishment%20for%20adultery#2155#ixzz0p5uhwdal>).

²⁹ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 205-06.

one”) prophesied to the Jews³⁰—that he stipulated the acceptance of these beliefs in some of his treaties with non-Muslims, as demonstrated in one of his letters to the Jewish stronghold at Khaybar prior to the Islamic State’s military action against them:

*In the Name of Allah, the Beneficent, the Merciful.
From Muḥammad, Messenger of Allah, Comrade of Moses and his brother, who confirms that which he (Moses) brought,
Did not Allah speak to you, O people of the Torah? You will find in your Book (the following): ‘Muḥammad is the messenger of Allah. And those with him are hard against the disbelievers and merciful among themselves. Thou seest them bowing and falling prostrate (in worship), seeking bounty from Allah and (His) acceptance. The mark of them is on their foreheads from the traces of prostration. Such is their likeness in the Torah and their likeness in the Gospel like as sown corn that sendeth forth its shoot and strengtheneth it and riseth firm upon its stalk, delighting the sowers that He may enrage the disbelievers with (the sight of) them. Allah hath promised, unto such of them as believe and do good works, forgiveness and immense reward.’³¹
I beseech you in Allah. I beseech you in what is revealed to you. I beseech you in Him who fed those before you, among your tribes, manna and quails. I beseech you also in Him who split open the sea for your forefathers, in order to save you from Pharaoh and action –except that you have informed me: ‘Do you find in what Allah revealed to you to believe in Muḥammad?’ If you do not find that in your book, then there is no compulsion upon you, for ‘the right direction is henceforth distinct from error’.³² I invite you to obey Allah and His Prophet.’³³*

In light of the foregoing, it was not unrealistic for Muḥammad to expect that the first persons likely to recognize his message, follow him, and help him would be none other than the People of the Book. Fate decreed otherwise, however, since the majority of Jews and Christians in Arabia did not embrace Islam during his lifetime. Nonetheless, he granted them religious autonomy and the status of “people under the protection” (*ahlul-dhimma*) of Allah and His Messenger, that is, the Islamic State.

Whatever the reason behind the appellation “People of the Book,” the Qur’an does not overtly categorize Jews and Christians as “polytheists” (*mushrikūn*), focusing on similarity between People of the Book and polytheists—but not equality: “Those who

³⁰ H. Graetz, *History of the Jews*, vol. 3, 72-74; Irving Zeitlin, *The Historical Muḥammad* (MA: Polity Press, 2007), 144.

³¹ Q 48:29 (Pickthall).

³² Q 2:256.

³³ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 186-87; Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 68-69.

*disbelieve among the People of the Scripture (ahlil-kitāb) and the idolaters (mushrikūn) could not have left off (erring) till the clear proof came unto them.”*³⁴ In spite of this and similar āyāt, Muslims have continued to debate whether or not the People of the Book can also be called idolaters and polytheists. “There are two opinions concerning inclusion of People of the Book under the term *mushrikūn*,” Ibn Qayyim (d. 751/1350) wrote. “Ibn ‘Umar (and others) used to call them *mushrikūn*, claiming that he did not know of any polytheistic statement greater than ‘the Messiah is Allah’s Son’ or ‘Uzayr is Allah’s Son,’ for Allah says about them: *‘They have taken as lords beside Allah their rabbis and their monks and the Messiah son of Mary, when they were bidden to worship only One God. There is no god save Him. Be He glorified from all that they ascribe as partner (unto Him)!’*”³⁵ The second opinion is that the People of the Book are to be excluded from *mushrikūn* because Allah Himself distinguished between both groups: “*Lo! those who believe (this Revelation), and those who are Jews, and the Sabaeans and the Christians and the Magians and the idolaters (mushrikūn)—Lo! Allah will decide between them on the Day of Resurrection. Lo! Allah is Witness over all things.*”³⁶ He added that his sheikh (i.e., Ibn Taymiyya) explained it thus: “The finding is that the foundation of their religion (*dīn*) is the *dīn* of monotheism (*tawhīd*); therefore, they are not *mushrikūn*. Rather, polytheism (*shirk*) is incidental to them; they are considered *mushrikūn* only regarding what has transpired with them—not regarding the basis of their *dīn*. Even if it is presumed that they do not fall under the term *mushrikūn*, as in the āya [Q22:17], still they are under it within the universality

³⁴ Q 98:1 (Pickthall).

³⁵ Q 9:31 (Pickthall).

³⁶ Q 22:17 (Pickthall).

of their impure state (of beliefs)³⁷—a legal ruling (*hukm*) that is broad because of its generality.”³⁸ It is apparent from these *āyāt* that polytheists are mentioned conjunctively with the People of the Book, indicating two separate categories that overlap at the intersection of the concept of God, which is not the pure form of monotheism advocated in the Qur’an.

b. Jews of Madīna

About twenty odd Jewish tribes and clans flourished in Madīna prior to the arrival of al-Aws and al-Khazraj,³⁹ and they constituted the majority population when the Prophet arrived. Lecker equated their numerical majority status with the attribute of power, stating that the main Jewish clans were the dominant and military power in Madīna.⁴⁰ According to the Muslim Historical Tradition (MHT), however, Jews had lost their political ascendancy long before Islam’s entry into Madīna, being reduced to clients of al-Aws and al-Khazraj.⁴¹ But Jews still wielded significant military and economic power, maintained strategic political alliances with Arab tribes, and constituted important ethnic and religious interest groups in the Islamic State. No serious study of Jews in Madīna, however, can avoid noticing two important lacunae. The first lacuna is that information on the historical period under study is based

³⁷ Impurity of beliefs is intended since, as the Qur’an puts it: “*O ye who believe! Truly the Pagans (mushrikūn) are unclean; so let them not, after this year of theirs, approach the Sacred Mosque. . . .*” Q 9:28 (‘Alī).

³⁸ Ibn Qayyim, *Aḥkām ahlil-dhimma*, vol.1, 188-89

³⁹ Al-Samhūdī, *Wafā’ al-wafā*, vol. 1, 307.

⁴⁰ Lecker, *The ‘Constitution’ of Medina*, 3.

⁴¹ Al-Balādhurī, *Futūḥ al-buldān*, 13.

entirely on Muslim sources,⁴² since Jews apparently did not leave behind any written account of their presence in Madīna⁴³; furthermore, nothing about them has come down to us from non-Muslim sources to date. Jews are sometimes mentioned in Pre-Islamic (*jāhili*) poetry⁴⁴ but which does not cover the Islamic Period. The second lacuna is that the exact date of Jews' entry into the Ḥijāz in general and Yathrib in particular is unknown. Notwithstanding these gaps, a substantive cultural profile of Jewish life—their lineage, tribal divisions, traditions, occupations, Lost Tribe descent, physical locations—in Madīna can be gleaned from the available historical record. Christian, Jewish, and secular historians have had to rely inevitably on the MHT to reconstruct the Jewish presence in Arabia. Several of their works are chiefly concerned with Jewish influences on Muḥammad's theology.⁴⁵ But our main concern here is with social artifacts of the period that shed light on the Jews' status quo as a political unit within the Islamic political system and how Islamic policy impacted them.

⁴² These comprise the genres of Islamic literature, including Qur'an, Ḥadīth, exegesis, history, *asbāb al-nuzūl*, *sīra*, *adab*, and poetry.

⁴³ There is a copy of the Prophet's letter to the Jews of al-Miqnā, Ḥanīnā, and Khaybar (discussed later in this chapter), which is preserved in a Hebrew transliteration. Its manuscript was discovered in the Cairo Genizah in Egypt and thence moved to Cambridge University. Hirschfield published a paper on it in the *Jewish Quarterly Review*, London, 15:1, 167-81. A facsimile of the document and other bibliographic references are found in Ḥamidullah, *Majmū'a al-wathā'iq*, 93-95.

⁴⁴ 'Alī, *al-Mufaṣṣal*, vol. 6, 511.

⁴⁵ This preoccupation of Jewish historians with Islamic Studies began earnestly in the nineteenth century with Rabbi Abraham Geiger who wrote *Was hat Muhammad aus dem Judenthum aufgenommen?* Wellhausen challenged that view in 1887 in his *Reste Arabischen Heidentums*, highlighting what he saw as predominantly Christian influences on Muḥammad. His work influenced a generation of scholars. C.C. Torrey, in his *The Jewish Foundation of Islam*, resumed where Geiger had paused. This narrative of Jewish influence on Muḥammad was not without excesses similar to the narrative of Christian influence, as Rodinson pointed out in his work "Modern Studies on Muhammad." More recently, Newby, tried to rehabilitate the paradigm of the dominance of Jewish influences on Muḥammad. In sum, although these works are helpful in understanding the cultural life of Jews in Arabia of the time, they do not fully answer the question of the origins of Muhammad's influences. We return to this subject in the chapter on Islamic Law, in the section entitled "Foreign Influences on the *Sharia*." See Rodinson, "Modern Studies on Muhammad." in *Studies on Islam*; Newby, *A History of Jews of Arabia* (Columbia, SC: University of South Carolina Press, 1988).

Opinion on the origins of Jews in Arabia is divided.⁴⁶ One view is that they arrived with the army of Nabonidus (d. ca. 538 BCE), the last king of the Chaldean dynasty of Babylonia, entering Tīmā' where some of them remained and later departed to other parts of Arabia, including Wādī al-Qurā, Khaybar, and Yathrib. Another view is that they entered in the wake of Nebuchadnezzar II (d. ca. 561 BCE), who conquered Judah in ca. 597 BCE, forcing Jews into exile. The third and prevailing view, accepted by most non-Muslim and Muslim scholars, is that they came to Arabia fleeing the Roman conquest of Jerusalem in 70 CE.⁴⁷ As regards their ethnic lineage, some traditions attribute it to the lost tribes of Israel or to Jews of Moses' time, some of whom reached the Ḥijāz and settled there.⁴⁸ It is also believed that Qurayza were descended from the prophet Shu'ayb (the Qur'anic equivalent of the biblical Jethro), father-in-law of Moses,⁴⁹ or Qaynuqā' from the prophet Joseph⁵⁰ (who is identified with Yūsuf in the Qur'an, as in Q 12). Another report states that they came to the Ḥijāz with Hadl and al-Naḍīr after the Roman conquest of Syria.⁵¹ We saw earlier in the Prophet's letter to Khaybar that he considered them at least spiritual descendants of the Children of Israel. Margoliouth had opined—a view shared by other Jewish historians, such as Graetz and Baron—that Madanite Jews were not originally Jews but proselytes or Judaized Arabs—an apparent racial categorization, which Zeitlin rejected *in toto*: "I find

⁴⁶ For a full discussion of these various opinions on the origins of Jews in Arabia, see 'Alī, *al-Mufaṣṣal*, 513.

⁴⁷ 'Alī, *al-Mufaṣṣal*, vol. 6, 509-42.

⁴⁸ Al-Samhūdī was inclined to this view and collected a number of traditions related to it; *Wafā' al-wafā'*, vol. 1, 301.

⁴⁹ Ibn Hajar doubted that this information is correct, but al-Samhūdī had considered it a possibility; see al-Samhūdī, *Wafā' al-wafā'*, vol. 1, 301; Ibn Hajar, *Fath al-bārī*, vol. 9, 85-92.

⁵⁰ Al-Samhūdī, *Wafā' al-wafā'*, vol. 1, 305.

⁵¹ See Wensinck, *Muhammad and the Jews of Medina*, 29.

this view bizarre, for it sounds as though Margoliouth, a truly outstanding scholar, has in this instance entertained an ethnic or quasi-racial criterion for Jewishness, rather than purely religious criteria.”⁵² Margoliouth’s view is also speculative and does not fully account for all that is reported of Jewish culture in Muslim sources, including the dynamics of acculturation between Arabs and Jews in Madīna. Nöldeke and Winsenck contended that even though the main Jewish clans were not ethnic Jews but Arab proselytes of Banū Judhām, they clearly had a Jewish cultural identity at the time of Islam.⁵³ The Qur’an talks about Jews primarily with respect to their religious orientation and association with the biblical traditions of Hebrew prophets and the Children of Israel (Ar. *Banū Isrā’īl*).

Wherever the Jews settled in the Ḥijāz, they secured fertile areas close to water resources, built strongholds on hills, and engaged in various crafts and trades, including agriculture (e.g. cultivation of dates, grapes, vegetables, and grains), trade, and jewelry, cattle-breeding, wine, armory, and usury. Displacing the remaining Amalikites and Chaldeans in Yathrib, the Jews gradually attained dominance until their collective defeat by the Arab al-Aws and al-Khazraj. Acculturation between Jews and Arabs included inter-marriage, carrying Arabic-Hebrew names, clientage, shared cultural institutions designed to meet the collective goals of society, such as *dīya*, and a basic standardization of common values, ideas, and aesthetics in everyday life. Through these cultural processes, some Arab tribes became Judaized, as noted earlier; but, by and large, Jews stayed within the fold of Judaism, deeming Arab paganism a form of

⁵² Zeitlin, *The Historical Muhammad*, 76.

⁵³ Wensinck, *Muhammad and the Jews of Medina*, 30.

misguidance and ignorance—a view that was apparently shared by many fellow Arabs themselves.⁵⁴ Jews were literate and many of them adopted Arabic names alongside Hebrew ones and spoke Arabic, possibly Aramaic, and Hebrew—the latter was used by their learned for liturgical purposes. Jews and Arabs tended to live in separate enclaves in and around Madīna. Assimilation between Arab and Jewish cultures was never complete, since both groups managed to maintain discernible Arab and Jewish identities.

The MHT affords many insights into the acculturation patterns between Arab and Jews, as the following account illustrates. It had been part of Arab custom that when a pregnant woman sensed that she might lose her male offspring through miscarriage (*miqlāh*), she would vow that if her son survives, she would send him to a Jewish community where he would be suckled by a foster mother and raised in Jewish culture. The main Jewish tribes involved in this kind of fostering were Banū Naḍīr and Banū Qurayẓa.⁵⁵ This “relationship pattern” between Arabs and Jews was dismissed by Serjeant as not being of any major political importance. It may not have been of major political importance, but it was certainly not trivial. To illustrate, when the Prophet expelled al-Naḍīr from Madīna, as will be discussed later, they took with them many Judaized male children of the Anṣār. Muslim parents publicly protested the departure of their sons with unbelievers, and some of those left behind were forced to embrace Islam. It is related that two sons of the Anṣārite member, Abū al-Ḥuṣayn, accepted Christianity at the hands of Christian merchants who had come from Syria to trade oil

⁵⁴ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 393.

⁵⁵ Al-Wāḥidī, *Asbāb al-nuzūl*, 83.

in Madīna. They wished to take their new converts back to Syria. These concerns were articulated to the Prophet who remained silent until the Qur'an declared the *lā 'ikrāha fil-dīn* social policy: "*Let there be no compulsion in religion: Truth stands out clear from Error. . .*"⁵⁶ Explaining it, the Prophet reportedly said, "*Allah has given (your sons) a choice. If they choose (the People of the Book), then they belong with them.*" Thus, the Judaized Arab male children were allowed to leave with the banished Jews. The political implications of this public decision meant that freedom to choose one's religion was a Madanite's right under the nascent Islamic State regardless of his (there is no mention of female Arab infants being sent to Jews in order to be raised) ethnic and religious background, that the State could not legally impose religious beliefs on its subjects, and that the *lā 'ikrāha fil-dīn* policy was most likely introduced before the law of apostasy (*rida*), which prescribed the death penalty for the Muslim adult apostate.⁵⁷ Al-Wāḥidī posited abrogation (*naskh*), commenting that the āya (Q 2: 256) was revealed before the Qur'anic permission to fight the People of the Book in *Sūra Barā'a* (Q 9).⁵⁸

As stated earlier, the three Jewish groups that figure prominently in the account of Muḥammad's early military exploits were Qaynuqā', al-Naḍīr, and Qurayẓa. That is because they rebelled against his rule, but they were defeated, losing their wealth to the Islamic State and Muslims. Some passages of the Qur'an are said to refer to them

⁵⁶ Q 2:256 ('Alī).

⁵⁷ This death penalty is expressed in several *āḥādīth*, such as "*The blood of a Muslim is not legally spilt other than in one of three instances: the married person who commits adultery; a life for a life; and one who forsakes his religion and abandons the community.*" The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukharī, Muslim et al; see al-Albānī, *Irwā' al-ghalīl*, vol. 7, 253-55.

⁵⁸ Al-Wāḥidī, *Asbāb al-nuzūl*, 84.

directly: *Sūra al-Ḥaṣhr* (Q 59)⁵⁹, for instance, speaks to al-Naḍīr and *Sūra al-Aḥzāb* (Q33), to Qurayṣa.⁶⁰ Within one year of the Prophet's arrival in Madīna, the social dynamic of the Jewish-Muslim relationship deteriorated rapidly, from Jews' lukewarm acceptance of his political leadership, far less his prophecy claim, to violent confrontation. A series of events progressively led to this fallout—at the heart of which was the role of the Islamic State's *idéologique*. Let us now review these political incidents.

c. Jews are Invited to Islam

The House of Midrash (Ar. *bayt al-madāris*; Heb, *beit midrash*), the center of Jewish intellectual and political life in Madīna, was the backdrop for many feisty inter-faith dialogs and polemics between the Prophet and rabbis and between Jews and his Companions over revelation and prophecy. According to Graetz,

Yathrib was the seat of Jewish learning and possessed teachers of the Law (*Achbar, Chabar* [Ar. *aḥbār*⁶¹) who expounded the Scriptures in an academy (*midras*). But the knowledge of the Bible which the Arabian Jews possessed was not considerable. They were acquainted with it only through the medium of the Agadic exegesis, which had become familiar to them in their travels or had been brought to them by immigrants. For them the glorious history of the past coalesced so completely with the Agadic additions that they were no longer able to separate the gold from the dross. Endowed with poetical fancy, the Arabian Jews on their side embellished the Biblical history with interesting legends, which were afterwards circulated as actual facts.⁶²

This inter-faith dialog between Muslims and Jews was serious, intense, and sometimes violent.⁶³ Why did Jews not accept Muḥammad as a prophet or “the Messenger of Allah”? Three reasons are proffered. First, Muḥammad was intent on converting them

⁵⁹ Zanjawih, *Kitāb al-amwāl*, 93.

⁶⁰ Al-Qayyim, *Zād al-ma'ād*, vol. 3, 65.

⁶¹ Cf Q 5:44 (Pickthall) – “Lo! We did reveal the Torah, wherein is Guidance and a Light, by which the Prophets (*nabiyyūn*) who surrendered (unto Allah) judged the Jews, and the Rabbis (*rabbāniyyūn*) and the Priests (*aḥbār*) judged by such of Allah's scriptures as they were bidden to observe, and thereunto were they witnesses. . . .”

⁶² Graetz, *History of the Jews*, vol. 3, 59.

⁶³ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 200.

to the new Islamic faith, whereas they thought that their guidance was completed and perfected in the Torah, as mediated through *Midrash*, a form of Jewish exegesis.⁶⁴

Second, the Prophet did not inspire any hope to Jews that he would ally with them and restore their dominance in Madīna. Third, Jews took umbrage at certain Islamic injunctions that did not correspond to their understanding of the Torah. Nevertheless, the punitive measures that the Muslim government meted out to them did not stem from hermeneutic differences over scripture but from what the Prophet deemed were violations of treaty obligations under the Madīna Constitution, the *Ṣaḥīfa*, including giving comfort and aid to enemies of the state and conspiring with them, as will be outlined shortly.

The Prophet's polemics with the Jews generally centered around three main Qur'anic perceptions:

- (i) Jewish interpolation (*tahrīf*) of divine revelation or scripture;
- (ii) Jewish concealment of revelations, especially relating to divine commands and prohibitions;
- (iii) Jewish lackadaisicalness toward divine ordinances.

⁶⁴ On Jewish cultural life in Arabia, Graetz wrote, "In the form in which it was transmitted to them, that is to say, with the character impressed upon it by the Tana'im and the Amoraim, Judaism was most holy to the Arabian Jews. They strictly observed the dietary laws, and solemnized the festivals, and the fast of Yom-Kippur, which they called Ashura. They celebrated the Sabbath with such rigor that in spite of their delight in war, and the opportunity for enjoying it, their sword remained in its scabbard on that day. . . . Like all the Jews of the globe, therefore, they turned their face in prayer towards Jerusalem. They were in communication with the Jews of Palestine, and even after the fall of the Patriarchate, willingly subordinated themselves to the authorities in Tiberias, whence they received, as also from the Babylonian academies probably, religious instruction and interpretation of the Bible." See Graetz, *History of the Jews*, vol. 3, 58-59.

According to the Qur'an, Jewish *tahrīf* is of two kinds. The first kind is of three types: (i) transposition of letters in a word, (ii) transposition of words in a sentence, and (iii) substitution of one word with another. The second kind consists of exegetical reading of the literal as figurative or vice versa without any religious or spiritual authority. The latter constitutes theological hermeneutics or "creative philology"⁶⁵ and while it is legitimate and praiseworthy in Rabbinical Judaism, the Qur'an views it as a blameworthy practice if motivated by impious intentions. Examples of Jewish *tahrīf* in the Qur'an are the following: "Some of those who are Jews change words from their context and say: 'We hear and disobey' (**sami'nā wa 'aṣaynā**); 'hear thou as one who heareth not' (**isma' ghayra musma'**); and 'Listen to us!' (**rāi'nā**) distorting with their tongues and slandering religion. If they had said, 'We hear and we obey' (**sami'nā wa aṭa'nā**); 'hear thou, and look at us' (**isma' wa'nẓurnā**), it [would have] been better for them, and more upright. But Allah hath cursed them for their disbelief, so they believe not, save a few"⁶⁶; and "Have ye any hope that they will be true to you when a party of (Jews) used to listen to the Word of Allah, then used to change it (**yuḥarrifūna**), after they had understood it knowingly?"⁶⁷ Concerning their concealment of divine revelation, the *asbāb al-nuzūl* literature relates that some Muslims informed the Prophet that certain Jewish leaders—Abū Yāsir b. Ahkṭab, Ka'b b. al-Ashraf, Ka'b b. Asīd, Salām b. Šūriyā, Kanāna b. Abī al-Haḳīq, Wahb b. Yahwadhā, and

⁶⁵ According to Isaac Heinemann, there are two major types of Midrashic style: (i) creative historiography and creative philology. The first is an imaginative approach to explication of biblical texts, while the second involves puns, word plays, reversals of letters and convergence of sounds, and so forth. Cf "Midrash" in *Back to the Sources: Reading the Classic Jewish Texts*, ed. Barry W. Holtz (NY: Touchstone, 1984); Isaac B. Gottlieb, "Midrash as Biblical Philology," *The Jewish Quarterly Review*, New Series, Vol. 75, No. 2 (Oct., 1984), 134-161.

⁶⁶ Q 4:46 (Pickthall). See also Q 5:13, 41.

⁶⁷ Q 2:75 (Pickthall).

Abū Rāfi‘—had asked them why they circumambulate the Ka‘ba, since it was just a stone building. He said to them: “*Verily, they know that circumambulation of the House is a correct practice and that it is the direction of prayer (qibla), which is written in the Torah and the Gospel, but they conceal it.*” When he heard it, Ibn Šūriyā retorted that the Jews do not conceal anything in their scriptures, which occasioned the revelation of the āya. “*The People of the Book know this (the Qur’an) as they know their own sons; but some of them conceal (yaktumūn) the truth which they themselves know.*”⁶⁸ As for their laxity toward divine ordinances, it is depicted in such āyāt as the following: “*And (remember, O Children of Israel) when We made a covenant with you and caused the mount to tower above you, (saying): ‘Hold fast that which We have given you, and remember that which is therein, that ye may ward off (evil).’ Then, even after that, ye turned away (tawallaytum), and if it had not been for the grace of Allah and His mercy ye had been among the losers. And ye know of those of you who broke the Sabbath, how We said unto them: ‘Be ye apes, despised and hated!’ And We made it an example to their own and to succeeding generations, and an admonition to the God-fearing.*”⁶⁹

Muslim attempts at proselytizing and polemics bore little fruit in Jewish communities and by the second year after the Hijra, the Jewish *Umma* had become an active political opposition, while Islam manifested itself as a distinct religion from Judaism. According to the MHT, no action was taken by the Islamic State against the main Jewish tribes unless it was preceded by admonishment, invitation to Islam, and precipitated by a deteriorating state of affairs between the Jewish and Muslim *umam*. Jewish hostility against the Islamic State might have stopped short of rebellion had it

⁶⁸ Q 2:146. See Ibn Hajar, *al-‘Ujāb*, vol. 2, 399-400.

⁶⁹ Q 2:63-66 (Pickthall).

not been for inputs from outside the political system, emanating from Makkans in the form of threats against non-Muslim persons and properties in Madīna. Before the Battle of Badr, Quraysh had written to the pagan Madanite Arabs first, warning them to desert Muḥammad or else face a large scale attack that would kill their men and enslave their women.⁷⁰ After Badr, the Qurayshites sent a letter to the Madanite Jews next, inciting them to rebel against Muḥammad or face a full retaliation. It read in part: “You are strong in weapons and fortresses. Either you fight our comrade (Muḥammad), or we shall do such and such, and nothing can intervene between us and your women’s servants!”⁷¹

Part II

d. Expulsion of Banū Qaynuqā‘

During the Battle of Badr in 2/624, Banū Qaynuqā‘, pressured by Makkans who inveigled them to form a united Jewish opposition against Muslims, brazenly declared their hostility to the Islamic state by revoking their treaty.⁷² Fearing their treachery, the Prophet left Abū Lubāba b. Abdul Mundhir⁷³ in charge in Madīna and visited the Jewish enclave⁷⁴ situated “south-west of Madīna near the *muṣallā* and the bridge over the Butṭḥān.”⁷⁵ Accompanying the Muslim contingent was Ḥamza b. Abdul Muṭṭalib,

⁷⁰ Ḥamīdullāh, *Majmū‘a al-wathā‘iq*, 48.

⁷¹ Ḥamīdullāh, *Majmū‘a al-wathā‘iq*, 48.

⁷² Al-Wāqidī, *al-Maghāzī*, vol. 1, 176.

⁷³ Ibn Hishām reported that the person who the Prophet left in charge in Madīna during the siege of Qaynuqā‘ was Iyyāham Bashīr b. Abdul Mundhir; see his *al-Sīra al-nabawiyya* vol. 3, 10.

⁷⁴ The date of the Prophet’s expulsion of Banū Qaynuqā‘ is given as *ca.* Saturday, Shawwāl 15, 2 AH/, April 10, 634 CE. See Ibn Sa‘d, *al-Tabaqāt al-kubrā*, vol. 2, 26-27.

⁷⁵ Wensinck, *Muhammad and the Jews of Medina*, 106.

carrying a white war banner (*liwā*).⁷⁶ What exactly prompted the Prophet's fear is not clear, but the Qur'an warned about it: "*If thou fearest treachery (khiyāna) from any group, throw back (their covenant) to them, (so as to be) on equal terms: for Allah loveth not the treacherous.*"⁷⁷ The Prophet summoned Qaynuqā' in the market and addressed them with these words: "*Beware of the retribution that befell Quraysh [at Badr]. Accept Islam. You know that I am a prophet who is sent and whom you find mentioned in your scripture and covenant with Allah!*" Known for their courageousness and military skill, they retorted: "You think we are like your folk?! Don't be deceived that you will meet a folk who has no knowledge of warfare! You will not find such an opportunity. If you war with us, you shall know that we are truly a people (of war)." This belligerency is said to have occasioned the Qur'anic response, "*Say to those who reject Faith: 'Soon will ye be vanquished and gathered together to Hell, an evil bed indeed (to lie on)! There has already been for you a Sign in the two armies that met [at Badr]: One was fighting in the cause of Allah, the other resisting Allah. These saw with their own eyes twice their number. But Allah doth support with His aid whom He pleaseth.'* In this is a warning for such as have eyes to see."⁷⁸ It was to no avail, and the proverbial straw that broke the camel's back occurred when a Muslim woman visited Qaynuqā' market. While shopping, a Jew tied an end of her dress, so that when she moved away, she became denuded. She cried out and a Muslim, who saw what transpired, jumped to her defense and slew the Jew. He in turn was jumped upon by other Jews who killed him. An alarm was raised by Muslims who were there, which

⁷⁶ War banners appeared first and then flags in later battles. There is no apparent religious significance attached to them. Their usage by Muslims was therefore purely secular and imitative to some degree of the prevailing norms of the war culture. See Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 26.

⁷⁷ Q 8:58 ('Alī).

⁷⁸ Q 3:12-13 ('Alī). See al-Wāḥidī, *Asbāb al-nuzūl*, 98-99.

brought the Prophet and his forces to their stronghold of two forts.⁷⁹ The Muslim fighters besieged Qaynuqā' for fifteen nights, eventually causing them to capitulate to the Prophet's judgment. He ordered that their hands be tied and, in his anger, wished to execute them. Their patron Abdullah b. 'Ubayy B. Salūl interceded on their behalf, pleading that he needed them (some 700 fighters in one account)⁸⁰ as military allies and expressing his dread of negative consequences without them. The Qur'an referred to his plea: "*Those in whose hearts are a disease, thou seest how eagerly they run about amongst them, saying: 'We do fear lest a change of fortune bring us disaster.' Ah! Perhaps Allah will give (thee) victory, or a decision according to His will. Then will they repent of the thoughts which they secretly harbored in their hearts.*"⁸¹ Ibn 'Ubayy persisted until the Prophet relented, released them to his custody, and ordered their expulsion despite his fervent protestation.⁸² They departed for Adhra'āt on the outskirts of Syria, taking with them their women and offspring but not their possessions. They were goldsmiths and merchants⁸³ but did not rear cattle⁸⁴ or own land.⁸⁵ Muḥammad b. Maslama was placed in charge of their weapons and trade implements, which were distributed among the participants of the siege. The Qaynuqā' spoils were the first for Muslims since Badr. One fifth went to the Prophet, representing the Islamic State,⁸⁶ while the remainder went to

⁷⁹ Al-Samhūdī, *Wafā' al-wafā*, vol. 1, 305.

⁸⁰ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 323; al-Wāqidī, *al-Maghāzī*, vol. 1, 177; al-Ṭabarī, *Ta'rīkh*, vol. 2, 480. al-Mas'udi gave their number as 400. See Wensinck, *Muhammad and the Jews of Medina*, 28.

⁸¹ Q5:52. See also Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 324 and Ibn Hajar, *Fath al-bārī*, vol.9, 89.

⁸² Ibn Ishāq does not mention their expulsion, but it is mentioned in al-Wāqidī, *al-Maghāzī*, vol. 1, 178; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 26.

⁸³ Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 190.

⁸⁴ Wensinck, *Muhammad and the Jews of Medina*, 28.

⁸⁵ Al-Ṭabarī, *Ta'rīkh*, vol. 2, 479-83.

⁸⁶ Q 8:41 ('Alī): "*And know that out of all the booty that ye may acquire (in war), a fifth share is assigned to Allah, and to the Messenger, and to near relatives, orphans, the needy, and the wayfarer- if ye do believe in*

his fighters. On this occasion, some leaders of Banū ‘Awf of al-Khazraj publicly severed their alliance with Qaynuqā’, while others like Abdullah b. ‘Ubayy. B. Salūl remained recalcitrant. At this juncture—a situation of hostility and war—the Qur’an issued a new political directive as regards the pattern of friendship or “close relationship” (*walā’*) between Muslims and People of the Book, re-setting it on the basis of Islamic faith and identity and threatening the loss of divine reward for deserters:

O ye who believe! Take not the Jews and the Christians for your friends and protectors: They are but friends and protectors to each other. And he amongst you that turns to them (for friendship) is of them. Verily Allah guideth not a people unjust. . . .

O ye who believe! if any from among you turn back from his Faith, soon will Allah produce a people whom He will love as they will love Him,- lowly with the believers, mighty against the rejecters, fighting in the way of Allah, and never afraid of the reproaches of such as find fault. That is the grace of Allah, which He will bestow on whom He pleaseth. And Allah encompasseth all, and He knoweth all things.

Your (real) friends are (no less than) Allah, His Messenger, and the (fellowship of) believers,- those who establish regular prayers and regular charity, and they bow down humbly (in worship).

As to those who turn (for friendship) to Allah, His Messenger, and the (fellowship of) believers,- it is the fellowship of Allah that must certainly triumph.”⁸⁷

The Qaynuqā’ incident signaled a significant shift in Islamic policy from ‘open arms’ to ‘circling the wagons,’ in order to protect the Muslim body politic from internal instability. Al-‘Umarī argued that the reason for their expulsion had nothing to do with their refusal to accept Islam but was due to their “spirit of enmity,”⁸⁸ since the Madīna Constitution guaranteed their residency as a distinct *umma* without the prerequisite of conversion. The Qur’an, as we have seen, alludes to Qaynuqā’s “treachery” (*khiyāna*), indicating a shaky state of relations, and accords sacred legitimacy to the military

Allah and in the revelation We sent down to Our servant on the Day of Testing - the Day of the meeting of the two forces. For Allah hath power over all things.” It is reported that the Prophet’s one fifth of the booty consisted of three bows, two shields, three swords, and three spears. See Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 2, 27.

⁸⁷ Q5:51-56. See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 324.

⁸⁸ Al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 299-301.

action against them. Qaynuqā' reneged from their agreements with the Islamic State, miscalculating the outcome of the military showdown between Madīna and Makka at Badr. When they were confronted, they repealed the treaty—whereby they were not to war against or make common cause with the Prophet's enemies.⁸⁹ The Prophet first brandished before them the 'carrots' of conversion to Islam, which would have reconstituted them under a new legal position vis-à-vis the State. When that approach produced a negative result, he wielded the 'stick' of combat operations. In the aftermath, he issued a public decision to expel them, which the Qur'an endorsed: "*Say to those who reject Faith: 'Soon will ye be vanquished and gathered together to Hell, an evil bed indeed (to lie on)! There has already been for you a Sign in the two armies that met [at Badr]: One was fighting in the cause of Allah, the other resisting Allah.. . .*"⁹⁰ The Qaynuqā' incident occurred in the middle of Shawwāl, ca. 2/624, six months after the Battle of Badr.⁹¹

Some scholars have read this initial move by Muḥammad against Madanite Jews as a covert political agenda aimed at expropriating their wealth, in order to enrich his dispossessed Companions, especially the Muhājirūn, who had sacrificed much for Islam.⁹² Watt disagreed with this thesis. He wrote, "To suggest that Muḥammad was unaware of the wealth of the Jews would be a serious underestimating of his intelligence. To make this the sole reason, however, for his attacks on Jews is to be

⁸⁹ Al-Wāqidī, *al-Maghāzī*, vol. 1, 177.

⁹⁰ Q 3:12-13 ('Alī). See al-Wāhidī, *Asbāb al-nuzūl*, 98-99.

⁹¹ Al-Wāqidī, dates the beginning of the siege on Saturday, the middle of Shawwāl, after Badr, and Ibn Sa'd agreed with him. As for Ibn Ishāq, he did not date the Qaynuqā' incident but placed it chronologically between the Prophet's military excursion to confront Quraysh at Baḥrān towards al-Furu' and the Battle of al-Sawīq. See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 323; al-Wāqidī, *al-Maghāzī*, vol. 1, 176; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 26; al-Ṭabarī, *Ta'rīkh*, vol. 2, 480-82.

⁹² Wensinck, *Muhammad and the Jews of Medina*, 105.

unduly materialistic. The wealth of the Jews was certainly of great benefit to him and considerably eased his financial position, and the prospect of financial betterment may have influenced the timing of his attacks on the Jews. But the fundamental reason for the quarrel was theological on both sides.”⁹³ Zeitlin, in turn, disputed Watts’ conclusion, arguing in Khaldunian terms that Muḥammad’s struggles with Jews was analogous to the natural antagonism between the “desert” and the “sown”: that is, the Prophet’s tribal followers were Bedouins who perceived the wealthy communities of the oases—in this case, the *sown* represented by Jews—as irresistible sources of sustenance.⁹⁴ Zeitlin’s analysis too is problematic, since the vast majority of Muḥammad’s followers in Madīna—the Muhājirūn and Anṣār—were not nomadic but urban Arab dwellers. Rather, the conflict between the Prophet and the Jews was not only theological but also political in Madīna’s cultural milieu with reference to the growing strength of state power to back the Islamic ideology.

e. Assassination of Ka’b b. al-Ashraf

The State-sanctioned assassination of Ka’b b. al-Ashraf signaled to the Jewish community that the Prophet was prepared to take extraordinary means, when necessary, to defend the Islamic State against insurgency as well as sedition. The son of an Arab father and a Jewish mother from al-Naḍīr, Ibn al-Ashraf is described as a popular poet. When the Prophet invited him to Islam, he declined, arguing that God did not reveal a divine book to anyone after Moses. The Qur’an answered him with the words: “**Alif. Lām. Mīm.** *That is the Book in which there is no doubt—a guidance to those who*

⁹³ Watt, *Muhammad in Medina*, 220.

⁹⁴ Zeitlin, *The Historical Muḥammad*, 122.

for Allah.”⁹⁵ When Ibn al-Ashraf heard of the Muslims’ victory at Badr and saw their shackled prisoners of war, he became furious and set out for Makka, where he incited Quraysh against the Muslims in Madīna and wept for their loss at Badr. He returned to Madīna, whereupon he began rhapsodizing about Muslim women and disparaging the Prophet in poetry, which was the most eloquent and potent Arabic medium in the *Jāhiliyya*. Thus, by conspiring with the enemies of the Islamic State, Ibn al-Ashraf had effectively transgressed the Constitution of Madīna (see Clause no. 54).⁹⁶ Al-‘Umari suggested that Ibn al-Ashraf’s treacherous actions warranted his execution⁹⁷, as if this violation of the Madīna Constitution automatically triggered the death penalty. This suggestion is incorrect because there is not a single clause in the Constitution that prescribes death for conspiring with the enemies of Islam, far less lampooning the Prophet or flirting with Muslim women in poetry.⁹⁸ Rather, it is more probable that as head of state, the Prophet deemed Ibn al-Ashraf’s infractions sufficiently heinous and detrimental to the Islamic Call, now a state function in Madīna, to warrant his killing. When the Prophet asked who will rid him of Ibn al-‘Ashraf, a member of the Anṣār,

⁹⁵ Ibn Hajar, *al-‘Ujāb*, vol. 1, 227.

⁹⁶ “*And verily the Quraish shall be given no protection nor those who help them.*” Ḥamīdullāh, *The First Written-Constitution in the World*, 52.

⁹⁷ Al-‘Umari, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 304.

⁹⁸ Another reason given for the death warrant on Ibn al-Ashraf is that he had invited Muḥammad to a feast at which they planned to kill him. When Muḥammad accepted the invitation and came with some of his Companions, the angel Gabriel informed him of the plot and escorted him away. That was when the Prophet asked who would rid him of Ka’b b. al-Ashraf. The *ḥadīth*, however, is *ḍa‘īf*, having an *isnād* that goes back to ‘Ikrima and not the Prophet, making it *mursal*. Ibn Hajar attempted to reconcile the two reasons given for the killing of Ibn al-Ashraf; accordingly, not only was the Jewish poet guilty of treason and blasphemy, but he also conspired to kill the Muslim political leader. It has been a thorny issue for Muslim jurists. Al-Saḥīlī saw in the assassination the permissibility to kill a person covered by a treaty (*mu‘āhid*) if he blasphemes the Lawgiver, whereas Abū Hanifa did not. Others legitimized it on the grounds that Ibn al-Ashraf had committed an act of war against the Islamic State. See Ibn Hajar, *Fath al-bārī*, vol. 9, 96-97, 100.

Muḥammad b. Maslama, volunteered and was given instructions to execute the assignment covertly. He devised a plan whereby he approached Ibn al-Ashraf for a loan of dates, complaining that Muḥammad had burdened him with its repayment. Ibn al-Ashraf requested from him a security for the loan in the form of a woman or child from his tribe. Ibn Maslama offered him some weapons instead, and they agreed upon that. They met one night together with four other Muslims, including Ibn al-Ashraf's foster brother, Abū Nā'ila Silkān b. Salāma. Distracting him by adulating his passion for perfumes and sweet scents, they overpowered him, smiting him with their swords. One report goes so far as to state that his severed head was brought to the Prophet amid cries of *takbīr* ("Allah is the Greatest!") and alarm from the Jewish settlements.

The unprecedented killing of Ibn al-Ashraf, the willingness of the Prophet's Companions to kill anyone—regardless of cultural ties—for him, and the stealth manner in which the assassination was carried out accomplished three very important political objectives:

- i) It quelled the use of political satire in poetry used in this manner against Muslims, especially the Prophet and Muslim women;
- ii) It underscored the widening scope of the Prophet's political authority;
- iii) It struck a somber chord of fear and dread that reverberated through the Jewish *umma*, warning them about conspiring with enemies of the Islamic State and plotting against it.

The news of Ibn al-Ashraf's death brought a swift Jewish complaint to the Prophet. The al-Naḍīr delegation addressed him: "Our friend, a leader among us, was stricken

tonight. He was assassinated for no crime or incident of which we know.” He said to them: “*Had he remained silent like others who shared his opinion, he would not have been assassinated. But he caused us harm and disparaged us in poetry. If anyone of you does the same thing, he will meet the same fate.*”⁹⁹ He ordered a new treaty between the State and al-Naḍīr, which was drawn up under a vineyard at the home of Ramla, the daughter of al-Ḥārith. In the chapter on the structure of the Islamic State, it was stated that this treaty between the Prophet and al-Naḍīr was either a renewal of the treaty under the Madīna Constitution, appending the new conditions of disparaging the Prophet and Muslim women in poetry, or it was a separate treaty that complemented the Madīna Constitution. It is in the latter sense that al-Wāqidī reported it, I believe.

The assassination of Ibn al-Ashraf was not the last. Another prominent Jew, Abū Rāfi‘ Abdullah b. Abī al-Ḥuqayq¹⁰⁰ (whose sister had been married to Ibn al-Ashraf), who also publicly denigrated the Prophet, suffered a similar fate. It is reported that he provided a great amount of wealth to the Makkans to wage war against Muslims. He was assassinated at night while asleep in his stronghold in the Ḥijāz, close to Khaybar,

⁹⁹ Al-Wāqidī, *al-Maghāzī*, vol. 1, 192. The *ḥadīth* on the killing of Ka‘b b. al-Ashraf is reported by al-Bukhārī (*ḥadīth* no. 4037) in Ibn Hajar, *Fath al-bārī*, vol. 9, 95; al-Ṭabarī, *Ta’rīkh*, vol. 2, 487-92.

¹⁰⁰ Motzki, in a lengthy article entitled “The Murder of Ibn Abī-l Ḥuqayq” and based on an *isnād-cum-matn* approach, tried to sail a middle course between the skeptical and traditionist approaches to Islamic historical sources in an attempt to reconstruct its historical reality as accurately as possible. It appears that he did not consult Ibn Ishāq’s *sīra* directly but relied on the works of Ibn Ḥishām and others, for in two places, he stated that the reasons for the Prophet’s order to kill al-Ḥuqayq is not given. Yet a reading of Ibn Ishāq, who reported the incident from Muḥammad b. Muslim b. Shihāb al-Zuhrī who narrated it from Abdullah b. Ka‘b b. Mālīk, makes clear the reason. Al-Khazraj, upon learning that their rival al-Aws was responsible for the assassination of al-Ashraf, talked about the favor that al-Aws had over them and recollected that al-Ḥuqayq was like al-Ashraf in enmity towards the Prophet; therefore, they sought his permission to kill him, which was granted. Presumably, the likeness of both Ibn Abī al-Ḥuqayq and Ibn al-Ashraf was in their use of Arabic verse to vilify the Prophet and his followers. See Ibn Ishāq, *al-Sīra al-nabawīyya*, vol. 2, 430-31; Harald Motzki, “The Murder of Ibn Abī al-Ḥuqayq,” in *The Biography of Muḥammad: The Issue of the Sources*, ed. Harald Motzki, Boston: Brill, 2000).

by a select group of the Prophet's Companions.¹⁰¹ It is not a coincidence that Ibn al-Ashraf was killed by Muslim members of al-Aws, whereas al-Huqayq was killed by Muslim members of al-Khazraj. It was a deliberate strategy, for al-Aws and al-Khazraj were able to use their mutual alliances with Jews, as a subterfuge to gain access to their targets and carry out their assassinations. In this way, the Prophet tactfully exploited the Aws-Khazraj tribal rivalry in order to maintain loyalty to his leadership and implement his policy unquestioningly. For no sooner had al-Khazraj heard that al-Aws was responsible for the killing of Ibn al-Ashraf, than they began to bicker that al-Aws had taken away a bounty from them and wondered aloud if they could do the Prophet a similar favor; hence, the al-Huqayq assassination, which was assigned to them.¹⁰² The killing of Ka'b b. al-Ashraf is placed between the battle of Badr and the Prophet's clash with al-Naḍīr, Rabi'ul Awwal 14, 2/623¹⁰³ (or Rabi'ul Awwāl, 3/624¹⁰⁴).

The *asbāb al-nuzūl* literature records that several Qur'anic āyāt came down concerning Ibn al-Ashraf, some of which are mentioned in this section. His assassination would be remembered by some Muslims a generation later as a perfidious act, but Muḥammad b. Maslama, one of his killers, maintained in his old age that he had simply acted on the Prophet's directive, which translated means that it was inconceivable to him that the Prophet could order a perfidious act. It is this type of loyalty and complete obedience to Muḥammad that was a great source of consternation

¹⁰¹ Ibn Hajar, *Fath al-bārī*, vol. 9, 101-108.

¹⁰² Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 430-32; Ibn Hajar, *Fath al-bārī*, vol. 9, 103.

¹⁰³ Al-Wāqidi, *al-Maghāzī*, vol. 1, 184; Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 326-29; al-Ṭabarī, *Ta'rikh*, vol. 2, 487-92.

¹⁰⁴ Ibn Hajar, *Fath al-bārī*, vol. 9, 96.

to his enemies. But there was one political objective that the assassination of Ibn al-Ashraf failed to achieve, that is, to put an end to or curb internal enemies from conspiring with others externally to destabilize the Islamic State, which brings us to the expulsion of al-Naḍīr that is discussed in the next section.

It is noteworthy to mention at this point that the Prophet's sanction of the assassinations of Ka'b b. al-Ashraf and Abū Rāfi' Abdullah b. Abī al-Ḥuqayq are in stark contrast to his pardon of the Jewish woman Zaynab who had poisoned a meat dish that she served him at Khaybar. Two of his companions died from eating it. When he confronted her (she was al-Ḥārith's daughter and the wife of Salām b. Mishkam), she confessed: "I accomplished for my people that which was unknown about you. I said (to them): 'If he is a king, then I will be rid of him. But if he is a prophet, then he will know (of my attempt to kill him).'" Later on his deathbed, the Prophet would complain about the effects of the poison still in his body.¹⁰⁵ Why the difference in treatment between Ibn al-Ashraf (and Ibn Abī al-Ḥuqayq) and Zaynab bint al-Ḥārith? Upon analysis, the two Jewish men lampooned him in poetry and were consequently assassinated, whereas the Jewish woman made a direct attempt to kill him and was spared. The logicity of the deferential treatments, to wit, killing and pardoning, might be that the Prophet perceived that satirical poetry, although it targeted him personally and Muslim women, the scope of its propaganda was much broader, encompassing his universalist Islamic Call and the moral integrity of his *Umma*, which is more devastating in the long run than a poison attack directed at his person only, which might or might

¹⁰⁵ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 479.

not kill him, in order merely to test his prophecy and by pardoning her, he had demonstrated to her and her disbelieving community not only his achieved status as the prophet foretold in their scriptures, as he fervently believed down to his last breath of life, but also that the Islamic State, in dealing with its subjects (in this case, a woman) had the great capacity to destroy life as well as to forgive life, and it had chosen leniency in her case. Thus, the harm of poison, albeit deadly, was of a lesser existential threat to Muḥammad's legacy to peoples of the world than a poet's propaganda against it, for poetry in Arabia, which highlighted the beauty and eloquence of Arabic, was as harmful to an individual's honor and integrity as war was to his person and property. Ya'qūbī (d. ca. 284/897), the "first historian of world culture in Islam," provided us with a glimpse of the significance and potency of poetry in Arab cultural life at the dawn of Islam:

For the Arabs, poetry took the place of philosophy and most of the sciences. If a tribe produced a skilful poet with striking imagery and the right choice of words, they would bring him to the annual markets and the seasons of pilgrimage. The tribes and clans would gather around listening to his poetry. For the tribe concerned, this was regarded as cause for pride and self-esteem. In fact, the Arabs had nothing to refer to for their opinions or actions except poetry. It was with poetry that they fought; it was poetry they quoted; in it they vied in virtue, through it they exchanged oaths and with it they exerted themselves against each other; in it they were praised and blamed.¹⁰⁶

f. Banishment of Banū al-Naḍīr

The Prophet's military actions against al-Naḍīr occurred in 4/625, some 36 thirty-six months after the Hijra.¹⁰⁷ The Qur'an accorded it sacred legitimacy:

¹⁰⁶ Khalidi, *Arabic Historical Thought in the Classical Period*, 2. Also, Wensinck, in his *Muhammad and the Jews*, wrote, "The influence of satire is possibly not as great as depicted by anecdotes. Verses, however, are long remembered by the Arabs," 111.

¹⁰⁷ Al-Wāqidī, *al-Maghāzī*, vol. 1, 363; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 53; Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 382-86.; Ibn Hajar, *Fath al-bārī*, vol. 9, 90; al-Ṭabarī, *Ta'rīkh*, vol. 2, 550.

It is He Who got out the Unbelievers among the People of the Book from their homes at the first gathering (of the forces). Little did ye think that they would get out: And they thought that their fortresses would defend them from Allah. But the (Wrath of) Allah came to them from quarters from which they little expected (it), and cast terror into their hearts, so that they destroyed their dwellings by their own hands and the hands of the Believers, take warning, then, O ye with eyes (to see)!

And had it not been that Allah had decreed banishment for them, He would certainly have punished them in this world: And in the Hereafter they shall (certainly) have the Punishment of the Fire.

That is because they resisted Allah and His Messenger; and if any one resists Allah, verily Allah is severe in Punishment.

*Whether ye cut down (O ye Muslim!) the tender palm-trees, or ye left them standing on their roots, it was by leave of Allah, and in order that He might cover with shame the rebellious transgressors.*¹⁰⁸

Appointing Ibn Umm Maktūm in charge in Madīna this time, the Prophet, accompanied by ten Companions from the Anṣār and Muhājirūn, journeyed to their settlements at al-Gharas,¹⁰⁹ seeking their help regarding the blood-money of two men from Banū ‘Āmir who were murdered by ‘Amru b. Umayya al-Damrī who lived in proximity and had a treaty with them. Perhaps driven by feud or his belief that they were enemy polytheists, al-Damrī had ambushed the men while they were asleep. He informed the Prophet who denounced his deed as murder: “*What a terrible thing you have done! We have a treaty with them and peaceful relations.*” The Prophet ordered that their belongings be returned to their tribal head ‘Āmir b. al-Tufayl along with the blood-money payment and sought the help of al-Naḍīr who also had an alliance and treaty with Banū ‘Āmir. Al-Naḍīr agreed to help him, offering him their hospitality; but some of them secretly plotted to kill him by throwing down a boulder upon him from atop a house. Salām b. Miskām, a Jewish elder, objected to this plot, warning them that such an action would violate the treaty between them and the Muslims. They had also

¹⁰⁸ Q 59:2-5.

¹⁰⁹ Al-Samhūdī, *Wafā’ al-wafā’*, vol. 1, 303.

conspired with Quraysh, inciting them to fight Muḥammad and informing them of deficiencies in his defenses of the city-state, which the Qur'an brought to the attention of the Muslims: "*O ye who believe! Remember Allah's favor unto you, how a people were minded to stretch out their hands against you but He withheld their hands from you; and keep your duty to Allah. In Allah let believers put their trust.*"¹¹⁰ Suspecting danger afoot, the Prophet returned to Madīna and mobilized his forces against al-Naḍīr. He sent Muḥammad b. Maslama ahead with the message, ordering them to evacuate their settlements because of his concerns about their treachery. He gave them an ultimatum of ten days.¹¹¹ Their reply to the Prophet, through his envoy, was that they would not depart but would prepare for war instead. They were encouraged to stand their ground against the Muslim government by a contingent comprising members of Banū 'Awf b. al-Khazraj, including Abdullah b. Abī Salūl, Wadī'a, Mālik b. Abī Qawqal, Suwayd, and Dā'is, who promised to come to their aid and face the consequences with them. But they were no-show.

Consequently, al-Naḍīr like Qaynuqā' were besieged in their fortresses. During the siege, the Prophet ordered the destruction of their prized palm groves situated at al-Buwayra (between Madīna and Timā'). They vigorously protested: "O Muḥammad! You prohibit depravation and fault those who act on it, yet you cut down our palms trees and burn them?!" Al-Naḍīr eventually surrendered, negotiating with the Prophet to banish them in lieu of execution, to allow them to dismantle their houses, and to retrieve of their wealth (including their musical instruments) as much as their camels

¹¹⁰ Q 5:11; see Ibn Hajr, *Fath al-bārī*, vol.9, 88-89.

¹¹¹ Ibn Hajr, *Fath al-bārī*, vol. 9, 89.

were able to bear. Except for Yamīn b. ‘Umayr and Abū Sa’d b. Wahb who accepted Islam, the rest of al-Naḍīr left Madīna for Syria, carrying with them their women, children, and possessions minus their weapons. Some of their nobility headed to the Jewish stronghold at Khaybar. The wealth that they left behind, which could not be transported, became official property of the Islamic State and was distributed among the Muhājirūn, including two Anṣār members: Sahl b. Ḥanīf and Abū Janāna Sammāk b. Khashra. This distribution of economic resources was primarily aimed at reducing the Muhājirūn’s socio-economic dependency on their Anṣār brethren. In a symbolic speech on the occasion, the Prophet explained his distribution policy in an attempt to appease the Anṣār’s sentiments. After praising Allah, he mentioned the good deeds of the Anṣār toward the Muhājirūn. *“If you like, I can divide it—what Allah bestowed on me (fay’) from al-Naḍīr’s wealth—between you and the Muhājirūn. They are dependent on you for their homes and provisions. If you wish, I can give it to them and they will be gone from your homes.”* Upon hearing this speech, Sa’d b. ‘Ibād and Sa’d b. Mu’ādh stood up, and one of them said, “O Messenger of Allah! No, you should allocate it to the Muhājirūn who can remain with us.” The other said, “We are pleased with your distribution, O Messenger of Allah!”¹¹²

This tradition provides a classic example of the overlapping of the political, religious, social, and economic dimensions of his policy-making decisions. His speech begins and ends with the praise of God, which is the religious aspect; he does not take a unilateral decision to appropriate confiscated wealth as he wishes but consults with his Companions, which is the political aspect; he directly appeals, in his capacity as God’s

¹¹² Al-Zarqānī, *Sharḥ al-mawāhib*, vol. 2, 519-20.

Messenger, to the faith of his followers, reminding them that in battle and victory, they are dedicated to serving the greater good of the society, which is the social aspect; and, finally, he decides that the wealth be given to the Muhājirūn in order to help them stand on their own feet, which reflects his economic policy that state resources are intended for the general welfare of the Muslim body politic.

Al-Naḍīr's wealth was apportioned differently than that of Qaynuqā' and Quraysh at Badr. 'Umar b. al-Khaṭṭāb questioned Muḥammad on that. "O Messenger of Allah! Why are you not distributing what you have gained from al-Naḍīr into fifths, as you did with the spoils of Badr?" The Prophet reportedly responded, "*I cannot do that with what Allah has specifically given to me and not the believers,*" attributing it to sacred legitimacy, as found in the Qur'an: "*What Allah has bestowed (afā'a) on His Messenger (and taken away) from the people of the townships belongs to Allah, His Messenger, kindred, orphans, the needy, and the wayfarer; in order that it may not (merely) make a circuit between the wealthy among you. So take what the Messenger assigns to you, and deny yourselves that which he withholds from you. And fear Allah, for Allah is strict in Punishment.*"¹¹³ Thus, spoils obtained without fighting belonged exclusively to the Islamic State, as the Divine Legislative Authority ordained in the Qur'an, designating it as *fay'* (from *afā'a*, "to bestow"), which differentiated it from *khums*, the division of spoils of war into fifths. The Prophet reportedly said that spoils of war were prohibited before Islam¹¹⁴ (which

¹¹³ Q59:7 ('Alī).

¹¹⁴ The *ḥadīth* is *ṣaḥīḥ* and is reported by Aḥmad *et al*, which states, "*Spoils of war (ghanā'im; sing. ghanīma) were not permitted for those before us, but Allah perceived our weakness and so has made it good for us.*" See al-Albānī, *Silsila āḥādīth al-ṣaḥīḥa*, vol. 6, 552-53.

has some support in the Hebrew Bible¹¹⁵) but God has made it permissible for Muslims. Patterns of the Prophet's extractive and distributive policies of economic resources from commerce, taxation, labor, and war are discussed at length in a later chapter on the political economy of the Islamic State. Both Qaynuqā' and al-Naḍīr had opted to negotiate the terms of their surrender, but in the following incident, Qurayṣa chose a different course of action that, inadvertently, resulted in a harsher sentence.

g. Execution of Banū Qurayṣa

The Islamic State's confrontation with Banū Qurayṣa occurred in 5/627.¹¹⁶ A confederacy of Arab tribes mainly led by Quraysh and Ghatafān, fielding some 10,000 fighters, had marched on Madīna to inflict a crushing defeat on the Muslims.¹¹⁷ They positioned themselves in the direction of Mt. Uhud within a few miles of Madīna, which offered easy access into the city. Therein, Muslim fighters mustered about 3000 fighters. After consulting his Companions, the Prophet took a defensive posture. He tried to stave off the impending attack by bargaining with dates, the chief produce of Madīna, but that effort failed to deter his enemies. At the same time, he initiated a war

¹¹⁵ “And thou shalt gather all the spoil of it into the midst of the street thereof, and shalt burn with fire the city, and all the spoil thereof every whit, for the LORD thy God: and it shall be an heap for ever; it shall not be built again” (Deuteronomy 13:16).

¹¹⁶ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 392; al-Wāqidī, *al-Maghāzī*, vol. 2, 496; also al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 311-12.

¹¹⁷ Ibn Ishāq mentions that a group of Jews (among them Salām b. Abī al-Ḥuqayq Al-Naḍārī, Ḥayyī b. Ahkṭab al-Naḍārī, Kanāna b. Abī al-Ḥuqayq, Hawza b. Qays al-Wā’ilī, Abū ‘Ammār al-Wā’ilī, another person from Banū al-Naḍīr, and another from Banī Wā’il instigated the Quraysh and Ghatafān to mobilize a confederacy of tribes to wage war with the Islamic State, promising them their participation. They said: “We will be with you until we uproot him (Muḥammad).” Quraysh asked: “O Jews! You are the people of the first Book and knowledge. In what we have come to disagree with Muḥammad, tell us if our *dīn* is better or his?” They replied: “Your *dīn* is better than his and you are entitled to the truth.” It occasioned the Qur’anic response: “*Hast thou not turned Thy vision to those who were given a portion of the Book? they believe in sorcery (jibt) and Evil (ṭāghūt), and say to the Unbelievers that they are better guided in the (right) way Than the believers!*” (Q3:51). See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 393.

tactic new in Arab warfare by ordering a trench (*khandaq*) to be dug to protect the living quarters north of the city¹¹⁸ from a mounted attack. Women and children were sheltered in fortified homes inside the city, while the men were deployed behind the trench. To the back of them lay the fortresses of Qurayza whose relations with Muslims at this time were strained, acrimonious, and belligerent. They showed no sign of joining with the Muslims to protect the city against invaders, thereby violating their legal obligations under the Madīna Constitution (see Clause no. 37a).¹¹⁹

The Qur'an soothes the anxiety of Muslims during this stand-off against an overwhelming force, which is remembered as the Battle of the Trench: "*Behold! They came on you from above you and from below you, and behold, the eyes became dim and the hearts gaped up to the throats, and ye imagined various (vain) thoughts about Allah.. In that situation were the Believers tried: they were shaken as by a tremendous shaking.*"¹²⁰ On this occasion, the Prophet authorized a campaign of disinformation. He dispatched Na'im b. Mas'ūd, a Ghaṭāfanite who had recently accepted Islam and offered his services, to sow discord between Qurayza and the Arab confederacy, saying to him: "*War is deception (khud'a).*"¹²¹ Na'im b. Mas'ūd convinced Qurayza not to fight with the non-Muslim Arabs against Muḥammad and his followers unless they secured 70 men of nobility from Quraysh and Ghaṭāfān in exchange for their military support; in this way, if Qurayza were defeated, they could use the Arab men of nobility as bargaining chips in the

¹¹⁸ See Wensinck, *Muhammad and the Jews of Medina*, 21.

¹¹⁹ "*And verily the Jews shall bear their expenses (of war and the Muslims shall bear their expenses ; and verily there shall be aid between them as against those who fight the parties to this document (sahifa), and there shall be sincere counsel and well-wishing between them; and there shall be fulfillment (of pledge) and not violation.*" See Muhammad Ḥamīdullāh, *The First Written-Constitution in the World*, 51.

¹²⁰ Q33: 10-11 ('Alī).

¹²¹ Ibn Ishāq, *al-Sīra al-nabawīyya*, vol. 2, 405.

inevitability of a backlash from the Muslims. Concluding this arrangement with Qurayṣa, Ibn Mas'ūd proceeded to Quraysh, informing them that Qurayṣa had abandoned them, thrown in their lot with Muḥammad, regretting their opposition to Islam and, to prove their renewed alliance with him, they would try to secure 70 men from Quraysh and Ghaṭafān in order to hand them over to the Muslims for execution. To ascertain the report, Abū Sufyān, leader of the non-Muslim Arab confederacy, sent Ḥuyay b. Akhṭab, a Naḍarite, to Qurayṣa, ostensibly requesting their military assistance against Madīna. Qurayṣa refused to commit immediately, citing their sacred observance of the Sabbath and requesting 70 Arab men of nobility as a guarantee in lieu of their military contribution and as protection in case of a possible Muslim backlash against them. When Ḥuyay b. Akhṭab agreed to it, they promptly revoked their treaty with the Prophet¹²² who twice sent some of his Companions to ascertain the news of their treachery. In the meantime, mistrust between Qurayṣa and the pagan Arab confederacy, inclement sand storms,¹²³ and absence of a military strategy to breach the trench combined to gnaw the resolve of the confederacy, which broke ranks and returned to Makka, leaving their reluctant Jewish allies to realize their worst fears.

No sooner had the mighty confederate army retreated than the Prophet ordered a march on Qurayṣa. He left Umm b. al-Maktūm in charge in Madīna and headed to their enclave with a contingent of 3000 foot soldiers and 36 horsemen.¹²⁴ Reports on the

¹²² Al-Ṭabarī, *Ta'rīkh*, vol. 2, 571-72; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 37-38.

¹²³ Q33:9 (Pickthall): "O ye who believe Remember Allah's favor unto you when there came against you hosts, and We sent against them a great wind and hosts ye could not see. And Allah is ever Seer of what ye do."

¹²⁴ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 71-72.

duration of the siege of Qurayṣa vary from 10 days to a month.¹²⁵ Eventually they capitulated but not before consulting Abū Lubāba b. ‘Abdul Mundhir, an Arab Muslim ally through tribal fealty, who suggested that the move would be their death knell. He later regretted his consultation and tied himself to a pillar in the Prophet’s mosque until his repentance was accepted.¹²⁶ Rather than subject themselves to the Prophet’s judgment, Qurayṣa deferred to the judgment of the Awsite leader, Sa’d b. Mu‘ādh with whom they had a pre-Islamic alliance, hoping for a lighter sentence. He adjudicated that their adult male fighters be killed, women forced into concubinage, children enslaved, and wealth distributed among the Muslim victors. The Prophet affirmed Ibn Mu‘ādh’s judgment, ascribing it to sacred legitimacy: “*You have judged according to Allah’s law.*”¹²⁷ Thereupon, Ibn Mu‘ādh severed the Aws-Qurayṣa alliance. About 3 to 6 members of Qurayṣa were spared the punishment, either because they accepted Islam or because of their adherence to their treaties with Muslims. The men of Qurayṣa, numbering about 400,¹²⁸ were briefly kept as prisoners of war at the house of al-Ḥārith’s daughter and later publicly executed in Madīna’s market. Also killed, based on the law of retaliation (*qiṣās*), was a Jewish woman who had killed the Prophet’s Companion Khallād b. Suways Barhī. The Qur’an refers to the Qurayṣa incident in these words: “*And*

¹²⁵ The siege of Qurayṣa lasted one month, 25 nights (Ibn Ishāq), 15 nights (Ibn Sa’d), or just under 10 nights (Ibn ‘Uqba). See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 73-74; al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 1, 315.

¹²⁶ The *ḥadīth* is reported by Aḥmad in al-Banā, *Faṭḥ al-rabbānī*, vol. 21, 82; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 76-79.

¹²⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (*ḥadīth* no. 4121) in Ibn Hajar, *Faṭḥ al-bārī*, vol. 9, 212; Muslim (*ḥadīth* no. 1768) in al-Nawawī, *al-Minhāj*, 1137.

¹²⁸ Reports vary on the number of Qurayṣite men killed from 600 (al-Wāqidī), 600-700 (Ibn Ishāq, al-Wāqidī, Ibn Sa’d), 700 (Qatāda), 750 (al-Wāqidī), and 800-900 (Ibn Hishām). The more authentic *ḥadīth* reports indicate a figure of 400, as in al-Tirmidhī, al-Nasā’ī, and Ibn Ḥibbān. See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 87-88; Ibn Hajar, *Faṭḥ al-bārī*, vol. 9, 217.

*those of the People of the Book who aided them - Allah did take them down from their strongholds and cast terror into their hearts. (So that) some ye slew, and some ye made prisoners. And He made you heirs of their lands, their houses, and their goods, and of a land which ye had not frequented (before). And Allah has power over all things.*¹²⁹

Few incidents in the life of historical Muḥammad have generated as much controversy and conflicting interpretations among scholars past and present as the killing of Qurayṣa. While the vast majority of Muslim scholars regard it as a historical fact, a few (among them W. N. Arafat, Barakat Ahmad, Rizwi S. Faizer) have denied its occurrence. Non-Muslim scholars are also divided on it. Those among them who accepted its historical reality differed on its evaluation. As for those who took the skeptical approach, like their Muslim counterparts (Arafat *et al*), they find it moot. No one, however, has said that the punishment was not severe or harsh; rather, the crux of the difference of opinion appears to be whether it was cruel and deservedly so or not.¹³⁰ Social reality, as Anderson proposed, can be conceived in three ways: *premodern*, *modern*, and *postmodern*.¹³¹ The premodern view considers reality as static, monolithic, and the same for all who perceive it. The modern view accepts the diversity of perspectives on social reality as legitimate on the hermeneutic basis of “different strokes for different folks.” The postmodernist view rejects the notion that reality exists in the first place; the “real” is what each person perceives regardless of its actuality, which cannot be definitely known. Based on this spectrum of reality

¹²⁹ Q 33:26 (‘Alī).

¹³⁰ Cf Wensinck, *Muhammad and the Jews of Medina*, 127.

¹³¹ See Babbie, *The Practice of Social Research*, 10-12.

perceptions, we can group the opinions of scholars past and present on the Qurayza incident. The premodern paradigm best describes the conclusions of those like Muir, Sprenger, Weil, and Osborn, Rubin *et al* who expressed moral outrage over the execution of Qurayza. Muir, for example, wrote, “The massacre of the Qurayza was a barbarous deed which cannot be justified by any reason of political necessity. There was, no doubt, a sufficient cause for attacking them, and even for severely punishing the leaders who had joined the enemy at so critical a moment. Mahomet might also have been justified in making them quit altogether a neighborhood in which they formed a dangerous nucleus of disaffection at home, and an encouragement for attack from abroad. But the indiscriminate slaughter of the whole tribe cannot be recognized otherwise than as an act of monstrous cruelty, which casts an indelible blot upon the Prophet’s name.”¹³² Muir glossed over the facts that only Qurayza combatants were killed; their children, women, and the elderly were spared, but his moral indignation is clear. The modern view perhaps best describes the reactions of Poole, Ali, and Armstrong, to name a few, who basically saw the execution as harsh but not cruel. As Poole put it, “It was a harsh, bloody sentence worthy of the Episcopal generals of the army against the Albigenses, or the deeds of the Augustan age of Puritanism; but it must be remembered that the crime of these men was high treason against the (Islamic) State during the time of the siege; and those who have read how Wellington’s march could be traced by the bodies of deserters and pillagers hanging from the trees,

¹³² William Muir, *Mahomet and Islam* (Edinburgh: The Religious Tract Society, 1887), revised edition, 165.

need not be surprised at the summary execution of a traitorous clan.”¹³³ The post-modernist view might assume that it is pointless to judge historical incidents, since one cannot know what had actually transpired, which is somewhat different to the skeptical approach that casts aspersions on the historicity of the MHT itself. Nevertheless, these are all value judgments.

What is preferred here is to situate the massacre of Qurayṣa within the cultural context and *idéologique* of the Islamic State and compare it to the biblical tradition of apostles with which Muḥammad identified, considering himself the “Seal of the prophets.”¹³⁴ In the Judeo-Christian scriptures, we find several examples of state power sanctioned by Divine Sovereignty that unleashed harsher, if not crueler, punishments on conquered peoples. In particular, David is mentioned in the Hebrew Bible as sparing no soul when Rabba was conquered after the Ammonites’ defeat: “*And David took the crown of their king from off his head, and found it to weigh a talent of gold, and there were precious stones in it; and it was set upon David's head: and he brought also exceeding much spoil out of the city. And he brought out the people that were in it, and cut them with saws, and with harrows of iron, and with axes. Even so dealt David with all the cities of the children of Ammon. And David and all the people returned to Jerusalem.*”¹³⁵ In its commentary, the *Jewish Encyclopedia* explained, “Yet David could not have exceeded the savagery customary in ancient Oriental warfare, for the Ammonites were exceedingly cruel.”¹³⁶ Thus, David

¹³³ ‘Alī, *al-Mufaṣṣal*, 80.

¹³⁴ Q 33:40.

¹³⁵ *1 Chronicles* xx:1-3 (King James Version).

¹³⁶ See *Jewish Encyclopedia* online (<http://www.jewishencyclopedia.com>) under article “Ammonites.”

nearly matched their cruelty. In another biblical example, this time involving Moses, we find:

*When thou comest nigh unto a city to fight against it, then proclaim peace unto it.
And it shall be, if it make thee answer of peace, and open unto thee, then it shall be, [that] all the people [that are] found therein shall be tributaries unto thee, and they shall serve thee.
And if it will make no peace with thee, but will make war against thee, then thou shalt besiege it:
And when the LORD thy God hath delivered it into thine hands, thou shalt smite every male thereof with the edge of the sword:
But the women, and the little ones, and the cattle, and all that is in the city, [even] all the spoil thereof, shalt thou take unto thyself; and thou shalt eat the spoil of thine enemies, which the LORD thy God hath given thee.
Thus shalt thou do unto all the cities [which are] very far off from thee, which [are] not of the cities of these nations.
But of the cities of these people, which the LORD thy God doth give thee [for] an inheritance, thou shalt save alive nothing that breatheth:
But thou shalt utterly destroy them; [namely], the Hittites, and the Amorites, the Canaanites, and the Perizzites, the Hivites, and the Jebusites; as the LORD thy God hath commanded thee.¹³⁷*

In comparison, the Prophet's treatment of Qurayza could be seen as a modification or abrogation of laws pertaining to the treatment of the enemy, their persons and properties, under previous divinely sanctioned wars. Like most European scholars on Islam, Wensinck considered the execution as cruel but added this instructive point: "What drove him (Muḥammad) to the cruel behavior in this case can be understood from the fact that he had been provoked by Qurayza, who, through their precarious attitude, had kept him for weeks in tension and fear, and who, if they had supported the confederate forces effectively, would have probably brought great harm over Medina. He therefore wanted to put an end to the Jewish threat once and for all. For this, there was no other means than annihilation. If he had expelled them, they

¹³⁷ Deuteronomy 20:15-16.

would have united with the strong Khaybar and remained a permanent threat to Medina.”¹³⁸

h. Last Jewish Revolt at Khaybar

The final Jewish revolt against the Islamic State occurred at Khaybar in 6/627.¹³⁹ It was one of the oldest—and perhaps the most thriving—Jewish settlements in Arabia at the time, as noted earlier. A major agricultural center of the region, Khaybar was situated about 60 miles (97 km) north of Madīna, containing fortified castles. Some expelled members of Qaynuqā’ and al-Naḍīr had gone to Khaybar, joining with the Jewish community there to organize an opposition against Muḥammad and forming a military alliance with Makka at war with Madīna. After his abortive ‘umra (“lesser pilgrimage”), which culminated in the Treaty of Ḥudaybiyya, the Prophet turned his attention to Khaybar, the last stronghold of organized Jewish rebellion. He sent them a letter (which was mentioned at the beginning of this chapter) ahead of his advance, giving them a final chance to become Muslims and lay down arms against the Islamic State. They were besieged for a period of 10 to 14 days.¹⁴⁰ The siege maneuver introduced by Muḥammad proved devastatingly effective against Jewish strongholds unaccustomed to this innovative type of military tactic of long duration. These fortified settlements comprised a civilian population of men, women, children, the old, and the

¹³⁸ See Wensinck, *Muhammad and the Jews of Medina*, 127.

¹³⁹ Early Muslim chroniclers like Ibn Ishāq, al-Wāqidī, and Ibn Ishāq agreed that the Battle of Khaybar occurred in 7/628 but differ on the exact month (Muḥarram, Ṣafar, Rabī‘ul-Awwal), whereas Mālik and al-Zuhri believed that it occurred in Muḥarram, 6/627. According to Aḥmad, in his *sīra* work, “The conflict between Ibn Ishāq and al-Wāqidī is slight, roughly two months, while that between them and Mālik and al-Zuhri goes back to the difference of opinion on the commencement of *anno hegira*. . . .” See Aḥmad, *al-Sīra al-nabawiyya*, 500.

¹⁴⁰ See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 474; al-Wāqidī, *al-Maghāzī*, vol. 2, 670; Ibn Hajar, *Fath al-bārī*, vol. 9, 303.

sick, requiring extra military protection. After some fighting that claimed lives on both sides, Jewish leaders negotiated with the Prophet to permit them evacuation and to spare their lives in exchange for their immense wealth. They proposed a sharecropping formula, whereby they continue to work the Khaybar date fields and take half of the crop and give the other half to the Islamic State. It seemed a sensible offer to the Prophet, since he had neither the men to spare nor the large-scale technical expertise required to maintain the agricultural industry at Khaybar, so he agreed to it. Thus, the Jews used to take their half of the date crop and the other half went to the State, one-fifth (*khumus*)¹⁴¹ of which went to the Prophet for the provision of his family.¹⁴² Another stipulation in the agreement was that the Islamic State, at its pleasure, reserved the right to expel them from Khaybar. The Prophet appointed Abdullah b. Rawāha in charge of estimating, collecting, and distributing the State's share of the date produce. Excluding lands and cultivated fields, the Khaybar spoils were divided into fifths and distributed to the Prophet and his soldiers. Jewelry seized was distributed among Muslim women who had accompanied his forces and served as nurses. At the same time, the Prophet prohibited several things in connection with the spoils, such as its sale before it has been apportioned, mounting of horses before they have been rendered and returned to their captors, and wearing clothing before its owner has

¹⁴¹ The Prophet's entitlement to one-fifth (*khumus*) of the spoils of war is discussed in the chapter on the political economy of the Islamic State.

¹⁴² See Muslim (*ḥādīth* no. 1551) in al-Nawawī, *al-Minhāj*, 988; al-Bukhari (*ḥādīth* no. 4248) in Ibn Hajar, *Fatḥ al-bārī*, vol. 9, 346; Abū Dāwūd, *Sunan* (*ḥādīth* no. 3008 - *ḥasan*), vol. 2, 253; Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 130; Barakat Aḥmad, *Muhammad and the Jews: A Reexamination* (New Delhi: Vikas, 1971), 95-101.

worn it,¹⁴³ to which the Qur'an referred: "*And that which Allah gave as spoil unto His Messenger from them, ye urged not any horse or riding camel for the sake thereof, but Allah giveth His messenger lordship over whom He will. Allah is Able to do all things.*"¹⁴⁴ This regulation ensured that those entitled to the spoils have access to it before it can be consumed or used by others. Around the same time, the Jews of Fadak, who were aligned with Khaybar, negotiated with the Prophet to keep their slaves and to give him half of their lands and date palm groves.¹⁴⁵ These economic resources of Fadak became the exclusive lot of the State, since they were obtained without warfare. By now, the structure of relationship and ties between the Jewish and Muslim *umam* had become radically transformed. The pacification of Madīna from hotbeds of rebellion paved the way for the policy of *jizya* (i.e. capitation tax, which is discussed fully in the chapter on the political economy of the Islamic State) in 8/629—after the revelation of *sūra barā'a* (Q 9)—which was imposed on non-Muslims in general and the People of the Book in particular. Khaybar Jews, however, were exempted from the payment of *jizya*.

Dismissing a document said to be from the Early Islamic Period in which it is stated that the Prophet lifted *jizya* from the Jews at Khaybar as a patent forgery, Ibn Qayyim wrote,

The Messenger of Allah fought them and made a peace agreement with them to remain on the land as he wished. But *jizya* was not revealed yet and was preceded by their treaty and his decision to allow them to remain in their settlements. Thereafter, Allah ordered him to fight the People of the Book until they pay the *jizya* but the Jews of Khaybar were not included under this injunction, since the treaty was concluded before it and approved by the Prophet: they were to be workers on the land for half its produce, and he did not demand from them anything more than that. But from others among the People of the Book with whom there were no existing treaties and peace agreements, he demanded *jizya* from them, like the Christians of Najrān, the Jews of Yemen, and others. When 'Umar expelled them from Madīna to Syria, the treaty that

¹⁴³ Ibn Ishāq, *al-Sīra al-nabawīyya*, vol. 2, 473.

¹⁴⁴ Q 59:6 (Pickthall).

¹⁴⁵ Zanjawih, *Kitāb al-amwāl*, 94.

allowed them to remain in Khaybar was altered; thus, the injunction of *jizya* became applicable to them, as it was to others besides them.¹⁴⁶

After the Prophet passed away, Abū Bakr, the first caliph, continued his predecessor's Khaybar policy. After him, 'Umar b. al-Khaṭṭāb maintained it for a short period until he was informed that the Prophet, even during the pangs of death, had insisted that two religions (*dīn*, pl. *adyān*) should not co-exist in the Arabian Peninsula,¹⁴⁷ implying that Islam should be the dominant religion. After confirming the report, 'Umar announced to the Khaybar Jewish community that God had ordained their banishment, citing the Prophet's statement. He purchased their portion of lands and fields with gold, silver, and camels,¹⁴⁸ using state funds. But 'Umar's decision to expel the Jews of Khaybar and the Christians of Najrān was not only based on the Prophet's statement but also on evidence of various infractions of their agreements. In the case of Khaybar, some Jews had attacked Ibn 'Umar, the Islamic State's revenue collector for the area, during 'Umar b. al-Khaṭṭāb's caliphate, throwing him off a roof and dislocating joints in his hands and feet.¹⁴⁹ A number of *āḥādīth* express the Prophet's apparent resolve to make Islam the dominant religion and political ideology in the Arabian Peninsula and to permit other monotheistic faiths to flourish,¹⁵⁰ so long as their adherents were not belligerent to the Muslim body politic and, moreover, were in treaty relationship with the Islamic State. The Prophet reportedly said, "*I shall expel Jews and Christians from the Arabian Peninsula*

¹⁴⁶ Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 151-53.

¹⁴⁷ Muslim scholars have differed on the cultural parameters of the Arabian Peninsula. See Ibn Qayyim, *Aḥkām ahlul-dhimma*, vol. 1, 177.

¹⁴⁸ Zanjawihh, *Kitāb al-amwāl*, 95.

¹⁴⁹ Ibn Qayyim, *Aḥkām ahlul-dhimma*, vol. 1, 181.

¹⁵⁰ Ibn Qayyim, *Aḥkām ahl al-dhimma*, vol. 1, 176.

(*jazīra al-‘arab*) until I leave no one in it except Muslims.”¹⁵¹ These *āḥādīth* are authentic in accordance with the research methodologies of *ḥādīth* scholars. It is also reported that among the last words that the Prophet uttered before he died were “*Expel Jews and people of Najrān from the Arabian Peninsula.*”¹⁵² The expulsion order was aimed at all religions besides Islam and does not appear to have targeted just the People of the Book: “*Banish the polytheists from the Arabian Peninsula but permit the delegations, as I used to do.*”¹⁵³

As for the Arabian Peninsula (*jazīra al-‘arab*) reference in these *āḥādīth*, scholars differ on its geography, opining that it meant Makka and Madīna only, Madīna and its environs only, or all Arab lands not under the Romans and Persians.¹⁵⁴ From the perspective of a government exercising internal sovereignty spatially, the Arabian Peninsula could only have referred to territories under the rule of the Islamic State and not to lands outside its jurisdiction or which it did not possess. It should also be noted that the expulsion of non-Islamic faith communities did not include those adherents who had prior treaties with Muslims. Moreover, the Islamic expulsion policy did not prohibit non-Muslims from entering into Muslim-controlled areas in Arabia to trade or as diplomats. Indeed, the Prophet died, leaving behind his armor that he had pawned for wheat with Abū al-Shaḥm, a Jew, from the Banū Ẓafar who were allied with al-

¹⁵¹ The *ḥādīth* is *ṣaḥīḥ* and is reported by Muslim, Abū Dāwūd, al-Tirmidhī, Abdul-Razzāq, and Aḥmad; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa (ḥādīth no. 924)*, vol. 2, 593.

¹⁵² The *ḥādīth* is *ṣaḥīḥ* and is reported by Aḥmad, al-Bayhaqī, al-Ḥumaydī, al-Darāmī, and Abū Ya‘lā; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa (ḥādīth no. 1132)*, vol. 3, 124.

¹⁵³ The *ḥādīth* is *ṣaḥīḥ* and is reported by Abū Dāwūd, Aḥmad, al-Bayhaqī, al-Bukhārī, Muslim, and al-Taḥāwī; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa (ḥādīth no. 1133)*, vol. 3, 125.

¹⁵⁴ See Ibn Qayyim, *Aḥkām ahl al-dhimma*, vol. 1, 177-78.

Aws.¹⁵⁵ The *ḥādīth* is evidence that there were Jews living in Madīna up the time of the Prophet's death and that he had legalized trade and good relations with them; it was not, as Ibn Qayyim thought, that his armor might have been pawned with Jews who came from outside Madīna or from Khaybar,¹⁵⁶ which is speculative.

Part III

i. Symbolic Policy of al-‘Izza

The question remains why was the Prophet intent on expelling pagans, Jews, and Christians from the Arabian Peninsula, thereby making it an apparently exclusive Islamic zone? What is the functionality behind this governmental sacralization of space? The Prophet did not realize his stated objective before he died, in terms of the actual expulsion of Jews and Christians, but it was enforced during the caliphate of ‘Umar who did not conceive of the residency of Jews at Khaybar and their economic arrangement with the Islamic State as a treaty cast in stone. Such *āḥādīth* were bound to give rise to speculation about the causative factor behind the expulsion ruling. Bakr b. Muḥammad narrated that his father asked Abū Abdullah about the Prophet's statement, “*Banish the polytheists (mushrikūn) from the Arabian Peninsula.*” He said, “That is because the Arabian Peninsula is the birthplace of Arabs and not black people (*ahl al-*

¹⁵⁵ Ibn Hajar, *Fath al-bārī*, vol.6, 326.

¹⁵⁶ Ibn Qayyim mistakenly put all Madanite Jews into three groups: Qaynuqā’, al-Naḍīr, and Qurayza. According to the *maghāzī/sīra/ta’rīkh* literature, they were definitely the most powerful and wealthiest Jewish tribes, but there were many other Jewish tribes, albeit less prominent and significant in Islamic political history, which flourished in Madīna and its environs at the time of the Prophet. See Ibn Qayyim, *Aḥkām ahl al-dhimma*, vol. 1, 184; al-Samhūdī, *Wafā’ al-wafā*, vol. 1, 302-08; Wensinck, *Muhammad and the Jews of Medina*, 25-29; Watt, *Muhammad at Medina*, 193.

sawwād) and Persians.”¹⁵⁷ This ethno-centric opinion contradicts the idea of humanity’s universality expressed in the Qu’ran, as in the words: “*Lo! the noblest of you, in the sight of Allah, is the best in conduct.*”¹⁵⁸ Commenting on the āya, the Prophet reportedly said in his final sermon, “*O people! Your Lord is one. An Arab is not superior to a non-Arab, or a non-Arab to an Arab, or the red person to a black person, or the black person to the red person—except by piety.*”¹⁵⁹ Another opinion is that their expulsion was aimed at insulating the Muslim Umma from co-existence with non-Muslim *umam*, avoiding their embrace in confidential friendship, which the Qur’an prohibited.¹⁶⁰ This view underestimates the spirituality and resiliency of the first Muslim *umma* that embraced a brotherhood transcending ties of kinship, family, and pagan or *jāhiliyya* customs. Commenting on these *āḥādīth*, al-Albānī (d.1999) opined that they constitute proof that the Qur’anic term *mushrikūn* [“*O ye who believe! The idolaters (mushrikūn) only are unclean. So let them not come near the Inviolable Place of Worship after this their year.*”¹⁶¹] may be applied unconditionally to Jews and Christians, since the Prophet also desired their banishment.¹⁶² This correlation is faulty, since these *āḥādīth* altogether discuss two different Qur’anic categories of people: the People of the Book and polytheists who, as pointed out earlier in this chapter, are not one and the same group. On the other hand, according to Abū Abdullah (referred to earlier), as narrated by the authority al-

¹⁵⁷ Ibn Qayyim, *Aḥkām ahl al-dhimma*, vol. 1, 176-77; Abū Ya‘lā, *Aḥkām al-sulṭānniyya* (Beirut: Dār al-Kutub al-‘Ilmiyya, 2000), 196.

¹⁵⁸ Q 49:13 (Pickthall).

¹⁵⁹ The *ḥādīth* is *ṣaḥīḥ* and is reported by al-Bayhaqī and Abū Na‘īm; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥādīth* no. 2700), vol. 6, 449-52.

¹⁶⁰ Muḥammad b. Sa‘īd al-Qaḥṭānī, *al-Walā’ wal-barā’* (Riyadh: Dār Tayyiba, 1992), 6th edition, 345.

¹⁶¹ Q 9:28 (Pickthall).

¹⁶² See al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥādīth* no. 1133), vol. 3, 125.

Murrūzī,¹⁶³ the meaning of *mushrikīn* in the above *ḥadīth* are those who fought the Prophet and did not have any *dhimma* (i.e. protection from the Islamic State) but were not like the Jews and Christians who were to be banished from Makka, and Madīna but not Syria.”¹⁶⁴

It is argued here that the Prophet’s resolution to drive the People of the Book and polytheists out of the Arabian Peninsula may be best understood as a symbolic policy related to the State’s Islamic ideology. The SFS approach identifies four kinds of public policy or outputs of the political system:

- (i) Extraction of resources from the domestic and international environments;
- (ii) Distribution of economic resources;
- (iii) Regulation of human behavior by the use of compulsion and inducement;
- (iv) Symbolic actions, including political speeches, rites, public monuments, holidays, and the like “used by governments to exhort citizens to desired forms of behavior, often to build a sense of community or to celebrate exemplary conduct.”¹⁶⁵

Bearing in mind that the Prophet’s articulation as regards deporting non-Muslims, who did not have legal agreements with the Islamic State, from the Arabian Peninsula did

¹⁶³ It probably refers to Zuhayr b. Muḥammad b. Qamayr al-Murrūzī (d. 257/870) who is mentioned among those who transmitted from Aḥmad b. Ḥanbal. See Abū Ya‘lā, *Ṭabaqāt al-Ḥanābala*, ed. Ibn Sulaymān al-‘Uthaymīn (Riyadh: a Saudi Government publication, 1999, vol. 1, 425-26; Ibn Hajar, *Tadhkira al-ḥuffāz*, vol. 2, 551-52.

¹⁶⁴ Ibn Qayyim, *Aḥkām ahlul-dhimma*, vol. 1, 177.

¹⁶⁵ Almond *et al*, *Comparative Politics Today*, 130.

not materialize until after the conquest of Makka and pacification of almost the entire region under his rule, the Expulsion represents one of the chief political goods at the policy level of the Islamic political system—namely, dominance of Divine Legislative Authority, which is reflected in the *Shari'a* that guides Islam and governs the Muslim body politic. Muḥammad proved to be a successful religious, political, and military leader. Because he succeeded at these levels in his capacity as the Prophet or Messenger of God, his success was attributed to God, making it divine. The Divine Legislative Authority governed the Muslim polity in Madīna, most of Arabia, and a few other polities, and as such, the Islamic *idéologique* required that it manifest this governing principle, real or imagined, in a tangible way. It would not be compatible with the native logicity of the expanding Islamic State to allow Judaism, Christianity, Zoroastrianism, and the like to openly proclaim a divine sovereignty that the Qur'an did not recognize (didn't the Jews deify Ezra?¹⁶⁶ Didn't Christians say that the supreme Godhead is three?¹⁶⁷ And didn't pagan Arabs ascribe multiple partners to the One God?¹⁶⁸), thereby promoting polytheism and not monotheism of the Islamic variety. The Qur'an says, "*If there were therein (in the heavens and the earth) gods beside Allah, then verily both had been disordered*"¹⁶⁹; for as above, so below. Thus, if Society is ruled by "*that which God has revealed*,"¹⁷⁰ then the native logicity of the system requires that the State bring all its subjects, institutions, and territories under the Divine Legislative Authority—

¹⁶⁶ Q 9:30.

¹⁶⁷ Q 4:174.

¹⁶⁸ Q 38:5.

¹⁶⁹ Q 21:22.

¹⁷⁰ Q 5:145.

either through legal sanctions or informal, non-codified cultural regimes. The Expulsion Policy is an example of legal sanction, seeking to convert the Arabian Peninsula into an exclusive Islamic Zone in which “there is no god but God.” It is not enough that Divine Sovereignty is supreme but it must also be made to appear supreme, becoming state policy permeating all aspects of society. ‘Umar, during his caliphate (r. ca. 13-23 AH/634-44 CE), took the Islamic political construct of Divine Legislative Sovereignty to an entirely new level with his *ghiyār* policy, stipulating differentiation between Muslims and non-Muslims in clothing (*zayy*), naming (*tasmiyya*), outward appearance (*shaba*), riding animals, funeral rites, and so forth—so that “every Jew and Christian would recognize that they are subjugated (*mustadhdhalīn*) and brought low (*mumtanīn*) because Allah says, ‘*Might and glory (‘izza) belong to Allah, the Messenger, and the believers*’¹⁷¹. . . .”¹⁷² The Qur’an says, “*Those who take unbelievers as friends besides believers, do they desire from them ‘izza? Verily, ‘izza belongs to Allah.*”¹⁷³ For this reason, the Expulsion Policy is connected to the political good of ‘*izza* and appears to be neither extractive nor distributive. At the same time, there is a regulatory aspect to it in which the coercive shifting of non-Islamic faith communities was operationalized—not on the basis of ethnicity or socio-economic status but theological and political ideology.

The second manner in which the Islamic State appropriated the ‘*izza* of Divine Sovereignty was by informal, non-codified cultural practice. In Madīna, the Prophet’s

¹⁷¹ Q 63:8 (‘Alī).

¹⁷² Ibn Qayyim, *Aḥkām ahlul-dhimma*, vol.1, 236-38.

¹⁷³ Q. 4:139 (‘Alī).

relations with Jews and pagans unfolded along a continuum—imitation, proselytizing, polemics, treaties, regulation, and war as stated earlier. At the outset of the Islamic Call, he was patient, forbearing, and persevering in the face of growing rejection and opposition from non-Muslim Madanites—a course of action endorsed in the Qur'an: “Many of the People of the Scripture long to make you disbelievers after your belief, through envy on their own account, after the truth hath become manifest unto them. Forgive and be indulgent (toward them) until Allah gives command.”¹⁷⁴ As the Jewish stance toward Islam escalated from polemics to belligerency, as the power of the Islamic State grew rapidly, being capable of effectively defending its political territory, acquiring spoils of war, attracting a steady flow of new converts, and as the Divine Legislative Authority expanded its coverage over the entire society, thereby enhancing his judicial role, the Prophet launched a series of initiatives, including reciprocity, contradiction, and punitive measures. Ibn Taymiyya, in his *iqtidā' al-ṣirāṭiul-mustaqīm*, detected certain patterns in the Prophet's imitation (*mushābaha*) and contradiction (*mukhālafa*) of the People of the Book, depending on general benefit (*maṣlaḥa*) or harm (*mafsada*) to Islam. Referring to the dynamics of the Prophet's relations with Jews and Christians, he wrote, “Everything narrated concerning *mushābaha* of them occurred before the Hijra, which was abrogated thereafter, for Jews were not distinguished from Muslims in hairstyles, clothing, outward appearance, and the like. . . .(As for) his *mukhālafa* of them, it did not take place until the ascendancy of the Islamic Faith through *jihād*, enforcement of *jizya*, and subjugation (*ṣighār*). That is because Muslims were powerless at the beginning (of

¹⁷⁴ Q 2:109 (Pickthall). See al-Wāḥidī, *Asbāb al-nuzūl*, 35-36; Ibn Hajar, *al-'Ujāb*, vol. 2, 356.

the Islamic Call in Makka), and so *mukhālafa* was not ordained; only when the Faith was completed, dominant, and supreme was it finally ordained.”¹⁷⁵ He further classified the *mushābaha* and *mukhālafa* of the People of the Book on the part of Muslims into several categories: “One category is ordained in our Faith as well as theirs, or it is not known that it was ordained for them, but they still practice it. Another category was ordained and then abrogated by the Qur’an. A third category was never ordained and it is that which they introduced into their religion. These three categories involve pure acts of worship, customs or etiquette, worship and customs together, which brings the number of categories to nine.”¹⁷⁶ *Mukhālafa* of the People of the Book has a basis in the Qur’an and Ḥadīth. In *Sūra al-mā’ida* (Q 5), which is Madanite, we read, “*And unto thee have We revealed the Scripture with the truth, confirming whatever Scripture was before it, and a watcher over it. So judge between them by that which Allah hath revealed, and follow not their desires away from the truth which hath come unto thee. For each We have appointed a divine law (shir’a) and a traced out way (minhāj).* . . .”¹⁷⁷

In pre-Hijra period, as the new Muslims began to slough off their *jāhili* orientation and don an Islamic identity, imitation was useful in providing uniformity in cultural deportment. Jews and Christians, being “People of the Book,” were naturally viewed as the model community to imitate in navigating the cultural transition from *Jāhiliyya* to Islam. In the post-Hijra period, when the position of the Jewish *umma* shifted from neutrality to rejection of Islam and Muslim power grew, the *mushābaha*

¹⁷⁵ Ibn Taymiyya, *Iqtidā’ al-ṣirāṭil-mustaqīm*, vol.1, 420.

¹⁷⁶ Ibn Taymiyya, *Iqtidā’ al-ṣirāṭil-mustaqīm*, vol. 1, 422.

¹⁷⁷ Q5:48-49 (Pickthall). Cf Q 45:16-19; 11:36-37; 2:145-50.

pattern was modified to exhibit aspects of *mukhālaḥa*, in order to construct Islamic identity on its own ideological terms, as the following examples indicate:

- When the Prophet came to Madīna, he used to fast on the day of ‘Āshūrā’¹⁷⁸ and ordered that it be observed by Muslims. He was informed that it was a day commemorated by Jews and Christians. He said, “*If Allah wills, we shall also fast on the ninth day (the day before ‘Āshūrā’) next year*”¹⁷⁹;
- “*Fast ‘Āshūrā’ and contradict the Jews by also fasting the day before and after it*”¹⁸⁰;
- “*Contradict the Jews and Christians! Dye your hair, for they do not dye their hair*”¹⁸¹;
- “*Contradict the polytheists! Clip the mustaches and grow beards*”¹⁸²;
- “*The difference between our fast and that of the People of the Book is eating the pre-dawn meal*”¹⁸³;
- “*The niche-burial (laḥd) is for us and the ditch-burial (shaqq) is for others*”¹⁸⁴ (or, in another narration, “*the shaqq is for the People of the Book*”¹⁸⁵);
- “*Force them (Jews) to take the narrower side of a street*”¹⁸⁶;
- “*Contradict the Jews! They do not perform ritual prayers in sandals or leather socks,*”¹⁸⁷ and the like embedded in the Ḥadīth corpus.

¹⁷⁸ It is the tenth day of Muḥarram, the first month of the Islamic lunar year.

¹⁷⁹ The *ḥadīth* is reported by Muslim (*ḥadīth* no. 1134) in al-Nawawī, *al-Minhāj*, 705-06.

¹⁸⁰ The *ḥadīth* is reported by Aḥmad, *Musnad* (*ḥadīth* no. 2154), 208.

¹⁸¹ Al-Bukhārī (*ḥadīth* no. 3462) in Ibn Hajar, *Fath al-bārī*, vol. 8, 95; Muslim (*ḥadīth* no. 2103) in al-Nawawī, *al-Minhāj*, 1329.

¹⁸² Muslim (*ḥadīth* no. 260) in al-Nawawī, *al-Minhāj*, 270.

¹⁸³ Muslim (*ḥadīth* no. 1096) in al-Nawawī, *al-Minhāj*, 688.

¹⁸⁴ A *ḥadīth* reported by Ibn Māja, *Sunan* (*ḥadīth* no. 1555 - *ṣaḥīḥ*), 273; al-Tirmidhī (*ḥadīth* no. 1045 - *ṣaḥīḥ*), 248.

¹⁸⁵ See Aḥmad, *Musnad* (*ḥadīth* no. 19425), 1406.

¹⁸⁶ See Muslim (*ḥadīth* no. 2167) in al-Nawawī, *al-Minhāj*, 1357-58.

¹⁸⁷ See Abū Dāwūd, *Sunan* (*ḥadīth* no. 652 - *ṣaḥīḥ*), 193.

As we can see in the first example, Muslims used to imitate Jews in observing the ‘Āshūrā’ fast, but contradicted them by fasting a day before and after it, giving it an Islamic stamp. Later, following their military victories and gradual expansion of the Prophet’s spiritual, political, and judicial power, *mukhālafa* emerged as a major characteristic typifying cultural ties between Muslims and People of the Book, although it did not completely replace *mushābaha*. Moreover, *mukhālafa* was not simply a projection of political power, for as the Muslim *umma* became a close-knit brotherhood the likes of which was never before seen in Arabia, “a solid cemented structure” (*bunyān marṣūṣ*),¹⁸⁸ with “united hearts”¹⁸⁹, which produced a strong and vibrant social solidarity that enabled it to defy great odds, it inevitably remained exposed to cultural influences from within and without the system, which had to be mitigated in order to establish the Islamic ethos and character of the State and thwart its distortion. Therefore, the People of the Book, because of their belligerency, were gradually seen as a hostile “Other” against whom Muslims identified themselves.

Notwithstanding the cultural patterns of *mukhālafa* and *mushābaha*, the functionality of which was political as well as symbolic, the Prophet maintained good relations with the People of the Book (though it was no longer a confidential association given the hostile state of relations), involving social, economic, and religious activities, as enshrined in the Madanite *Sūra al-Mumtaḥana* (Q 60): “Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes,

¹⁸⁸ Q 61:4 (‘Alī).

¹⁸⁹ Q 3:103 (‘Alī).

from dealing kindly and justly with them: for Allah loveth those who are just.”¹⁹⁰ The Prophet traded with the People of the Book and pagans. He once pawned his armor with a Jew for 30 bushels of wheat,¹⁹¹ and permitted his wife Umm ‘Aṭiyya to buy a sheep from a polytheist.¹⁹² He and his Companions ate the food of Jews and Christians and married their women.¹⁹³ He visited their sick,¹⁹⁴ greeted them,¹⁹⁵ and stood up, out of respect, for their funeral processions.¹⁹⁶ Some exegetes (*mufasssīrūn*) were wont to interpret the default status quo between Muslims and non-Muslims as hostile. This interpretation was rejected by al-Ṭabarī:

The opinion that is most likely correct is that ‘Allah forbids you not, with regard to those who fight you not for (your) Faith. . . .’ refers to all faiths and communities who must be dealt with justly because the statement is general, encompassing all who fit the description without specifying one group over the other. Those who opine that it abrogated (*mansūkh*) make no sense. That is because the believer’s righteousness toward an enemy combatant, whether he is related to him by blood or not, is not unlawful, since there is no indication in it for them concerning the privacy (*‘awra*) of Muslims or their reinforcement with horses or weapons. What clarifies the correctness of opinion is Ibn Zubayr’s narration concerning Asmā’ and his mother, (to wit, Asmā, the daughter of Abū Bakr [first caliph of Islam], received a visit from her mother Qutayla, the daughter of ‘Abd al-‘Uzza one day. She brought her gifts, which included lizards, cheese, and clarified butter. Asmā said to her: “I won’t accept these gifts from you or let you in until the Messenger of Allah gives permission!” Her sister ‘Ā’isha, wife of the Prophet, informed him about it, and the āya of the Qur’an [“Allah forbids you not, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them: for Allah loveth those who are just”] was revealed on the occasion. . . .)¹⁹⁷

While a few leading and ordinary Jews¹⁹⁸ and Christians accepted Muḥammad as the “Messenger of Allah,” during his lifetime, the majority of them did not follow them

¹⁹⁰ Q 60 :8 (‘Alī).

¹⁹¹ A *ḥadīth* reported by Aḥmad in his *Musnad* (*ḥadīth* no. 3409), 295.

¹⁹² See al-Bukhārī (*ḥadīth* no. 2216) in Ibn Hajr, *Fath al-bārī*, vol. 5, 693.

¹⁹³ This permissibility originally comes from the Qur’an (5:3).

¹⁹⁴ See al-Bukhārī (*ḥadīth* no. 1357) in Ibn Hajr, *Fath al-bārī*, vol. 4, 134-35.

¹⁹⁵ See al-Bukhārī (*ḥadīth* no. 6254) in Ibn Hajr, *Fath al-bārī*, vol. 14, 186.

¹⁹⁶ See al-Nasā’ī, *Sunan* (*ḥadīth* nos. 1921-22 - *ṣaḥīḥa*), 308.

¹⁹⁷ Al-Ṭabarī, *Tafsīr*, vol. 22, 572, 574.

¹⁹⁸ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 158-60

much to his dismay, as the Qur'an indicates, "As for the disbelievers, whether thou warn them or thou warn them not it is all one for them; they believe not."¹⁹⁹ The Prophet believed that if at least 10 Jews had accepted Islam, the rest of them might have followed suit.²⁰⁰ Watt and others have wondered what an Islamic-Jewish alliance might have looked like and how different it might have shaped the course of world history in the seventh century.²⁰¹

j. Politics of Hypocrisy

Besides Jewish opposition, another major political cleavage emerged in the early Islamic State, involving "Hypocrites" (*munāfiqūn*), a Qur'anic category. Non-Muslims in Madīna were subdivided into three groups: (i) unbelievers among People of the Book, (ii) pagan Arabs, and (iii) Hypocrites among mainly the ranks of al-Aws and al-Khazraj, and some Jews who professed Islam.²⁰² In terms of their political posture, the Hypocrites maintained an active non-violent opposition in relation to the State. They sought to undermine its internal stability and weaken its defenses through collaboration with its enemies. The *sīra* literature, especially Ibn Hishām's work, gives a detailed list of their names from among the dominant Arab and Jewish tribes in Madīna, which need not be reproduced here.²⁰³ Exegetes (*mufasssirūn*) agreed that 13 *āyāt* of *al-Baqara* (i.e. Q 2:8-20) were revealed concerning the Hypocrites specifically,²⁰⁴

¹⁹⁹ Q 2:6 (Pickhtall); Ibn Hajar reported that according to al-Kalbī, the *āya* was revealed regarding Jews of Madīna, which was supported by Ibn 'Abbās. See *al-'Ujāb*, vol. 1, 230-31.

²⁰⁰ Al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*; Ibn Hajar, *Fath al-bārī*, vol. 8, 839.

²⁰¹ Watt, *Muhammad at Medina*, 241.

²⁰² Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 160-84; Ibn Hajar, *al-'Ujāb*, vol. 1, 232; see also Wensinck, *Muhammad and the Jews of Medina*, 46.

²⁰³ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 160-70.

²⁰⁴ Al-Wāḥidī, *Asbāb al-nuzūl*, 22; Ibn Hajar, *al-'Ujāb*, vol. 1, 232.

which read in part: “*When they meet those who believe, they say, ‘We believe’ but when they are alone with their evils ones, they say, ‘We are really with you. We (were) only jesting.’ Allah will throw back their mockery on them and give them rope in their trespasses; so they will wander like blind ones (to and fro).*” A *sūra* (Q 63)—“The Hypocrites”—is named after them.

They presented a peculiar challenge to the Islamic State politically and legally, since they claimed to be Muslims yet acted like disbelievers and enemies, as illustrated in the following example. Abdullah b. ‘Ubayy, dubbed the “Chief Hypocrite” in the *sīra* literature, was once overheard saying to a group of Madanite Arabs that no one should assist Muḥammad’s Companions until they desert him. When the news reached Muḥammad, he summoned Ibn ‘Ubayy who vehemently denied it. The Qur’an refers to the incident in these words: “*They are the ones who say, ‘Spend nothing on those who are with Allah’s Messenger, to the end that they may disperse (and quit Madīna).’ But to Allah belong the treasures of the heavens and the earth; but the Hypocrites understand not.*”²⁰⁵ When ‘Umar sought permission to kill Ibn ‘Ubayy, the Prophet restrained him, saying “Then you would have brought him (i.e. his name) great scorn in Yathrib.”²⁰⁶ ‘Umar replied: “If you don’t want him killed by a Muhājir, then let Sa’d b. ‘Ubāda, Muḥammad b. Maslama, or ‘Ubāda b. Bashār do it!” The Prophet insisted, saying “*Let not people say that Muḥammad kills his Companions.*”²⁰⁷ Ibn ‘Ubayy’s son, a staunch Companion, approached the Prophet with the unusual request to kill his own father: “It has reached me that you wish to kill Abdullah b. ‘Ubayy because of what you are aware that he said. If you are going to do it,

²⁰⁵ Q 63:7 (‘Alī).

²⁰⁶ Al-Wāḥidī, *Asbāb al-nuzūl*, 432.

²⁰⁷ Ibn Hajar, *Fath al-bārī*, vol.10, 707.

give me the task. By Allah, al-Khazraj knows that there is no other man among them more righteous to his parents than me. I fear that if you order someone else to kill him, my soul will not rest to see the killer walking around because I will kill him, and I would have killed a believer for the sake of a disbeliever and enter the Hellfire!" The Prophet said to him: "*No, we will continue good relations with his companionship, as long as he is with us.*"²⁰⁸ This incident demonstrates the Prophet's astute statesmanship; although he knew that some of the Hypocrites' transgresses merited punishment, including the death penalty, as head of state he seemed more concerned about the long term effect his negative treatment of them might have on the Islamic Call, its understanding and transmission to posterity.

How then should the Islamic State handle the threat that Hypocrites posed to internal peace and order? Two options were possible: (i) formal law or (ii) non-codified means. The Prophet chose the latter. One such means of socially controlling the anti-government activities of Hypocrites was to withdraw the grace of his public office extended to subjects at different times and situations. For example, the Prophet used to abstain from attending the Funeral Prayer for the deceased whom he believed was a hypocrite; at the same time, he did not prohibit the public service: "*Pray for one who says 'there is no god but Allah.' As for me, I will not pray for him.*"²⁰⁹ The Qur'an amplified this symbolic policy, affirming the Prophet's public decision not to perform funeral rites for known deceased Hypocrites or to seek their forgiveness and mercy: "*Nor do thou ever pray for any of them that dies, nor stand at his grave; for they rejected Allah and His Messenger,*

²⁰⁸ Al-Wāqidi, *al-Maghāzī*, 433.

²⁰⁹ Al-Shawkānī, *Nayl al-awṭār* (Beirut: Dār Ibn Hazm, 2000), 1st edition, 746.

*and died in a state of perverse rebellion.”*²¹⁰ The *sabab al-nuzūl* given for this āya is that when the so-called Chief Hypocrite died, the Prophet supplicated for him and performed the funeral prayer for him. While he stood in religious service, ‘Umar rushed toward him, grabbed his garment, and said: “O Messenger of Allah! Why do you pray for Ibn Ubayy b. Salūl, the enemy of Allah?! Didn’t he say such and such? (i.e., ‘Spend nothing on those who are with Allah’s Messenger, to the end that they may disperse (and quit Medina)’). And didn’t Allah forbid you from praying for the Hypocrites? – ‘Seek Allah’s forgiveness for them or not, but if you seek forgiveness for them seventy times, Allah will never forgive them!’”²¹¹ The Prophet smiled and said, “Let me go, ‘Umar! I have been given a choice (in the said āya) and I chose to seek their forgiveness from Allah. If I knew that increasing it beyond seventy would bring him forgiveness from Allah, I would do it.”²¹² ‘Umar insisted, saying “But he is a Hypocrite!” Nevertheless, the Prophet and his Companions prayed for him, and the Prophet himself stood over Ibn ‘Ubayy’s grave before departing the cemetery. Thereafter, the āya (“Nor do thou ever pray for any of them that dies, nor stand at his grave; for they rejected Allah and His Messenger, and died in a state of perverse rebellion,” Q 9:84) is

²¹⁰ Q 9:84 (‘Alī).

²¹¹ Q 63.6 (‘Alī).

²¹² Ibn Hajar commented that ‘Umar’s insistence that ‘Adullah b. Ubayy b. Salūl was a Hypocrite stemmed from his knowledge of his orientation and disposition. But the Prophet did not accept his statement and prayed for him based on the outward aspect of Islamic Law and its default exoteric position, thereby honoring his offspring (Ibn Ubayy’s son Abdullah) who was a righteous believer and for the sake of his people’s tribal unity, repelling harm. From the outset of his Islamic mission, the Prophet exercised patience with the insult and injury of polytheists and was forgiving, and forbearing. Later, fighting was divinely ordained against the polytheists; even so, he continued to forgive and forbear outwardly in Islam that which was inwardly contrary to it, for the sake of tribal unity (*isti’lāf*) and not scaring them away (*tanfīr*). For this reason, he said, “Let not people say that Muḥammad kills his Companions.” After the Conquest of Makka and the polytheists’ conversion to Islam, which significantly reduced the number of disbelievers under Islamic subjugation, he made a public declaration (*mujāhara*) against the Hypocrites and subjected them to the bitter truth, especially since that was before revelation of the expressed prohibition of praying for them and the like. By this analysis, the problem that arose in this story is resolved. See Ibn Hajar, *Fath al-bārī*, vol. 10, 191.

said to have been revealed. Following that, the Prophet never participated in funeral services for a deceased Hypocrite till the day that he died, according to ‘Umar who added, “I was amazed at how I snatched the Prophet on that day!”²¹³

Another and perhaps more effective means of regulating Hypocrites through the non-codified approach was the usage of the Qur’an to make comparisons of them and depreciate their opposition to Islam. The objective behind it was public humiliation, for humiliation in Arab culture was as injurious as the stab from a dagger; thus, by depicting Hypocrites as the undesirable “other” in contradistinction to true believers, the Prophet put into motion a social force against their actions, which received sacred legitimacy in the Qur’an; their behavior, frowned upon by the Muslim community, was not held accountable to earthly law but was censured by heavenly revelations:

Their similitude is that of a man who kindled a fire. When it lighted all around him, Allah took away their light and left them in darkness. So they could not see. Deaf, dumb, and blind, they will not return (to the path).

*Or (another similitude) is that of a rain-laden cloud from the sky: in it are zones of darkness, and thunder and lighting. They press their fingers in their ears to keep out the stunning thunderclap, the while they are in terror of death. But Allah is ever round the rejecters of Faith!*²¹⁴

When thou lookest at them, their exteriors please thee; and when they speak, thou listenest to their words. They are as (worthless as hollow) pieces of timber propped up (unable to stand up on their own). They think that every cry is against them. They are the enemies, so beware of them. The curse of Allah be on them! How are they deluded (away from the Truth)!²¹⁵

This public censure of Hypocrites in the Qur’an may not have impelled them to accept Islam, but it exposed their enmity to Islam, plotting, and collusion with its enemies, and it successfully prevented them from open rebellion—unlike the Jews who did not

²¹³ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (*ḥadīth* no. 4671) in Ibn Hajar, *Fath al-bārī*, vol. 10, 187-88; al-Nasā’ī (*ḥadīth* no. 1966), 315; al-Tirmidhī (*ḥadīth* no. 3097), 694; Aḥmad et al. *Musnad* (*ḥadīth* no. 95), 46. See also al-Albānī, *Aḥkām al-janā’iz wa bida’uḥa* (Riyadh: Maktaba al-Ma’ārif, 1992), 120-22.

²¹⁴ Q 2:17-19 (‘Alī).

²¹⁵ Q 63:4.

embrace Islam from the start and felt confident in their military strength and alliances with non-Muslim Arabs to openly rebel against the State. It seems that Muḥammad held out hope that somehow their disbelief would eventually convert into true faith in Islam, that is, until their unwavering politics of resistance ultimately sealed their hypocrisy. On their part, Hypocrites resorted to stealth methods to undermine Muḥammad's political authority. Aside from aiding his enemies in Makka and Madīna, they resorted to *istihzā'* ("mockery"),²¹⁶ artful flattery, *ifk* ("slander"),²¹⁷ and a litany of excuses in order to avoid fully committing to the defense of the Islamic State. Finally, the Conquest of Makka permanently altered the political status quo in the wider Ḥijāz region, depriving Hypocrites of fertile political bases to sow seeds of dissension in the Muslim body politic.

k. Muslim-Christian Relations

Christians, unlike Jews, do not figure prominently in Madīna in any political capacity under the Islamic State except for the last couple of years before the Prophet

²¹⁶ Q 2:14-15 (Pickthall): "And when they fall in with those who believe, they say: We believe; but when they go apart to their devils they declare: Lo! we are with you; verily we did but mock (*mustahzi'ūn*). Allah (Himself) doth mock (*yastahzi'*) them, leaving them to wander blindly on in their contumacy." These *āyāt* are said to have been revealed concerning Abdullah b. Ubayy and his cohorts. He used to say to them, "Watch how I rid you of these foolish ones," as he took Abū Bakr's hand and said to him "Welcome al-Ṣiddīq, chief of Banū Tīm, sheikh of Islam, the 'Second' (*al-Thānī*) to the Prophet in the cave of Ghār, the one who exerts himself and spends his wealth for the Messenger of Allah!" He would also take 'Umar's hand and say "Welcome, O chief of 'Adī b. Ka'b, al-Fārūq, the Strong One in Allah's religion, the one who exerts himself and spends his wealth for the Messenger of Allah!" And he would do the same with 'Alī, saying "Welcome, O son of the Prophet's uncle, his son-in-law, the chief of Banū Hāshim besides the Messenger of Allah." Ibn Ḥibbān, in his *al-Baḥr* and *al-Khāzin fī lubāb al-tawīl*, reported that "'Alī rebuked Ibn 'Ubayy, saying "Don't be a hypocrite!" Ibn 'Ubayy replied, "You say that to me?! Is not our faith like your faith?" See al-Wāḥidī, *Asbāb al-nuzūl*, 22; Ibn Hajar, *al-'Ujāb*, vol. 1, 237; al-Suyūṭī, *Lubāb al-nuqūl*, 11.

²¹⁷ Q 24:11-12,15 (Pickthall): "Lo! they who spread the slander are a gang among you. Deem it not a bad thing for you; say, it is good for you. Unto every man of them (will be paid that which he hath earned of the sin; and as for him among them who had the greater share therein, his will be an awful doom." Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 447; al-Ṭabarī, *Tafsīr*, vol. 17, 189-218.

passed away. That was when he received Christian delegations, engaged some of them polemically, sent diplomatic correspondences to their rulers in neighboring kingdoms, established treaties with their polities inside Arabia, extended his *jizya* policy to them, and intended them under the Expulsion Policy, as previously discussed. Though not inhabitants of Madīna, Christians frequently visited it to trade and proselytize their faith. And because they were never in open revolt against the State, unlike Jews, the Qur'an had a more favorable view of them: *"Thou wilt find the most vehement of mankind in hostility to those who believe (to be) the Jews and the idolaters. And thou wilt find the nearest of them in affection to those who believe (to be) those who say: Lo! We are Christians. That is because there are among them priests and monks, and because they are not proud."*²¹⁸

In the Pre-Hijra period, Muḥammad did meet some learned Christians, such as Baḥīrā and Waraq b. Nawfal, as recorded in the *sīra*, which is connected to the narrative that his advent as a prophet was foretold in Judeo-Christian scriptures.²¹⁹ Later, in the eighth year before the Hijra (and the fourth year into his prophetic mission), when persecution intensified against his Muslim followers at the hands of pagan Makkans, the Prophet sent a group of them to seek refuge in Abyssinia. He dispatched with them an authoritative letter to king of Abyssinia, which read:

*In the Name of Allah, the Beneficent, the Merciful. From Muḥammad, the Messenger of Allah, to al-Najāshī al-Aṣḥam, the king of Abyssinia.
Peace unto you! Verily, I am Aḥmad to you. Allah is He besides whom there is no other deity, the King, the Holy One, the Source of peace, the Source of safety, the Supreme.
I bear witness that Jesus, Son of Mary, the Spirit of Allah and His Word that He gave to Maryam, the Virgin, pure, and irreproachable who bore Jesus. Allah created him from His Spirit and Breath, as He created Adam with His own hand and breath.
I invite you to Allah, the One God who is without any partner, and the association with His obedience and to follow Him, believe in that which came to me, for I am the Messenger of Allah.*

²¹⁸ Q5:82 (Pickthall).

²¹⁹ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 125, 169.

*I have sent to you Ja'far, the son of my paternal uncle, and a group of Muslims. When they come to you, give them sanctuary and put off tyranny. I call you and your soldiers to the (path) of Allah. I have conveyed the message and advised, so accept it.
Peace be unto those who follow the Guidance.²²⁰*

The minor Hijra of Muslims from Makka to Abyssinia occurred twice, paving the way, nine years later, for the greater Hijra from Makka to Madīna, a turning point in Muḥammad's prophetic mission that ushered in the Islamic State.

A couple of years before he died, the Prophet sent out letters to various kingdoms, tribes, and polities in and around Arabia, inviting them to Islam. The Christians of Najrān responded to his invitation by sending a delegation to meet him in Madīna. The delegation comprised some 12 men, including some of their most prominent and learned like al-Sayyid and al-Āqib. During their meeting with the Prophet, the discussion turned from questions concerning his prophethood to polemics over theological issues, such as the status of Jesus.²²¹ When argument failed to convince them of his veracity, the Prophet challenged them to *mulā'ana* or *ibtihāl* (i.e. the invocation of divine curse on the liar), as mentioned in the Qur'an: "*And whoso disputeth with thee concerning him, after the knowledge which hath come unto thee, say (unto him): Come!*

²²⁰ Ḥamīdullāh gives a lengthy list of bibliographical references of this letter to the King of Abyssinia. Concerning the passage ("*I have sent to you Ja'far, son of my paternal uncle, and a group of Muslims. When they come to you, grant them stay. . .*"), Ḥamīdullāh observed that "it can hardly be connected to the letter sent in the sixth or seventh year of the Hijra, since five years of the migration of Ja'far (nicknamed the "Flier") to Abyssinia had passed, when he was on the verge of returning to the abode of Islam [i.e. the Islamic State in Madīna]. It is should be noted that al-Ḥalabī, al-Qistānī, al-Qalqashandī et al did not cite this passage of the letter (see Document No. 21 of this book). The passage is also not found in the original letter discovered recently. It is more likely that its inclusion is due to negligence on the part of al-Ṭabarī and others who followed him. We think that the Messenger of Allah had given Ja'far, the son of his paternal uncle, a letter to al-Najāshī at the time of his migration to Abyssinia, requesting the just king to show concern for the plight of the foreign Muslim refugees in his country" (25). Ḥamīdullāh, *Majmū'a al-wathā'iq*, 74-75. Refer to the Excursus on the discovery of some of the Prophet's letters to kings at the end of this work.

²²¹ Q 3:59 (Pickthall): "*Lo! the likeness of Jesus with Allah is as the likeness of Adam. He created him of dust, then He said unto him: Be! and he is.*"

We will summon our sons and your sons, and our women and your women, and ourselves and yourselves, then we will pray humbly (to our Lord) (nabtahil) and (solemnly) invoke the curse of Allah upon those who lie."²²² They did not respond immediately but retired to consult among themselves and were warned by their learned elders of its dreadful consequences to person and property. The next day, they came to where the Prophet was available, holding the hand of 'Ali with his daughter Fāṭima with their sons, al-Ḥasan and al-Ḥussayn. They explained to him that they did not wish to engage him in *mulā'ana* and agreed to pay the *jizya*, since they were unable to make war against the Muslim Arabs. He appointed Abū 'Ubayda to accompany them back to Najrān as a supervisor over their differences over their wealth to be extracted for the Islamic State.²²³ The Prophet later sent official letters to them, stipulating the terms of their treaty and *dhimma* status.²²⁴ Perhaps it was the same Christian group that met with Jews in Madīna, debating with them over Abraham. The Christians said that Abraham was a Christian and as such, they had the greater right over him. The Jews said the opposite. Both groups sought the Prophet to arbitrate the dispute. He said to them: "Each of the two groups is free from Abraham and his religion; rather, he was a *ḥanīf* and Muslim." The Jews said: "O Muḥammad! We do not wish to take you as lord, as the Christians have taken Jesus!" The Qur'an responded to them with the words: "*Say: 'O People of the Book! Come to common terms as between us and you: That we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other*

²²² Q 3:61 (Pickthall).

²²³ Ibn Hajar, *al-Ujāb*, vol. 2, 682-87.

²²⁴ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 139-45.

than Allah.' If then they turn back, say ye: 'Bear witness that we (at least) are Muslims (bowing to Allah's Will).'"²²⁵

²²⁵ Q 3:64 ('Alī).

Sharia: Islamic Law

Introduction

The Madīna Constitution (*Ṣaḥīfa*) not only recognized Muḥammad as political leader of the Islamic State but also conferred on him power to arbitrate internecine conflicts among the various political units or *umam* in the city, comprising Muslims, Jews, and pagan Arabs: “*And verily if any murder (**ḥadath**) or quarrel takes place between the parties to this **Ṣaḥīfa**, from which any trouble may be feared, it shall be referred to God and to Muḥammad, Messenger of God, may God bless him and protect; and verily God is the guarantee of the most faithful and scrupulous observance of the contents of this document.*”¹ This Clause, as Watt explained it, meant that internal disputes were to be settled by a specific revelation from God to Muḥammad but, “doubtless in practice, Muḥammad was held to have the best knowledge of what God's decision would be on a case where there was no specific revelation. The opening words of the *āya* (*‘wherever there is anything about which you differ. . .’* [Q 4:59]) are identical with those of (Section) 23 of the Constitution,² suggesting that the connection is close. The phrase is a vague one and could be applied to far-reaching differences on policy as well as to petty quarrels between neighbors.”³ Wellhausen interpreted the *Ṣaḥīfa* as a whole as “a simple ordinance of Muḥammad by which he codified the organization of the community as he had found it when he came to Madīna. *The contract was not law because for this, the agreement of the contracting parties would have been the prerequisite and they would have had to swear by it* [emphasis mine]. The

¹ See Section 42 of the Madīna Constitution in Ḥamīdullāh, *The First Written Constitution in the World*, 52.

² Cf. Ḥamīdullāh, *The First Written Constitution in the World*, 48.

³ Watt, *Muhammad at Medina*, 252.

document was nothing but a public declaration of the main articles of the existing legal rights of the *Umma*. This, however, does not lessen its historical importance.”⁴

Wensinck held the opposite view: “The Constitution (of Madīna) was not a treaty concluded [among] Muhājirūn, Anṣār, and the Jews. It was an edict defining the relation of the three parties; above them was Allah, i.e., Muḥammad. *It is evidence of his great authority that, after a short stay in Madīna, he, the stranger, could lay down the law for all segments of the population* [emphasis mine]. He did this in a manner satisfactorily to all, but only for the express purpose of obtaining his objective, namely to lead the arms of Madīna to success and to unite the town politically.”⁵ Indeed, not long after promulgation of the *Ṣaḥīfa*, different types of societal issues were brought to the Prophet for adjudication, including adultery, blood money (*dīya*), *lex talionis* (*qiṣāṣ*), worship, and secular transactions, many of which were discussed in the chapter on the structure of the Islamic State.

In short, Muḥammad became a veritable lawgiver, advocating the rule by “*that which God has revealed*.”⁶ Thus, the law of the nascent Muslim polity was fundamentally a divine law or *sharia* not unlike how the Torah constituted divine law to Jews in many respects.⁷ The nature of *Sharia*⁸ or Islamic Law is examined in this chapter, including its

⁴ Julius Wellhausen, “Muhammad’s Constitution of Medina” in Wensinck, *Muhammad and the Jews of Medina*, 138.

⁵ Wensinck, *Muhammad and the Jews of Medina*, 70.

⁶ Cf Q 5:44, 45, 47. See also al-Bukhārī (*ḥadīth* nos. 7278-79) in Ibn Hajar, *Fath al-bārī*, vol. 3, 57.

⁷ “Torah is a polysemic apposition for ‘law,’ ‘statute,’ ‘ordinance,’ pl. *torot*; ‘the torah of your God’ (Ho. 4:6); whatever its precise borders, this ‘Torah of Moses’ or ‘Torah of God’ is central sacred text,” as discussed in Kegels, James L., and Rowen A. Greer, *Early Biblical Interpretation* (Philadelphia: The Westminster Press, 1986); cf the *sabab al-nuzūl* regarding Q 5:43-47 in al-Wāḥidī, *asbāb al-nuzūl*, 195-96; al-Suyūṭī, *Lubāb al-nuqūl*, 102-03; ‘Iṣām b. Abdul Muḥsin al-Ḥamdānī, *al-Ṣaḥīḥ min asbāb al-nuzūl* (Beirut: Mu’assasa al-Rayyān, 1999), 160-64.

sources, scope, misconceptions, characteristics, the question of foreign influences, and the juridical role of extra-*Sharia* legislation during the Prophet's time. It will be argued that the *Sharia* gave the Islamic State one of its distinctive attributes not found in other political systems at the time. Also, it will be posited that the structure of Islamic Law was based squarely on the Qur'an and the Prophet's *Sunna* or practice and that the notion of *Sharia* being commensurate with *al-fiqh* (Islamic jurisprudence), which later emerged in the post-Muhammadan era, is faulty. *Sharia* and *fiqh* intersect at what constitutes Islamic cultural behavior, but they remain distinct and separate normative spheres because of their discrete origins in different historical periods. Furthermore, it will be shown that *Sharia* was not devoid of foreign elements, incorporating them as long as they did not contradict its values, principles, and underlying philosophy.

Part I: Sources of *Sharia*

a. *The Qur'an as Supreme Law*

The idea of a society governed by divine law is not unique to Islam. In his *End of Law*, Pound wrote, "As ideas of *what law is for* [emphasis in the original] are largely implicit in ideas of *what law is*, a brief survey of ideas of the nature of law from this standpoint will be useful."⁹ He then unveiled no less than 12 historical conceptions of 'what law is for,' 4 of which reflect aspects of the legal construct of divine law akin to the *Sharia* postulate; the remaining 8 conceptions are mainly associated with western philosophy and modern secular liberalism, which lie outside the scope of this work.

⁸ Is it *Sharia* or *Sharī'a*? I have retained the former spelling throughout this work, since it is Anglisized, having entered the English lexicon since the late nineteenth century. See *sharia*, *Dictionary.com Unabridged*. Random House, Inc (2011).

⁹ Roscoe Pound, "The End of Law," in *The Nature of Politics*, ed. Michael Curtis (NY: Avon Books, 1962), 190-91.

These four conceptions of law in Pound's listing that are comparable to *Sharia* are as follows.

- i. *"The idea of a divinely ordained rule or set of rules for human action."* Examples given by Pound are the Mosaic Law and Hammurabi's Code.
- ii. *"A body of ascertainments and declarations of an eternal and immutable moral code."* It is expressed in tradition, recorded wisdom, and the command of Roman people, which philosophers reconciled and elucidated.
- iii. *"A reflection of the divine reason governing the universe, a reflection of that part which determines the 'ought' addressed by that reason to human beings as moral entities, in distinction from the 'must' which it addresses to the rest of creation."* This legal thinking is reflected in the writings of St. Thomas Aquinas (d. 1274), which was influential in Europe during the seventeenth century.
- iv. *"A body of commands of the sovereign authority in a politically organized society as to how men should conduct themselves therein, resting ultimately on whatever basis was held to be behind the authority of that sovereign."* That was the view of positive law held by Roman jurists of the Republic and the classical period in European history.¹⁰

These notions or theories of law are not identical with *sharia*, but they overlap some aspects of it. *Sharia* is derived from the Arabic verb *shara'a*, "to come to a water place and drink thereof"; hence, *sharia* etymologically designates "a watering-place" or a

¹⁰ Pound, "The End of Law," 191-94.

“way or path to it.”¹¹ Two verbal forms of *sharia* are found in the Qur’an¹² as well as these derivative nouns:

- i) “We have set thee on a way (**sharī’a**) by which the purpose [of faith] may be fulfilled. . . .”¹³
- ii) “Unto every one of you have We appointed a [different] law (**shir’a**) and way of life.”¹⁴
- iii) “Their fish came to them, breaking the water's surface, on a day on which they ought to have kept (**shurra’an**) Sabbath.”¹⁵

Hence, *Sharia* represents the divine law of Islam or Islamic Law. In particular, Qur’anic ordinances, the Prophet’s instructions, agreements, treaties, and pacts that the Islamic State negotiated and signed with various political units and states had the binding force of law for Muslims at the time. For example, contractual obligations were endorsed in the Qur’an as part and parcel of Islamic duty: “O you who have attained to faith, be true to your covenants (**‘uqūd**),”¹⁶ which is echoed in the Prophet’s statement: “The Muslims are those who fulfill the conditions (of their covenants).”¹⁷ These political

¹¹ *Lisān al-‘arab*, 2238; Lane, *Arabic-English Lexicon*, 1534; Hughes, *Dictionary of Islam*, 572.

¹² Q 42:13, 21 – “The same religion has He established (**shara’a**) for you as that which He enjoined on Noah. . . .”; and “What! Have they partners (in godhead) who have established (**shara’ū**) for them some religion without the permission of Allah. . . .” (Y. ‘Alī).

¹³ Q 45:18 (Asad).

¹⁴ Q 5:48 (Asad).

¹⁵ Q 7:163 (Asad).

¹⁶ Q 5:1 (Asad); cf Q 16:91; 17:34. ‘*Uqūd* (sing. ‘*aqd*) means knots, as in rope knots, from the verb ‘*aqada*, “to tie.” During the Prophet’s time, covenants included oaths, marriages, trade, treaties, religious duties, and the like; see al-Zamakhsharī, *al-Kashshāf*, vol. 2, 190; Şiddīq Khān al-Qinnawjī, *Fath al-bayān* (Beirut: al-Maktaba al-‘Aşriyya, 1992), vol. 3, 321-22.

¹⁷ It is reported in *mursal* form by Ibn Abī Shayba (6/567/2064) and al-Bukhārī in *mu’allaq* form; it is *ṣaḥīḥ* (*ḥadīth* no. 2915) in al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (1996), 1st edition, vol. 6, 992-94.

agreements reflected Islamic values, for the Prophet, in principle, had repudiated the values of *Jāhiliyya* that contradicted the political goods of the Islamic system: “Every transaction of **Jāhiliyya** beneath my feet is cancelled. . . .”¹⁸ The legal authority of the Islamic State emanated from the Qur’an and, by extension, the Prophet’s *Sunna*. Thus, “the conception of law in Islam is thus authoritarian to the last degree,” as Gibb put it. “The Law, which is the constitution of the Community, cannot be other than the Will of God, revealed through the Prophet. This is a Semitic form of the principle that ‘the will of the sovereign is law’, since God is the sole Head of the Community and therefore sole Legislator. Consequently, to violate the law, or even to neglect the law, is not simply to infringe a rule of social order it is an act of religious disobedience, a sin, and involves a religious penalty.”¹⁹ This notion of God as the Sole Legislator is expressed in the Qur’an as follows: “They will ask thee (**yastaftūnak**) to enlighten them about the laws concerning women. Say: ‘God [Himself] enlightens you about the laws concerning them, for [His Will is shown] in what is being conveyed unto you through this divine writ. . . .”²⁰; and “They will ask thee to enlighten them. Say: ‘God enlightens you [thus] about the laws concerning [inheritance from] those who leave no heir in the direct line (**kalāla**). . . .”²¹ Ibn ‘Abbās (d. 68/687) narrated that the Companions asked the Prophet only 13 questions, all of which are mentioned in the Qur’an, and that they asked only about things that could benefit them.²² These

¹⁸ It is reported by Muslim (*ḥadīth* no. 1218) in al-Nawawī, *al-Minhāj*, 769.

¹⁹ H. A. R. Gibb, *Mohammedanism: A Historical Survey* (NY: Oxford University Press, 1962), 2nd edition, 99.

²⁰ Q 4:127 (Asad).

²¹ Q 4:176 (Asad).

²² Al-Dārāmī, *Sunan* (Karachi: Qadime Kutub Khana, 1986), vol. 1, 63; It was also reported by Abū Ya‘lā, Ibn Abī Shayba, al-Ṭabarānī, al-Bazzār, and others; see Ibn Hajar, *Maṭālib al-āliya*, vol. 14, 608. Shāh Walīullāh, *al-Inṣāf fī bayān sabab al-ikhtilāf fī aḥkām al-fiqhiyya* (missing publication data), 4. The latter

questions pertain to time, spending wealth, war, spoils, ethical conduct, orphans, bodily functions, metaphysics, authenticity of a certain legends, the physical environment, and a few eschatological issues, demonstrating the Qur'an's function as the supreme law in the Muslim polity:

- i. "They ask thee concerning the new moons.
Say: 'They are but signs to mark fixed periods of time in (the affairs of) men, and for Pilgrimage (Hajj).'"²³
- ii. "They ask thee what they should spend (in charity).
Say: 'Whatever ye spend that is good (**khayr**) is for parents and kindred and orphans and those in want and for wayfarers.'"²⁴
- iii. "They ask thee concerning fighting in the Prohibited Month.
Say: 'Fighting therein is a grave (offence); but graver is it in the sight of Allah to prevent access to the path of Allah, to deny Him, to prevent access to the Sacred Mosque, and drive out its members.'"²⁵
- iv. "They ask thee concerning wine and gambling.
Say: 'In them is great sin, and some profit, for men; but the sin is greater than the profit.' They ask thee how much they are to spend; Say: 'What is beyond your needs.'"²⁶
- v. "They ask thee concerning orphans.
Say: 'The best thing to do is what is for their good; if ye mix their affairs with yours, they are your brethren; but Allah knows the man who means mischief from the man who means good.'"²⁷
- vi. "They ask thee concerning women's (periods).
Say: 'They are a hurt and a pollution: So keep away from women in their courses, and do not approach them until they are clean.'"²⁸
- vii. "They ask thee what is lawful to them (as food).
Say: 'Lawful unto you are (all) things good and pure: and what ye have taught your trained hunting animals (to catch) in the manner directed to you by Allah. Eat what they catch for you, but pronounce the name of Allah over it: and fear Allah.'"²⁹
- viii. "They ask thee about the (final) Hour, when will be its appointed time?
Say: 'The knowledge thereof is with my Lord (alone): None but He can reveal as to when it will occur.'"³⁰

was translated into English by Suad Sidahmed 'Alī under the title *Towards an Objective Explanation of the Causes of Juristic Divergence in Islam* (Riyadh: King Saud University, 2000).

²³ Q 2 : 189 (Y. 'Alī).

²⁴ Q 2 : 215 (Y. 'Alī).

²⁵ Q 2 : 217 (Y. 'Alī).

²⁶ Q 2 : 219 (Y. 'Alī).

²⁷ Q 2 : 220 (Y. 'Alī).

²⁸ Q 2 : 222 (Y. 'Alī).

²⁹ Q 5 : 4 (Y. 'Alī).

- ix. “They ask thee concerning (things taken as) spoils of war (**anfāl**).
Say: ‘(such) spoils are at the disposal of Allah and the Messenger.’”³¹
- x. “They ask thee concerning the Spirit (of inspiration).
Say: ‘The Spirit (cometh) by command of my Lord: of knowledge it is only a little that is communicated to you, (O men!).’”³²
- xi. “They ask thee concerning Dhul-Qarnayn.
Say, ‘I will rehearse to you something of his story. . . .’”³³
- xii. “They ask thee concerning the mountains:
Say, ‘My Lord will uproot them and scatter them as dust. . . .’”³⁴
- xiii. “They ask thee about the Hour, when will be its appointed time?
Wherein art thou (concerned) with the declaration thereof? With thy Lord in the Limit fixed therefor. Thou art but a Warner for such as fear it.”³⁵

The 13 questions must refer to issues that the Qur’an specifically mentioned, according to Ibn Qayyim. “If not, then the questions that they (the Companions) asked him (the Prophet) and the rulings and explanations that they received via his *Sunna* are numerous. Indeed, they used to ask him about things that directly benefitted them connected with realities. For they did not ask him about probabilities, or things that could lead to errors (in judgment or action), or capricious questioning that is calamitous. Rather, they were wont not to preoccupy themselves with hairsplitting issues or generating them but confined themselves to executing what he ordered. If an issue arose, then they would ask him about it. . . .”³⁶ The Qur’an-based question-answer format reflect stages in the cultural process of the Muslim *Umma*’s re-orientation from *Jāhiliyya* to Islam, socialization in the Muslim body politic, war anxieties, and

³⁰ Q 7 :187 (Y. ‘Alī).

³¹ Q 8 :1 (Y. ‘Alī).

³² Q 17 :85 (Y. ‘Alī).

³³ Q 18 :83 (Y. ‘Alī).

³⁴ Q 20 :105 (Y. ‘Alī).

³⁵ Q 79 :42 -45 (Y. ‘Alī). See also Shāh Walīullāh, *al-Inṣāf*, 4.

³⁶ Ibn Qayyim, *I’lām al-muwaqqi’īn* (Dār al-Kutub al-‘Ilmiyya, 1991), vol. 1, 56-57.

intellectual curiosity about daily topics of interest, rising out of religious conversations occurring in the wider community.

In sum, the Qur’anic motif of ‘they ask thee’ showcases the widening scope of the Divine Legislative Authority operative in the Islamic State over time, at least in the 10-year period of Muḥammad’s rule. The Qur’anic phrase “God’s rule or judgment” (*ḥukm allāh*) and related noun or verbal derivatives typified the State’s policy profile, as in “Behold, We have bestowed upon thee from on high this divine writ, setting forth the truth, so that thou may judge between people in accordance with what God has taught thee. . . .”³⁷ As noted in the previous chapter, when Qurayṣa capitulated to Muḥammad, he deferred their judgment to Sa’d b. Mu’ādh who ruled that their male fighters be killed, their women and children enslaved, and their wealth divided among the Muslim fighters who besieged them. Endorsing Sa’d’s judgment, the Prophet reportedly stated, “Verily, you judged them by God’s rule (*ḥukm allāh*)” or, in another report, “You judged according to the King’s judgment (*ḥukm al-mālik*).”³⁸

From the Structural-Functionalist-System (SFS) perspective, the reach of law in the public and private domains of political systems is not a question of peculiarity but is a question of degree. In percentage terms, the extent of government regulation of the spheres of public life and private life tends to be greater in authoritarian states than in democratic states because of political ideology and the state’s policy profile. Regulation, or ‘what law is for,’ is a policy function of the state that is chiefly concerned

³⁷ Q 4:105 (Asad).

³⁸ Muslim (*ḥadīth* no. 1769) in al-Nawawī, *al-Minhāj*, 1138; al-Bukhārī (*ḥadīth* nos. 3043, 3804, 4121, 6262) in Ibn Hajar, *Fath al-bārī*, vol. 7, 293; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1582 - *ṣaḥīḥ*), 374.

with “subjects,” “domains,” and “mechanisms.”³⁹ Applied to the thesis here, the *subjects* of the Islamic State are none other than Muslims, People of the Book (Jews and Christians), pagan Arabs, and some Zoroastrians. The *mechanisms of regulation* that the State incorporated are both informal and formal: the informal, non-codified means include rhetorical devices like sermons, doctrine, moral exhortation, shares in spoils, social boycott, and the like, which are explored in other chapters of this work; whereas, the formal means of regulation involve law, that is, *Sharia*, the subject of the inquiry here. As for the *domains* of *Sharia*, they embrace inward and outward aspects of public and private behavior. In respect of the latter, the Islamic State’s regulation covered the ‘here and now’ of outward public and private life but did not penetrate the inward or domain of thoughts, ideas, and beliefs, deferring it to the afterlife. To illustrate, it is reported that the Prophet sent out a *sarayya* in 7/628 to al-Ḥaraqā,⁴⁰ a tribe of Juhayna. There Usāma attacked a man from al-Ḥaraqā named Mirdās b. Nahīk al-Fazārī, an ally of Banū Marra, in spite of his confession of Islam. When Usāma reported the incident, the Prophet said, “*You killed him, even though he testified that there is no deity but Allah!*?” Usāma protested, “O Messenger of Allah, he only said that to save himself!” The Prophet replied, “*Did you split open his chest?! [i.e. you cannot truly know someone’s*

³⁹ Almond *et al*, *Comparative Politics Today*, 139.

⁴⁰ So called because Juhaysh b. ‘Āmir b. Tha‘laba b. Muwadda‘a b. Juhayna, is said to have ‘burnt’ the people (Banū Marra b. ‘Awf b. Sa‘d b. Dhibyān) there, killed them in great numbers. Muslim chroniclers recount the incident as having occurred during the *sarrāya* (“razzia”) to al-Mayfa‘a, which was situated about 100 miles from Madīna towards Najd but differ on the name of the man that Usāma killed, while the reports of *ḥadīth* scholars suggest that Usāma was the leader of the *sarrāya*. See Ibn Hajar, *Fath al-bārī*, vol. 9, 378-79; Aḥmad, 528-29.

belief, which resides in the heart or mind].”⁴¹ Commenting on the *ḥadīth*, Ibn Hajar wrote, “It is proof that the rulings (of *Sharia*) are arranged to conform to the outward and not inward factors (of behavior).”⁴² The ultimate reckoning of what people do, outwardly and inwardly, in the life of the world belongs to God who “will judge between you all on the Day of Resurrection.”⁴³ Looking in from the outside, the *Sharia* rulings appear pervasive, covering the entire public and private domains of society. As Salmān, a Persian Companion of the Prophet, narrated, “I was told once: ‘your Prophet has taught you everything, even (the procedure of) excretion (*khirā’a*)!’ I replied, “Yes. He forbade us to face the *qibla* (the direction of the Ka‘ba) when we defecate or urinate and forbade us to cleanse ourselves with our right hands, using less than three pebbles or with dung (*rajīr*) and bone.”⁴⁴

In his thematic arrangement of the Qur’an into six main divisions, al-Ghazzālī (d. 1111) ascribed one division to *what law is for*, that is, integration of the lawful (*ḥalāl*) and unlawful (*ḥarām*) aimed at preserving and protecting persons, intellect, progeny, property, and religion or the state. Thus, the *āyāt* on food and drink speak to the body’s well being; those on marriage, dowry, divorce, ‘waiting period’ (*‘idda*), prohibited marriages, nursing, and kinship to progeny; those on trade, usury, debt, inheritance, breadwinning, division of spoils, charities, manumission, enslavement, and captives to

⁴¹ Al-Wāqidī, *al-Maghāzī*, ed. Marsden Jones (London: Oxford University Press, 1965), vol. 2, 725; Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 2, 112, in *mu‘allaq* form; al-Bukhārī (*ḥadīth* no. 6872) in Ibn Hajar, *Fath al-bārī*, vol. 16, 13, 18-22; Muslim (*ḥadīth* no. 97) in al-Nawawī, *al-Minhāj*, 156-57; Aḥmad, *Musnad* (*ḥadīth* nos. 22088, 22145), 1604, 1609. The *ḥadīth* is from Usāma b. Zayd who died towards the end of Mu‘āwiya’s caliphate.

⁴² Ibn Hajar, *Fath al-bārī*, 20.

⁴³ Q 22:69 (Asad).

⁴⁴ Muslim (*ḥadīth* no. 262) in al-Nawawī, *al-Minhāj*, 271.

wealth; and fighting infidels, insurrectionists, encouraging it, punishments, penalties or ‘limits’ (*ḥudūd*), expiation, retaliation, and blood money to defense of the state and internal stability.⁴⁵ These constitutional *āyāt* are the so-called ‘pearls’⁴⁶ of the Qur’an and its ‘jewels’ are the theological *āyāt* on God’s essence, attributes, and works.

According to this Ghazzālian schema, without juridical guardianship over these cultural activities, God’s worship in society cannot be established properly and completely. In another approach to the Qur’an as legal text, Khallāf found that it contains 70 legal prescriptions on “family law” (*al-aḥkām al-shakhṣiyya*), 70 on “civil law” (*al-aḥkām al-madaniyya*), 30 on “penal law” (*al-aḥkām al-janā’iyya*), 13 on “jurisdiction and procedure” (*al-aḥkām al-murāfi’āt*), 10 on “constitutional law” (*al-aḥkām al-dustūrriya*), 25 on “international law” (*al-aḥkām al-dawliyya*), and 10 on “financial order” (*al-aḥkām al-iqtisādiyya*).⁴⁷ But the exact legal bearing of some of these Qur’anic injunctions is disputable, as Ramadan found in his analysis, “whereas in some others it simultaneously applies to more than one sphere of law.”⁴⁸ Many scholarly attempts have been made to group the so-called legal verses (*aḥkām al-qur’ān* or *āyātul-aḥkām*)—a genre in the literature of Islamic jurisprudence—which range from 200 *āyāt* to almost the entire Qur’an, according to various estimates.⁴⁹ In spite of that, Crone claimed that

⁴⁵ Al-Ghazzālī, *Jawāhir al-qur’ān* (Beirut: Dār Iḥyā’ al-‘Ulūm, 1990), 3rd edition, 32-34; see also the English translation of the Arabic version by Muhammad Abūl Quasem, *The Jewels of the Qur’an: al-Ghazzālī’s Theory* (Malaysia: National University of Malaysia, 1977), 30-33.

⁴⁶ Al-Ghazzālī, *Jawāhir al-qur’ān*, 147; Abdul Quasem, *The Jewels of the Qur’an*, 156.

⁴⁷ Abdul Wahhāb Khallāf, *‘Ilm ‘uṣūl al-fiqh* (Cairo: Maktaba al-Dawa), 8th edition, 30-34.

⁴⁸ Said Ramadan, *Islamic Law: Its Scope and Equity* (Geneva, 1970), 2nd edition (reprint of the (London: R. MacMillan Ltd., 1961, 1st edition), 36.

⁴⁹ Al-Suyūṭī, *Iklīl fī istinbāt al-tanzīl* (Beirut: Dār al-Kitāb al-Arabi), 12.

“no sources survived from the formative first century of Islamic law.”⁵⁰ Her view completely ignores the Qur’an as an early Islamic legal text. Crone also opined that the “[Islamic] tradition is in fact armed to the teeth against imputations of foreign influence.”⁵¹ Suffice it to say here that the appearance of the *Sharia*, or the Islamic legal tradition as a whole, as being hermetically sealed from foreign influences is due to the fact that aspects of provincial law inside and outside Arabia, which were of utility to the Muslim body politic and not antithetical to the spirit of Islam, were co-opted by the *Sharia* wholly, partially, or with some modification, whereas those that did not were rejected. The question of foreign influences on Islamic Law is fully treated in a later section of this chapter.

b. The Legal *Sunna*

The term *sunna*, from the Arabic verb *sanna*, “to clarify” or “to explain,”⁵² appears to be in usage during the Muḥammadan era. The Qur’an mentions *sunna* in several places⁵³ within the etymological context of “a path” (*ṭarīqa*),⁵⁴ “a way of doing something,” or “conduct” (*sīra*).⁵⁵ In Ḥadīth, *sunna* is frequently mentioned with similar connotations: “Whosoever established a good conduct (**sunna ḥasana**) and others follow him in it after he is gone, the likes of their rewards are written down for him, which does not take away from theirs. And whosoever established a bad conduct (**sunna sayyi’a**) and others follow him in it after he is gone, the likes of their burden are written down for him, which does not take away

⁵⁰ Patricia Crone, *Roman, Provincial, and Islamic Law: The Origins of the Islamic Patronate* (NY: Cambridge University Press, 2002), 2.

⁵¹ Crone, *Roman, Provincial, and Islamic Law*, 2.

⁵² *Lisān al-‘arab*, vol. 3, 2124.

⁵³ Q 15:13; 17:77; 18:55; 33:38, 62; 48:23.

⁵⁴ Al-Zamakhsharī, *al-Kashshāf*, vol. 3, 400-01.

⁵⁵ *Lisān al-‘arab*, 2124; Hughes, *Dictionary of Islam*, 622.

from theirs.”⁵⁶ The Prophet also reportedly said, “Whosoever emulates me is of me and whosoever turns away from my **Sunna** is not of me.”⁵⁷ Thus, the *Sunna*, in the *sīra* context, epitomized the Prophet’s model conduct for his followers, which they imitated publicly and privately, since it demonstrated Islam as a practical way of life. Sunnite Muslim scholars have technically defined the *Sunna* as “what the Prophet reportedly, did, or approved.” Those who took a skeptical approach to the *Sunna*, which favors a post-Muḥammadan date for Ḥadīth literature, far less the structure of Islamic Law, found the juristic definition of the *Sunna* to be “doctrinally inspired.” Ramadan rebutted the argument, stating “this confusion prevails in most non-Muslim writings on the subject. Prof. Schacht, for instance, bases his opinions on similar conclusions. Another example is Prof. Alfred Guillaume, who shares this conclusion with astonishing ease. Prof. Khadduri not only follows in the footsteps of his Western predecessors, but further brings a new definition of the *Sunna* which has nothing to do with what all Muslims understand by it.”⁵⁸ Failure to discern the genesis of Islamic terms, their historical development, and mediation through many different schools of thought has contributed greatly to misconceptions of not only the *Sunna* but also the *Sharia* as a whole.

⁵⁶ Muslim (*ḥadīth* no. 1017) in al-Nawawī, *al-Minhāj*, 645. The legal theorists (*uṣūliyyūn*) and majority of *ḥadīth* scholars (*muḥadiththūn*) deduced that only three things were of legal import from the Prophet’s practice: his words, deeds, and approval, which they technically defined as the *Sunna*. The Prophet’s word refers to his Arabic speech; his deeds refer to those actions of his that the Companions emulated; and his approval refers to the things done or said in his presence, which he did not censure or prohibit but remained silent or tacitly acknowledged. For a listing of the technical usages of *Sunna* in the works of Muslim, see al-Shātibī, *al-Muwaḥḥaḥāt* (KSA: Dār Ibn ‘Affān, 1997), 1st edition, vol. 4, 289-93.

⁵⁷ Al-Bukhārī (*ḥadīth* no. 5063) in Ibn Hajar, *Fath al-bārī*, vol. 11, 314; Muslim (*ḥadīth* no. 1401) in al-Nawawī, *al-Minhāj*, 869.

⁵⁸ Ramadan, *Islamic Law: Its Scope and Equity*, 45.

Insofar as projecting his role as the Messenger of God or God's Prophet, Muḥammad derived his legal authority wholly from the Qur'an.⁵⁹ The imperative phrase "*Obey Allah and His Messenger,*" for instance, is mentioned 11 times in the Qur'an.⁶⁰ The Prophet's word is authoritative because "*that [which he conveys to you] is but [a divine] inspiration with which he is being inspired.*"⁶¹ Early evidence that his word was law to his Companions is found in the pre-Hijra al-'Aqaba oaths of allegiance.⁶² We also see it in his sending of 'Amr b. al-Āṣ as the Muslim envoy to Oman with a letter to the two brother kings Jayfar and 'Abd, inviting them to accept Islam and submit to his authority. The younger king 'Abd bombarded 'Amr with questions about Islam and the Prophet, such as "What does Muḥammad command and prohibit you?" 'Amr answered, "He commands us to obey Allah and prohibits us from disobedience (*ma'ṣiya*). He commands us to righteousness (*birr*) and to honor family ties (*ṣilatul-rahm*) and prohibits us from drinking intoxicants (*khamr*) and worshipping stones, idols, and the cross (*ṣalīb*)."⁶³ This diplomatic encounter discloses that political leaders at the time were expected to issue laws, that the Prophet was held to that rank and authority by his Companions and foreign rulers, and that his edicts extended to religion, family life, personal and public conduct. Again it is seen in the incident in which an Anṣār⁶⁴ member had an argument with al-Zubayr over a *shirāj* (literally, a place in which water

⁵⁹ Cf Noel J. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1978), 9.

⁶⁰ See Q 64:12; 58:13; 47:33; 24:54; 8:1, 20, 46; 5:92; 4:59; 3:32, 132.

⁶¹ Q 53:4. Cf Q 38:70; 41:6; 46:9; 33:2; 21:108; 20:13; 18:110; 11:12; 10:15, 109; 7:203; 6:50.

⁶² See the discussion of the al-'Aqaba oaths of allegiance in the second chapter of this work.

⁶³ Ibn Tūlūn, *I'lām al-sā'ilīn* (Beirut: Mu'assa al-Risāla, 1987), 2nd edition, 97; al-Qalqashandī, *Ṣuḥb al-a'shā* (Cairo: Dār al-Kutub al-Miṣriyya, 1915), vol. 6, 380; Ḥamīdullāh, *Majmū'a al-wathā'iq*, 161-62.

⁶⁴ Scholars differ on the name of this individual. The strongest view is that he was Ḥāṭib b. Abī Balta'a.

flows from a stony tract onto a soft, plain tract)⁶⁵ at al-Ḥarra.⁶⁶ Both of them used to draw water from it. The Prophet reportedly said to al-Zubayr, “*Draw your water first and then let it flow to your neighbor.*” The Anṣārī objected, saying angrily, “Is it because he is your cousin?!” But the Prophet insisted, telling al-Zubayr, “*Draw your water and trap it, so that it returns to the dam; then send it to your neighbor.*”⁶⁷ That occasioned the revelation: “*But no, by the Lord, they can have no (real) Faith, until they make thee judge in all disputes between them, and find in their souls no resistance against Thy decisions, but accept them with the fullest conviction.*”⁶⁸ The āya begins with an oath, indicating the seriousness of the divine injunction and stipulating unquestioned obedience to the Prophet’s political and legislative authority.

The Prophet’s *Sunna*, as an exponent of Qur’anic law, confirmed and explained it, and promulgated new laws, that is, extra-Qur’anic injunctions. Al-Shāfi‘ī (d. 204/819) held that the Prophet’s role as a lawgiver did not exceed these three legislative functions vis-à-vis the Qur’an.⁶⁹ Evidence that the *Sunna* explains the Qur’an is found in

⁶⁵ Lane, *Arabic-English Lexicon*, 1529.

⁶⁶ Al-Ḥarra was found in four or five locations in Madīna sometimes identified by their cardinal directions, such as the eastern Ḥarra, western Ḥarra, and so forth. The most famous of them were Ḥarra Wāqim (or Eastern Ḥarra), Ḥarra al-‘Aqīq (or Western Ḥarra), and Ḥarra Laylā. Madīna had several wadies (figures vary on the exact number), which were the main torrent courses after heavy rainfall. People vied in drawing water from them. The Prophet’s regulation on their access gave priority to those at the higher reaches of the watercourses, allowing them to dam off what is sufficient for their usage and then release it to continue its flow down the wadi. See al-Samhūdī, *Wafā’ al-wafā*, vol. 1, 211; Ibn Hajar, *Fath al-bārī*, vol. 6, 165; Wensinck, *Muhammad and the Jews of Medina*, 11-15.

⁶⁷ See al-Bukhārī (*ḥadīth* no. 2359) in Ibn Hajar, *Fath al-bārī*, vol. 6, 162-68; Muslim (*ḥadīth* no. 2357) in al-Nawawī, *al-Minhāj*, 1442; Aḥmad (*ḥadīth* no. 16215), 1144; al-Tirmidhī, *Sunan* (*ḥadīth* nos. 1363, 3027 - *ṣaḥīḥ*), 321 and 677; Abū Dāwūd, *Sunan* (*ḥadīth* no. 3637), vol. 2, 404-05; Ibn Māja, *Sunan* (*ḥadīth* no. 2480 - *ṣaḥīḥ*), 423; al-Nasā’ī, *Sunan* (*ḥadīth* nos. 5407, 5416 - *ṣaḥīḥ*), ed. al-Albānī (Riyadh: Maktaba al-Ma‘ārif, 1996), 813-14, 816.

⁶⁸ Q 4:65 (Y. ‘Alī).

⁶⁹ Al-Shāfi‘ī, *al-Risāla*, ed. Aḥmad Shākir (Beirut: Dār al-Kutub al-‘Ilmiyya, 1939), 91-92; *al-Shāfi‘ī’s Risāla: Treatise on the Foundations of Islamic Jurisprudence*, trans. Majid Khadduri (Cambridge: Islamic

the Qur'an itself: "*And upon thee [too] have We bestowed from on high this Reminder (dhikr), so that thou might make clear unto mankind (litubayyina) all that has ever been thus bestowed upon them, and that they might take thought.*"⁷⁰ This exegetical function of the Sunna consisted of elaborating general pronouncements in the Qur'an, clarifying their vagueness, or elucidating them. Al-Shāṭibī (d. 790/1388), in his *al-Muwaffaqāt*, wrote,

Either (the Prophet's explanation) referred to how (a Qur'anic injunction) is to be performed, to its causative factors, conditions, prohibitions, contingencies, and the like, such as his elaboration of the ritual prayer (*ṣalāh*) at specific times— notwithstanding disagreement (reported in Ḥadīth) on the timings—bowing (*rukū'*), prostrating (*sujūd*), and other ritualistic behavior associated with it; *Zakāh*, the amount of to be paid, its timings, and types of wealth subjected to it and types that are not; fasting (*sawm*), rulings concerning it that are not stipulated in the Qur'an; laws of ritual purification from minor and major defilement; rituals of pilgrimage (*ḥajj*); ritualistic slaughter (*dhabīḥa*) of animals for food; types of animals that can be hunted (*ṣayd*) and eaten and those that cannot; marriage and related issues like divorce, its types (*raj'a*, *khul'*, *li'ān*, *ẓihār*); rules on types of trade (*buyū'*); and laws on crimes and punishments, including retaliation (*qiṣās*), and so forth—all of which constitute explanations of Qur'anic generalities, falling under the words: "*And upon thee [too] have We bestowed from on high this reminder, so that thou might make clear unto mankind all that has ever been thus bestowed upon them.*"⁷¹

Even when Muḥammad promulgated extra-Qur'anic injunctions, especially in the realm of acts of worship, he attributed his right to do so as God's Messenger or Prophet, representing the Divine Legislative Authority; thus, any contradiction between the Qur'an and the Sunna is apparent and not real, since the inspirational source is the same for both of them, namely, God. He reportedly enunciated, "*I have been given the Book (i.e., the Qur'an) and what is like it with it. Perhaps a person shall sit comfortably on his couch and say, 'between us and you is the Book (of Allah). Whatever is lawful (ḥalāl) in it, we declare it as lawful; and whatever is unlawful (ḥarām) in it, we do the same.'*" Ah,

Texts Society, 1987), 2nd edition, 120; Mannā' al-Qaṭṭān, *Ta'rīkh tashrī' al-islāmī* (Riyadh: Makataba al-Ma'ārif, 1996), 76-78.

⁷⁰ Q 16:44 (Asad).

⁷¹ Al-Shāṭibī, *al-Muwaffaqāt*, vol. 4, 343.

*but this Affair is not like that! Unlawful (for your consumption) are the predator with fangs and donkey, as is a picked up item, belonging to someone who is in treaty (with us)—unless the person has no need of it. And if a man receives a folk in hospitality but is not received by them in hospitality, then he has the right to fault them with the likes of his reception.”*⁷² He also prohibited that a man should marry his wife’s maternal or paternal aunt.⁷³ Ḥadīth literature is replete with such examples that are not mentioned in the Qur’an.

c. The Prophet’s *Ijtihād*

Sometimes the Prophet exercised his own judgment, especially on worldly or secular affairs, without attributing it to divine inspiration; thus, it had no connection to *Sharia* and being his personal opinion, it could be valid or invalid as anyone else’s.⁷⁴ This type of legal reasoning in the absence or silence of proof-texts came to be known as *ijtihād* proper in the literature of Islamic jurisprudence. Ultimately, the Prophet’s *ijtihād*—as was the *ijtihād* of his Companions—was subject to Qur’anic review, which occurred in several ways: (i) verbal confirmation, (ii) negation, and (iii) tacit approval, as the following examples illustrate. An example of *verbal confirmation* is the Prophet’s

⁷² The *ḥadīth* is *ṣaḥīḥ* and is reported by ‘Abbās al-Tarqawī, al-Ṭabarānī in *al-Muj‘am al-kabīr*, al-Ṭaḥāwī in his *Sharḥ al-ma‘ānī* (without the words “picked up item”), Abū Dāwūd, *Sunan* (*ḥadīth* no. 3804), and Aḥmad (4/132); see *al-Albānī, Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 6, 871-73.

⁷³ The *ḥadīth* is *ṣaḥīḥ* and is reported by *al-Jamā‘a*, that is, Mālik; al-Bukhārī (*ḥadīth* nos. 5109-10) in Ibn Hajar, *Fath al-bārī*, vol. 11, 406; Muslim (*ḥadīth* no. 1408) in al-Nawawī, *al-Minhāj*, 876; Aḥmad, *Musnad* (*ḥadīth* nos. 9953, 9996, 10701, 10856, 10899), 715; Abū Dāwūd, *Sunan* (*ḥadīth* no. 2066 in *mu‘allaq* form - *ṣaḥīḥ*), vol. , 579; al-Tirmidhī, *Sunan* (*ḥadīth* nos. 1125-26 - *ṣaḥīḥ*), 267; al-Nasā’ī, *Sunan* (*ḥadīth* nos. 3288-94 - *ṣaḥīḥ*), 509-10; Ibn Māja, *Sunan* (*ḥadīth* nos. 1929 -31 *ṣaḥīḥ*), 334-35. This *ḥadīth* is also *mutawātir* based on the large number of *asānīd* that goes back to Abū Hurayra, according to Ibn Abdul Barr. See al-Shawkānī, *Nayl al-awṭār*, vol. 6, 624-27; al-Albānī, *Irwā al-ghalīl*, vol. 6, 288-91.

⁷⁴ Usually identified as the Prophet’s *ijtihād* (i.e., independent judgment in the absence of revelation or revelatory evidence), this issue has generated much debate mainly in *usul al-fiqh* works. The *uṣūliyyūn* generally agreed that the Prophet did exercise *ijtihād* but differed on whether he did so on strictly religious matters, included the lawful (*ḥalāl*) and unlawful (*ḥarām*); or on strictly secular matters like war, judicial testimony, and the like; or on both religious and secular matters. They also differed on whether his *ijtihād* was fallible, that is, susceptible to errors, or not on both religious and secular matters. See al-Āmadī, *al-Iḥkām fī uṣūl al-aḥkām* (Riyadh: Dār al-Ṣamī‘ī, 2003), 1st edition, vol. 5, 137-39.

order to his cousin al-Zubayr to draw water from the *shirāj* first and then allow it to flow down the tract to others, as mentioned in the above section, which the Qur'an confirmed: "*But no, by the Lord, they can have no (real) Faith, until they make thee judge in all disputes between them. . . .*" An example of *negation* is the Prophet's banning of honey,⁷⁵ which the Qur'an cancelled: "*O Prophet! Why bannest thou that which Allah hath made lawful for thee, seeking to please thy wives?*"⁷⁶ An example of *tacit approval* is the Prophet's numerous rulings pertaining to societal transactions, as he reportedly said, "*I am a mortal (bashaṛ). If I order you (to do) something regarding your religion (dīn), take it from me; but if I order you something out of my own opinion [regarding worldly matters], then I am just like you.*"⁷⁷

In sum, Islamic tradition discerned between Muḥammad, the ordinary mortal, and Muḥammad, the inspired prophet.⁷⁸ Here are a few examples from the *sīra* and Ḥadīth that demonstrate the two dimensions of his status. At Badr, the Prophet and his raiding party of about 315 men had reached its watercourses before Quraysh's 1000-strong contingent arrived there. Al-Ḥubāb b. al-Mundhir b. al-Jumūḥ, a Companion, said, "O Messenger of Allah! Do you consider this spot because Allah revealed it to you

⁷⁵ It is reported that the Prophet's wife Sawda had a relative in Yemen who sent her some honey as a gift. He visited her outside of her allotted time and partook of it, which he loved very much. His other wives Ā'isha and Ḥafṣa found out and became annoyed at his unscheduled visit to Sawda, which they thought might become his habit, so they plotted that when he comes to either of them, she will hold her nose and complain of a foul smell from honey coming from him. They did that, and the Prophet, who was fond of sweet smells, was led to believe that Sawda's honey was the cause of his bad odor and banned it, promising never to eat it in the future. It was the *sabab al-nuzūl* for Q. 66:1 ("*O Prophet! Why bannest thou that which Allah hath made lawful for thee, seeking to please thy wives?*") See al-Wāḥidī, *Asbāb al-nuzūl*, 440; al-Bukhārī ((*ḥadīth* no. 4912) in Ibn Hajar, *Fath al-bārī*, vol. 11, 5-7; al-Ṭabarānī, *al-mu'jam al-kabīr* (*ḥadīth* no. 11226), vol. 11, 117; al-Haythamī (*ḥadīth* no. 11426), *Baghiya al-rā'id*, vol. 7, 269.

⁷⁶ Q 66:1.

⁷⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī, Muslim, Aḥmad et al; see al-Albānī, *Irwā' al-ghalīl* (*ḥadīth* no. 155; see also nos. 314, 556, 559, 562), vol. 1, 183.

⁷⁸ Ramadan, *Islamic Law: Its Scope and Equity*, 76-77; al-Qaṭṭān, *Ta'rīkh tashrī' al-islāmī*, 110.

and not us, so that we must advance and not withdraw or is it a mere opinion out of war stratagem?" The Prophet said, "*Rather, it is an opinion based on war stratagem.*" Al-Ḥubāb replied, "O Messenger of Allah! This is not the right spot. Let us ride until the lowest end of the water to (Quraysh) and alight there, where we shall destroy the wells around it and build a reservoir for ourselves and fill it up with water, so that we can drink water, but they will be unable to do so. There we will fight them." The Prophet said, "*Your opinion is right*"; and they followed al-Ḥubāb's plan with success.⁷⁹ As the report goes, every time a fighter from Quraysh attempted to fetch water from the Badr wells, he was easily picked off by arrows from the Muslims' positions. Another example is that the Prophet passed by some Madanites who were pollinating date palms (*ta'bīr al-nakhl*) and said to them, "*Perhaps it would be better if you did not do that.*" In compliance, they abandoned their work but did not reap a harvest that year. Informed about it, the Prophet said, "*If it benefits them, let them continue doing it (i.e., **ta'bīr al-nakhl**). I had an assumption (ẓann) about it. Pardon me in my assumptions (which can be correct or not). But if I talk to you about Allah, then take it from me, for I never speak but the truth about Him.*"⁸⁰

During the Battle of Khandaq in 5/627, al-Wāqidī reported that Banū Qurayẓa had sent word to Abū Sufyān in Makka, informing him to bring a force to Madīna and assuring

⁷⁹ This *ḥadīth*, which is reported by Ibn Ishāq, is *munqaṭi'* because the link between Ibn Ishāq and Banū Salama in the *isnād* is unknown, as in Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 263; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 14; and al-Ṭabarī, *ta'rīkh*, vol. 2, 440. It is also *ḍa'īf* in al-Ḥākim, *al-Mustadrak (ḥadīth nos. 5872-73)*, vol. 3, 524. That is because the authorities in al-Ḥākim's *isnād* of the *ḥadīth* are "unknown," according to al-Albānī in Muḥammad al-Ghazzālī, *Fiqh al-sīra* (Cairo: Dār al-Rayyān, 1987), 1st edition, 235. Ibn Hajar reported that it is *mursal* and attributed to 'Urwa in his *al-Isāba*, vol. 1, 316. Nevertheless, in spite of the *ḥadīth*'s weakness (*ḍa'īf*), some have claimed that its multiple narrations raise it from *ḍa'īf* to the level of *ḥasan li ghayrih*; see Aḥmad, *al-Sīra al-nabawiyya*, 345.

⁸⁰ Muslim (*ḥadīth nos. 2361-63*) in al-Nawawī, *al-Minhāj*, 1446-47; Ibn Māja, *Sunan (ḥadīth nos. 2470-71 - ṣaḥīḥ)*, 421-22.

him of their plan to attack the main flank of Muslims from behind.⁸¹ The Qurayza settlement was situated east of al-Naḍīr in the wadi Mahzūr, bordering the territory of Aws in the north-west, Banū ‘Abd al-Ashhal in the north-east, and Muḥammad’s camp in Madīna to the east.⁸² The communication was overheard by Nu‘aym b. Mas‘ūd who was with the Ghaṭafān tribe at the time but had an agreement with the Prophet, so he came to Madīna to inform him of Qurayza’s collusion with the pagan Arab confederacy. The Prophet said, “*Perhaps we should order them to do that.*” Not known for concealing his speech, Nu‘aym asked Muḥammad if his statement was issued from his capacity as God’s Messenger. When Nu‘aym left, heading to Ghaṭafān, ‘Umar b. al-Khaṭṭāb said to the Prophet, “What did he say?! If the matter is from Allah, then execute it. But if it is your mere opinion, then the Banū Qurayza affair is weaker than to say something that would be quoted from you.” The Prophet replied, “*Rather, it is only my opinion. War is deception.*”⁸³ When they were unsure, the Companions were wont to ask about the source of his opinions in order to ascertain whether they were *Sharia*-based or not. The story is told of Barīra, a former female slave. When she was freed, the Prophet gave her the choice to stay with her husband Mughīth or not. She chose to leave him.⁸⁴ Ibn ‘Abbās narrated that he once saw Mughīth circumambulating the Ka‘ba behind Barīra, weeping with tears running down his beard. The Prophet commented on their relationship: “*Are you not amazed at Mughīth’s love for Barīra and her hatred for him!*” He

⁸¹ Watt, *Muhammad at Medina*, 214.

⁸² Wensinck, *Muhammad and the Jews of Medina*, 27.

⁸³ Al-Wāqidī, *al-Maghazi*, vol. 2, 486-87; see also the chapter on the Prophet’s “Relations with Non-Muslims” for more on the divide-and-rule tactic used by the Prophet against Qurayza and Quraysh.

⁸⁴ See al-Nasā’ī, *Sunan* (*ḥadīth* no. 3449 - *ṣaḥīḥ* except for the last part of it: “her husband was a freed person”), 534; Ibn Māja, *Sunan* (*ḥadīth* no. 2074), 359; al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 1308), vol. 5, 152-53.

said to her, “Would you not return (rāj’ati)⁸⁵ to him?” She asked him, “O Messenger of Allah! Are you ordering me?” The Prophet said, “No. I am only being an intercessor.” Barīra replied, “I have no need of him!”⁸⁶ That is, she first inquired into the source of Muḥammad’s request: is he speaking to her in his capacity as Messenger of Allah? His answer was that it was his own *ijtihād* and that it did not have the binding force of revelation; in other words, he did not attribute it to Divine Legislative Authority. It appears that Muḥammad went to great lengths to explain to his *Umma*—often overlooked in many scholarly discourses—that not all of his judgments stemmed from divine revelation or inspiration. Once he overheard an argument outside his house, so he came out and said to the disputants, “I am only a mortal. A dispute may come to me and perhaps one of you is more eloquent than the other person, so I think that he is truthful and rule in his favor. Whomsoever I pronounce a sentence for with the right of a Muslim, it (i.e., the issue) is part of the Fire (of Hell). Let him take it or leave it.”⁸⁷ That is to say, “The one in whose favor I rule, basing it on the outward aspect of the case, should not accept it if he knows that the inward aspect is unlawful, thereby taking the interpretation that leads to the

⁸⁵ In Islamic divorce (*talāq*) proper, the husband and wife are given a waiting period or ‘*idda*’ of one month (typically, a menstrual cycle) after the divorce pronouncement is made to the wife, during which time the couple may reconcile their differences. If they reconciled before the waiting period is over, the marriage is intact, and they continue their matrimonial life but *talāq* pronouncement is held against them. If, however, they did not reconcile and the waiting period expires, then divorce occurs, although not irrevocably. The Prophet was encouraging Barīra to reconcile with Muḥīth before the ‘*idda*’ expired out of his empathy for the couple, while respecting her right of divorce; see al-Zayla‘ī, *Nasab al-rāya*, vol. 3, 204-08.

⁸⁶ The *isnād* of this *ḥadīth* is *ṣaḥīḥ* and is reported by Ibn Sa‘d, al-Bukhārī, Abū Dāwūd, Sunan (*ḥadīth* no. 2231), al-Nasā‘ī (*ḥadīth* no. 5361), al-Dāramī, Ibn al-Jārūd (no. 741), and Aḥmad (*ḥadīth* nos. 1844, 2542, 3405), and al-Bayhaqī; see al-Albānī, *irwā’ al-ghalīl* (*ḥadīth* no. 1873), 277-78.

⁸⁷ The *ḥadīth* is *ṣaḥīḥ* and reported by al-Bukhārī (*ḥadīth* no. 7181) in Ibn Hajar, *Fath al-bārī*, vol. 17, 5; Muslim (*ḥadīth* no. 1713) in al-Nawawī, *al-Minhāj*, 1100-01; Abū Dāwūd, *Sunan* (*ḥadīth* no. 3583), vol. 2, 392; Ibn Māja, *Sunan* (*ḥadīth* no. 2317), 396; al-Nasā‘ī, *Sunan* (*ḥadīth* no. 5401), 812; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1339), 316. It is also reported by Ibn Hibbān, al-Ṭahāwī in *sharḥ al-ma‘ānī*, Aḥmad, and Abū Ya‘lā—all from the *ḥadīth* of Umm Salma. For other variations of it and its chains of authorities, see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 1, 816-18.

Fire. Thus, he made the judgment given in someone's favor—if taken wrongfully—a cause that puts into effect the earning of the Fire. To '*Take it or leave it*' is not an option but is, rhetorically, a warning against accepting it, which is similar to the Qur'an's words: '*let him who wills, believe in it, and let him who wills, reject it*'⁸⁸ and '*do what you will*'⁸⁹. . . ."⁹⁰ The *ḥadīth* also buttresses the premise that Islamic Law, as a regulation policy in the Prophet's time, primarily governed the outward sphere of individuals' actions and not the inward sphere of intention, motivation, and desire.

Part II:
d. Misconceptions of *Sharia*

According to our teacher Abou El-Fadl, "Islamic Law is derived from two distinct sources: the Qur'an and the traditions of the Prophet (known as the *ḥadīth* and *Sunna*)."⁹¹ During the Prophet's time, the Qur'an and Sunna were primarily orally transmitted traditions; after his death, when they were written down, the *Sharia* became a textual tradition, comprising the axial texts of Qur'an and *Ḥadīth*, representing the Divine Legislative Authority. "In other words, the structure of Islamic Law—the *sharia*—was completed during the lifetime of the Prophet, in the Qur'an and the Sunna," wrote Ramadan (d. 1995) in his seminal work on the subject. "This brings us to an important fact which is generally overlooked. It is that the invariable basic rules of Islamic Law are only those prescribed in the *Sharia* (Qur'an and Sunna), which are few and limited. Whereas all juridical works during more than thirteen centuries are

⁸⁸ Q 18:29 (Asad).

⁸⁹ Q 41:40 (Asad).

⁹⁰ Al-Qinnawjī, '*Awn al-bārī li ḥalli adilla al-bukhārī* (Ḥalb: Dār al-Rashīd, 1984), vol. 3, 251-52.

⁹¹ Khaled Abou El-Fadl, *The Great Theft: Wrestling Islam from the Extremists* (NY: HarperCollins, 2007), 142.

very rich and indispensable, they must always be subordinated to the *Sharia* and open to reconsideration by all Muslims.”⁹² The diverse complex linguistic methods developed by Muslim jurists, the rise and disappearance of scores of schools of Islamic legal thought, and the vast corpora of Islamic jurisprudence have led many to erroneously equate one with the other—*sharia* with *fiqh*—to the extent that “‘Islamic Law’ is a shorthand expression for an amorphous body of legal rulings, judgments, and opinions that have been collected over the course of many centuries.”⁹³ Explaining *Sharia* to western audiences, Gibb stated,

Law in the eyes of the Muslim scholars was not in fact an independent or empirical study. It was the practical aspect of the religious and social doctrine preached by Muḥammad. For the early Muslims, there was little or no distinction between ‘legal’ and ‘religious’. In the Koran, the two aspects are found side by side, or rather interwoven one with the other, and so likewise in the Ḥadīth. The study and interpretation of the Koran involved sometimes the one and sometimes the other, and nearly a century elapsed before scholars began to specialize in one or the other aspect. Ultimately they were distinguished by relative terms: ‘ilm, ‘positive knowledge,’ denoting theology (though not excluding law), and *fiqh*, ‘understanding’, denoting law (as based on theology). Only at a much later date was the Greek word ‘canon’ (*qānun*) adopted to denote administrative rule as distinct from revealed law. Thus, ‘canon law’ in Arabic should mean the exact opposite....⁹⁴

Thus, a fundamental distinction must be made between Islamic Law or *Sharia* and Islamic jurisprudence (*fiqh*), the endeavor of Muslim jurists. The former is the divine law of Islam, real or imagined; the latter is the human endeavor to interpret it in different cultural contexts over time. The one is founded on the Qur’an and Ḥadīth; the other on juristic methods, such as *qiyās* (“juristic analogy”), *ijmā’* (“consensus of juristic opinion”), *urf* (“provincial law and customs that do not contradict the *Sharia*”), and the like.

⁹² Ramadan, *Islamic Law: Its Scope and Equity*, 36.

⁹³ El-Fadl, *The Great Theft*, 149.

⁹⁴ Gibb, *Mohammedanism*, 90.

This misconception of *Sharia*, however, has persisted in western discourses by many non-Muslim and Muslim scholars, past and present. Sherman Jackson, for example, in his *Jihad and the Modern World*, apparently conflated the two legal constructs of divine law and jurists' law to represent Islamic Law. He posited that "With the exception of its claim to divine origins, perhaps the most glaring contrast between Islamic law and modern, secular systems is that Islamic law constitutes what the late Orientalist Joseph Schacht [d. 1969] referred to as an extreme case of 'jurists' law. Islamic law was neither the creation nor the preserve of the early Muslim state. Rather, it developed to a large extent in conscious opposition to the latter."⁹⁵ But Islamic Law, as a construct of divine law, cannot be of both divine and human origins at the same time, which are mutually exclusive. Indeed, Sunnite jurists, especially the legal theorists, have never articulated their fatwas, rulings, judgments, and methods as being constitutive of the "*Shar'*"⁹⁶ or *Sharia*; rather, they held that their works are a production of Islamic jurisprudence or *fiqh* (from the Arabic verb *faqaha*, "to understand" or "discern"), which indicates a hermeneutic approach to the *Sharia* in much the same way that *midrash* is a means of understanding Torah; and just as *midrash* is not Torah, so too *fiqh* is not *Sharia*. As for Schacht's "extreme case of 'jurists' law,' Ramadan has cogently critiqued this thesis:

The diversity of juristic opinion should be considered as an active sign of the flexibility of the *Sharia*, and not as a dogmatic seal on its applicability. But such a flexibility can be

⁹⁵ Sherman Jackson, "Jihad and the Modern World," *Journal of Islamic Law and Culture*, vol. 7, no. 1, Spring-Summer 2002, 1-26.

⁹⁶ *Shar'* is the term generally used by Muslim lawyers and jurists to designate the divine law based on the Qur'an and the Sunna, whereas they attributed their works to Islamic jurisprudence or *fiqh*, which is an interpretation of the *shar'*. See al-Qinawwī, *Abjad al-'ulūm* (Damascus: Wizāra al-Thaqāfa wal-Irshād al-Qawmī, 1978), 337.

conceived only if the study of the *Sharia* precedes the endless journey amidst the extensive works of the jurists. Even that is not enough. All through this endless journey, we should not lose sight of the simple fact that Islam, in the sense of binding law, was defined forever by the Qur'an and the Sunna, and any new claim to binding authority in the name of Islam has to be authenticated by them. . . .In light of the above, we may better judge a statement such as that of Prof J. Schacht: '*During the greater part of the first century, Islamic Law in the technical meaning of the term did not yet exist. As had been the case in the time of the Prophet, law as such fell outside the sphere of religion, and as far as there were no righteous or moral objections to specific transactions or modes of behavior, the technical aspects of law were a matter of indifference to the Muslims.*'⁹⁷ It all depends on what Prof. Schacht means by 'technical.' If it implies any attribution of authority to any legal source outside the Qur'an and the Sunna, then we are faced with a basic contradiction of the very concept of *Sharia*. But if it only means the technical classification of what the Prophet in his lifetime had completely conveyed and outlined, or the technical procedure (*lex fori*) which is to be initiated by the requirements of time in the execution of justice as administered by the sharia, then such a statement may be tolerated despite its vagueness. However, the way Prof Schacht elaborates on his statement gives us more than one argument to consider it to be a basic contradiction and misconception. The late dating of the coming into existence of Islamic Law, as presented by him, seems to serve him as a proof for two grand conclusions. Says he, '*Mohammedan jurisprudence started about the year AH 100 [718 CE]. It follows society which was shaped by the Prophet of Islam has to be accepted, so far as Islam and Islamic Law are concerned, as the most perfect representative thereof. Its open-mindedness regarding the adoption of foreign legal elements—wherever such adoption and foreignness are verified—should be considered as a characteristic of flexibility in Islamic Law and society.*' If by 'foreign legal elements' Prof. Schacht meant, as the vagueness of his statement and the examples he gives seem to imply, not only their introduction by non-Muslims or non-Arab converts but also the alteration, thereby, of any Islamic legal principle, one may wonder how such a diversion from Islam could be a conceivable process for the build-up of Islamic Law.⁹⁸

Concerning the model of legal understanding in the Early Islamic Period, Shah

Waliaullah (d.1176/1762) recounted the following:

Al-fiqh was not recorded in the time of the Messenger of Allah. Nor was there an investigation in those days like that of jurists (*fuqahā'*) today who exert their utmost efforts to explain *arkān* ('pillars'), *shurūṭ* ('conditions'), or *ādāb* ('etiquette'). Each matter was distinguished from the other by its own evidence (*dalīl*, literally 'indication' or 'sign'). . . .They observed the Messenger of Allah perform ritual ablutions and emulated him without his explanation that this action is a 'pillar' or that an 'etiquette.' They watched him perform the ritual prayer and they performed it as he did, just as they emulated him in his performance of the pilgrimage rituals. That was his general disposition. He did not point out that the *wājibāt* ('obligatory aspects') of ablution were six or four, or stipulate that a person may perform ablution without *muwālāh* ('interruption'),⁹⁹ so that it could be ruled *ṣaḥīḥ* ('valid') or *fāsid* ('invalid'). . . .Whenever

⁹⁷ J. Schacht, "Pre-Islamic Background and Early Development of Jurisprudence," in *Law in the Middle East*, 35-36.

⁹⁸ Ramadan, *Islamic Law: Its Scope and Equity*, 37-38.

⁹⁹ By *muwālāh* is meant the washing of one bodily part, like the face, interrupting the ritual ablution to do some other activity and then returning to complete it, so that the ablution is not done as a continuous single

they raised legal issues with him, he would adjudicate them. If they did something good, he would commend it; if bad, he condemned it. And he did not confine his verdicts, judgments, or censures to only social affairs.¹⁰⁰

Henceforth in this chapter and throughout the dissertation, *Sharia* shall be identified with 'Islamic Law' as expressed in the Qur'an and Sunna, whereas the works of Muslim legal scholars will be referred to as Islamic jurisprudence or *fiqh* with its peculiar jargon and research methods.

Part III:

e. Foreign Influences on the Sharia?

That 'Islamic Law' is an amalgamation of various foreign influences is a site of scholarly contestation. The investigation of influences on Islam as a whole emerged as a trend in western scholarship in the early twentieth century, perhaps beginning with K. Ahrens who saw Muḥammad as having a "Christian outlook" on Judeo-Christian traditions, especially Christianity. Much earlier, in 1833, Rabbi Abraham Geiger had started the investigation of Muḥammad in search of "Jewish influences" in Islam.

Altogether, at least four major paradigms are discerned in the scholarly discourses on what constitutes *Sharia*:

1. The first paradigm is that Islamic Law was *wholly* influenced by Roman, Persian, or Jewish law.
2. The second paradigm is that Islamic Law was *substantially* influenced by these non-Arab foreign sources.

act. The *fuqahā'* differ on its permissibility. See Ibn Rushd, *Bidāyatul-mujtahid wa nihāyatul-muqtaṣid* (Cairo: Dār al-Islām, 1995), 1st edition, vol. 1, 47-50.

¹⁰⁰ Walīuallāh, *al-Inṣāf*, 3-4.

3. The third paradigm is that Islamic Law was *entirely* devoid of foreign influences, originating in the Qur'an, Sunna, and native Arab conventions of order and authority.

4. The fourth paradigm—the so-called “common origins” approach—is that Islamic Law stemmed squarely from the Qur'an and Sunna but incorporated certain foreign laws and legal customs for utility purposes, as long as such ‘influences’ were not anti-Islamic; that is, the *Sharia* co-opted foreign legal instruments that did not contradict the ideology of Islam and political goods of the Islamic State.

Less noteworthy but not irrelevant are the paradigms of ‘history of religions’ and world history approaches to Islam and *Sharia*; the latter in particular perceives the phenomenon of Islam as a continuous development of the religious tradition in the Near East, emphasizing external cultural influences and ecological factors, which is best presented in Hodgson’s Irano-Semitic Islamicate conceptual framework expounded in his *The Venture of Islam* series. The question of foreign influences on *Sharia* is problematic. It eludes a consensus of opinion on definition and ignores elements of originality in Islam. The manner in which some scholars have used “influence or influences”—and others who continue to use it in the same way—vary, suggesting “borrowing” on the one hand; to wit, Muslim jurists borrowed legal norms from Talmudic or Roman sources and “following” on the other hand, in the sense that Islamic Law, at least in its embryonic stage, was first patterned after Jewish law and later after other foreign sources. It was Rodinson (d. 2004) who warned scholars against taking this approach to the extreme:

It is highly presumptuous to believe that one can study the development of nascent Islam by ignoring the great world religions whose influence, we now know, penetrated all parts of Arabia at the beginning of the seventh century. This kind of investigation, however, had its excesses. It ran the risk of forgetting the definite originality of Islam and the evident fact that a study of influence cannot fully explain the origin of a new ideological phenomenon or its own particular dynamism. One must never under any circumstances or in any area shun a structural analysis which takes into account the functional necessity of the new ideology. After all, Muḥammad became neither a Jew nor a Christian. And if that had happened, it would have been necessary not only to determine the influences that had brought about his conversion but also to explain why it was that he had allowed himself to be influenced.”¹⁰¹

In sum, the theory of external influences (Roman, Judeo-Christian, etc) on *Sharia*, which is the subject of inquiry here, has not been definitely proven and is not devoid of the fallacies of ‘weak analogy’ (e.g. A and B are similar; A has a certain property; therefore, B must have that property too), ‘false alternative’ (i.e. a failure to consider all possible explanations), and ‘post hoc’ (because A occurred before B, A must have caused B; that is, a causal relationship is assumed between the two), as demonstrated in the following analyses.

Based on parallels between the two theocratic legal systems, a plethora of works have credited Islamic Law to Jewish origins, as found in the writings of Goitien,¹⁰² Newby,¹⁰³ Guillaume,¹⁰⁴ Hurgronje,¹⁰⁵ Fitzgerald,¹⁰⁶ Liebesny¹⁰⁷ and, to a lesser extent, Goldziher (d. 1921), Schacht, and Crone, to name a few. This school of thought is epitomized by Wegner in her *Islamic and Talmudic Jurisprudence*: “When, however, we move beyond comparison of substantive legal rules to a more global comparison of the

¹⁰¹ Rodinson, “Modern Studies on Muhammad,” , 23-85; 25.

¹⁰² S. D. Goitein, *Jews and Arabs* (New York: Schocken, 1964).

¹⁰³ Gordon D. Newby, *A History of the Jews of Arabia* (SC: University of South Carolina Press. 1988).

¹⁰⁴ Alfred Guillaume, "The Influence of Judaism on Islam," in *The Legacy of Israel*, ed. Edwyn R. Bevan and Charles Singer (Oxford: Clarendon Press, 1928).

¹⁰⁵ C. Snouck Hurgronje, *Selected Works* (eds. Bousquet and Schacht, Leiden, 1957), 48-74.

¹⁰⁶ S. V. Fitzgerald, "The Alleged Debt of Islamic to Roman Law," *Law Quarterly Review* (1951), 81-102

¹⁰⁷ H. J. Liebesny, "Comparative Legal History: its Role in the Analysis of Islamic and Modern Near Eastern Legal Institutions," 20 *American Journal of Comparative Law* (1972) 38-72.

juristic philosophy which underpins the two systems (of Talmudic and Islamic law), we are in a sphere where systematic borrowing cannot be so readily discounted. Detailed similarities in legal theory inevitably raise the possibility of borrowing by the younger system from the older. Here, that hypothesis is supported by extensive correspondence in the technical terminology.”¹⁰⁸ She concluded that her findings were at best “circumstantial.” Apart from hasty generalization, her work bristles with ‘begging the question’ propositions. Discovering no evidence of references to foreign sources in Islamic legal texts, Wegner opined that Muslim jurists must have expunged them.¹⁰⁹ Needless to say, that is sheer speculation.

On the question of Roman influence on Islamic Law, the first scholar to introduce the notion might have been Dominico Gatteschi in 1865. In his *Manuale di diritto pubblico e privato ottomano*, he contended that Muslim law was substantially derived from Roman law. “Beginning with *a priori* historical reasoning, though disputable, and seeing numerous analogies between the two systems of law—that of Justinian and Islam—he (Gatteschi) supposed that the introduction of Roman norms into Islam had been facilitated by disguising (them) in the garb of apocryphal (*āḥādīth*) attributed to Muḥammad, the Prophet of Islam,” critiqued Nallino (d. 1938), the Italian Orientalist.¹¹⁰ In the west, it became the dominant view on the origins of Islamic Law

¹⁰⁸ Judith Romney Wegner, “Islamic and Talmudic Jurisprudence: The Four Roots of Islamic Law and Their Talmudic Counterparts,” *The American Journal of Legal History*, Vol. 26, No. 1 (Jan., 1982), 66, 71.

¹⁰⁹ Wegner, “Islamic and Talmudic Jurisprudence,” 67.

¹¹⁰ C. A. Nallino, “The Influence of Roman Law on Muslim Law,” translated from the original Italian work (entitled *Considerazioni sui rapporti fra diritto romano e diritto musulmano*) by Muḥammad Ḥamīdullāh, *Islamic Review*, vol. XLI, no. 12, December 1953, 9. Nallino first delivered it as a lecture at the International Congress of Roman Law, Rome, 1933; later in 1942, it was published posthumously by his daughter in a work entitled *Raccolta di scritti editi e inediti* (85-94).

during the nineteenth century. Alfred von Kramer popularized it in 1865. In 1880, Henri Hughes held that the two systems of law—Roman and Islamic—were scarcely different from each other. Goldziher thought that parallels between the two systems of law encompassed positive law as well as legal science. Among early 20th century contributors to this paradigm were Santillana, Morand, and Ion who wrote a lengthy article on the subject entitled *Roman Law and Mohammedan Jurisprudence*.¹¹¹ Around the same time, Nallino was the first Orientalist to challenge the view that Roman law influenced Islamic Law. He judiciously avoided the error of considering *sharia* and *fiqh* one and the same; thus, for him, “Muslim law” constituted *fiqh*, “part of the religious law (*Sharia*), which regulates the external activity of the believer with regard to God, with regard to his own self, and with regard to his fellow beings.”¹¹² Exposing the Romano-Hellenistic approach as based on mainly eight differential factors between Roman and Islamic systems of law, he argued that theoretical inter-dependency between the two or dependency of ‘Muslim law’ on Roman law—for that matter, between Sassanid law and ‘Muslim law’—is entirely speculative and cannot be supported with historical facts. He summed up his argument as follows.

a) They have ignored the differences between diverse schools (of Islamic Law), which are sometimes noteworthy, even when one limits oneself to the four orthodox schools,¹¹³ in the sense that similarities which these schools have with the Roman law regarding certain norms are to be found only in certain schools, and are not to be found, for the same norms, in the other schools of *fiqh*. For this reason, it happens that the non-Arabist scholars (Dareste, Kohler) sometimes mentioned simple particularities of a single school as typical elements of Muslim law;

¹¹¹ It is published in three parts. See Theodore Ion, “Roman Law and Mohammedan Jurisprudence I,” *Michigan Law Review*, Vol. 6, No. 1 (Nov., 1907), 44-52; Part II, Vol. 6, No. 3 (Jan., 1908), 197-214; part III, vol. 6, No. 5 (Mar., 1908), 371-96.

¹¹² Nallino, “The Influence of Roman Law on Muslim Law,” 9.

¹¹³ They are the traditionalist Ḥanafite, Shāfīte, Mālikite, and Ḥanbalite schools of Islamic Law.

b) They have omitted to bring into relief, besides the similarities, the divergences (which exist between Muslim and Roman laws) which are like a touchstone for the value of the similarities;

c) They have overlooked the profound difference which exists between the classical European world and the Muslim world concerning the way of conceiving law and its sources. Nevertheless, it is this difference which explains how certain ideas and institutions which were deeply rooted in this Hellenistic world, which was conquered by the Arabs and which formed the basis of the Arabo-Islamic civilization, have not succeeded in penetrating into Muslim law (be it *fiqh* or not). To cite an example, it is well known in the Hellenistic environment the purchase-sale is a *real* contract, whereas all the Muslim schools are unanimous in considering it a purely *consensual* contract; and this neither by a return to the original Roman conception or because they have always posed the problem of the distinction between real and consensual trade but simply on the basis of a passage of the Qur'an [O you who have attained to faith! Do not devour one another's possessions wrongfully - not even by way of trade based on mutual agreement - and do not destroy one another: for, behold, God is indeed a dispenser of grace unto you!]¹¹⁴, where it is ordained that commercial acts (*tijārāt*; sing. *tijāra*) should take place in virtue of consensual contract ('*an tarāḍin minkum* [i.e.] "mutual consent").

Similarly, when the Arabs occupied in the shortest possible time the most flourishing provinces of the Byzantine Empire, they found there in great vogue the institution of *hypothek*—which had even passed over into the Mishnaic Jewish law under the Greek name *Ipotiki*—yet, in spite of its importance for economic life, this institution could not succeed in penetrating into Islam except in our own time, and this by the effect of European legislation. No less widespread in the Hellenistic world were the emphyteutic contracts (for long-term leases), but it required several centuries to persuade Muslim law (and even then not all the schools) to recognize their lawfulness, on account of the enormous extension which the *waqf* ("endowment") properties and the governmental *iqṭā'āt* ("fiefs") had taken.¹¹⁵

In 1948, Dawālībī also questioned the influences or origins of Romano-

Hellenistic law on Islamic law.¹¹⁶ Besides Nallino and Dawālībī, other theorists of the

nativist or "parthenogenetic" (*à la* Crone) approach to the origins of Islamic Law and

¹¹⁴ Q 4:29 (Asad). The original quote has the reference Q 4:33, which is an error in the translation or the original Italian work, since Q 4:33 speaks about inheritance. That trade is mutual consent was also affirmed in Ḥadīth. Abū Sa'īd al-Khudrī narrated that a Jew brought 30 loads (*ḥaml*) of wheat and dates (in Madīna) and set the price of a *mudd* of the wheat or dates at one dirham. He was the sole seller of these food items at the time, so they complained about the high price to the Prophet who said, "*I swear that I will meet Allah first before I give anyone the wealth of another! Do not hate one another, inflate prices over one another, and envy one another. Let not a person purchase a thing in opposition to (i.e., to outbid or undercut) his brother in faith. Let not the city resident, who is agent of goods brought by the Bedouin to be sold at the market rate, inflate the price of goods little by little. Rather, trade is by mutual consent (al-bay' 'an tarāḍin minkum). O servants of Allah, be brothers to one another!*" See Ibn Hajar, *Iṭḥāf al-mahara* (ḥadīth no. 5352 -), ed. 'Abdul Hasan (Madīna: Islamic University of Madīna, 1994), vol. 5, 254.

¹¹⁵ Nallino, "The Influence of Roman Law on Muslim Law," 11.

¹¹⁶ Muḥammad Ma'rūf Dawālībī, *al-Madkhal fil-ḥuqūq al-rumāniyya* (Damascus: Maṭba al-Jāmi'a al-Sūrriya, 1948), 52-94.

jurisprudence included Bousquet, Hassam, Wigmore,¹¹⁷ and Bergstraässer (d. 1933). The latter, in particular, believed that ‘Muḥammadan law’ developed in Madīna in the first century/seventh century through application of religious norms in the Qur’an and Sunna.¹¹⁸ Again to quote Gibb, “As for Roman law, though some of its formulae and contents percolated into Islamic law, the principles upon which the latter was constructed and (one may even say) the whole spirit of its application were entirely unrelated to those of the Roman jurists. Indeed, from the very beginning, the methods and formulation of Islamic law present a curious combination of positive injunction and theoretical discussion, which betrays the atmosphere of the school rather than of the market-place.”¹¹⁹

In the mid-1900s, Schacht resuscitated the theory of Romano-Hellenistic influence on Islamic Law. He claimed that foreign elements (such as Persian Sassanid, Roman Byzantine, the Christian Eastern Church’s canon, and Talmudic laws) “have been so thoroughly assimilated and Islamicized that, taken in their ordinary Islamic setting, they hardly seem to reveal a trace of their foreign origin.”¹²⁰ Dismissing the Sassanid influence as purely hypothetical and considering the influence of the Eastern Church’s canon law the least studied of them all, he saw Talmudic and Roman laws as the main influences on ‘Muḥammadan law.’ He described Nallino’s method as “logical” rather than “historical,” proposing that his new method would account for the

¹¹⁷ Crone, *Roman, Provincial, and Islamic Law*, 5.

¹¹⁸ Schacht, “Foreign Elements in Ancient Islamic Law,” in *Journal of Comparative Legislation and International Law*, Third Series, vol. 32, 3/4 (1950), 12.

¹¹⁹ Gibb, *Mohammedanism*, 89.

¹²⁰ Schacht, “Foreign Elements in Ancient Islamic Law,” 10.

existence in ancient Islamic law of numerous parallels to Roman law regarding jurisprudence and legal theory¹²¹, namely, that “Muḥammadan legal science” began in Iraq in 100 CE, which is disputed. This premise served as the basis for his larger work *The Origins of Muḥammadan Jurisprudence*. Earlier Ramadan’s critique of Schacht’s thesis was presented. Later Crone entered the debate, resuming the critique: “Not a single item of Goldizher and Schacht’s list of Roman elements in Islamic law has been proved, and several are demonstrably wrong.”¹²² Moreover, Schacht’s argumentation was mainly concerned with the works of *fuqahā’*, which incorrectly conflated *Sharia* with *Fiqh*. But undaunted in her pursuit of foreign origins for almost everything in Islam (as if the Arab mind was incapable of cultural originality), Crone retackled the controversial subject in her *Roman, Provincial, and Islamic Law*; by “provincial law,” she meant non-Roman law applied in provinces of the Roman Empire. The dissimilarity of her approach from her predecessors, Goldizher and Schacht, is her attempt to show that foreign influences (provincial, Jewish, and Roman, in that order) were gradually introduced into Islamic Law by non-Arab Muslim converts through the “Islamic patronate” cultural process, which appeared in the Near Eastern part of the Muslim empire.¹²³ Her argument educed responses, indirectly and directly, from Motzski and Hallaq. Motzki challenged the notion that non-Arabs played a major role in the formative period of Islamic law and jurisprudence through a statistical survey (first suggested by Goldizher) of biographical data on Muslim jurists of the first and second

¹²¹ Schacht, “Foreign Elements in Ancient Islamic Law,” 12.

¹²² Crone, *Roman, Provincial, and Islamic Law*, 11.

¹²³ Crone, *Roman, Provincial, and Islamic Law*, 64.

centuries AH (seventh and eighth centuries CE). Albeit based on a small sample, his findings indicate that the theory of Islamic jurisprudence being mainly a product of non-Arab scholarly minds is untenable: “‘True Arabs’ constitute the majority among the selected group. Equally unfounded is the tacit assumption that the number of scholars of non-Arab descent was higher in the centers situated in the regions of ancient high cultures outside the Arabian peninsula—regarded as crucial in the formative period of Islamic jurisprudence—than it was in Arabia.”¹²⁴ As for Hallaq, he critically examined Crone’s “Islamic patronate” theory. Rejecting the apparent underlying assumptions of Arab backwardness in her work, Hallaq found that she ignored the literature of a cadre of scholars (Brunnow, von Domaszewski, Altheim, Stiehl, Nöldeke, *et al*), which speak to vibrant, dynamic cultural exchanges among Byzantines, Persians, southern, and northern Arabs; that she overestimated the patronate’s (*walā’*) relevancy to Islamic jurisprudence; that she misread the legal texts on *walā’ al-muwālāt* and other subjects; and that she contradicted her thesis in several places.¹²⁵ In the final analysis, the debate may never be resolved satisfactorily to all scholars in the field because of the conflicting models or frameworks of understanding Islamic Law and the dispute over the nature and sources of Islamic Law itself.

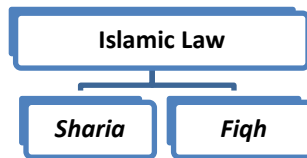
Part IV:

f. Sharia and the Challenge of Foreign Influences

¹²⁴ Harold Motzki, “The Role of Non-Arab Converts in the Development of Early Islamic Law,” *Islamic Law and Society*, Vol. 6, No. 3 (1999), 315.

¹²⁵ Wael B. Hallaq, “The Use and Abuse of Evidence: The Question of Provincial and Roman Influences on Early Islamic Law,” *Journal of the American Oriental Society*, Vol. 110, No. 1 (Jan. - Mar., 1990), 79-91.

Many of the scholars cited in the previous sections, just as many contributors to the study of Islamic Law or *Sharia*, whenever they make references to it, what they have in mind is the development of Islamic jurisprudence or *fiqh* proper. The incorrectness of this view has already been pointed out. If by ‘Islamic Law,’ however, they mean the entire legal tradition in Muslim history and society, then the terms are not necessarily ambiguous, since we can simply place the distinct but related legal constructs of *sharia* and *fiqh* under the general rubric of “Islamic Law” as follows.



But if by ‘Islamic Law’ is meant the equivalence of the divine law (as expressed in the Qur’an and Sunna) with the jurisprudence developed by Muslim jurists, blurring the legal conceptions, then the description is incongruent because of their disparate origins and narratives, as discussed earlier. The inquiry in this section is not concerned with *fiqh* per se but with *Sharia*—the divine law—whether it was susceptible to foreign legal influences by foreign laws or not during the Prophet’s time and, if so, what is the nature of such influences. Our position is that the most plausible explanation is furnished by the aforementioned fourth paradigm or “common origins” approach, which states that Jewish and Islamic laws share a common source of divine origins—the monotheistic God—but which have been mediating differently: the older Torah law through Talmud and the younger *Sharia* law through *fiqh*. This is one sensible way of

reconciling the so-called “internal” versus “external” factors debate regarding Islamic Law, which is elucidated below.

We know from the anthropological record that cultures and societies in proximity usually are not isolated from one another. Mutual contacts result in behavioral changes and exchanges of social and material artifacts. These interactive cultural processes are called by various names—“imitation,” “assimilation,” “acculturation,” “diffusion,” “multiculturalism,” “transculturation,” and so forth. Like Islamic studies, anthropology has encountered the outsider-vs.-insider influences debate, referring to (i) those advocating that a society develops on the basis of outside influences and (ii) those attributing it to internal and autonomous means. The ethnographic record indicates that while the majority of societies developed through *diffusion* (the passing of an item of culture from one society to another), evidence also exists of independent and parallel inventions among them, such as plant domestication, the almost simultaneous rise of early complex states along the Nile, Euphrates, Ganges, and Yangtze rivers several thousand years ago, and the invention of the calculus by Leibniz (d. 1716) and Newton (d. 1727) in different countries. In Murphy’s review, “new items of culture, whether arising from within or outside a society, must find acceptance in terms of the prior meanings of the culture. If these meanings are totally foreign or repugnant, the proffered item, be it an idea, an artifact, a belief, or a style, may well be rejected outright. It is also common that the item will be accepted, but that in the acceptance process, it will be interpreted and reworked to fit

into the recipient culture.”¹²⁶ Contextualizing these ethnographic facts in the nascent Islamic State, we find that its legal system had two main functions:

(i.) It generated *inputs* (commands and prohibitions) from its internal sources (Qur’an and Sunna) in the Muslim body politic, regulating many aspects of public and private life.

(ii.) It received *outputs* (“influences”) from its external (i.e., *jāhili*, including Judeo-Christian, Roman, pagan Arab, Sassanid, etc) cultural environment, filtering them in two ways: (a) modifying or accepting in principle non-Islamic laws, customs, and conventions that did not contravene the norms and mores of the Muslim polity, and (b) interdicting anti-Islamic cultural items. Consider the following examples.

Legal inputs of the *Sharia* in the Islamic State comprised rulings or *aḥkām* (sing. *ḥukm*), governing the beliefs, character, and conduct of Believers in religious and secular affairs. The topical arrangement of the primary Ḥadīth collections reflects the legal types and scope of these *aḥkām*. For example, Mālik’s *al-muwattaʿa*, one of the earliest of such *ḥadīth* arrangements, includes ritual purification (*ṭahāra*), prayer (*ṣalāh*), the Qur’an, funeral rites (*janāza*), welfare-tax (*zakāh*), fasting (*ṣiyām*), pilgrimage (*ḥajj*), war (*jihad*), oaths (*nudhūr/aymān*), sacrifices (*ḍaḥāyā*), the ritual slaughter of animals (*dhabāḥih*), hunting (*ṣayd*), childbirth rituals (*ʿaqīqa*), inheritance (*farāʿid*), marriage (*nikāh*), divorce (*ṭalāq*), nursing (*riḍāʿ*), trade (*buyūʿ*), loans (*qirāḍ*), irrigation (*musāqa*), letting land for hire (*kirāʿ al-arḍ*), (*shafaʿa*), judicial decisions (*aqḍiya*), testaments (*waṣiyya*), manumission and clientage (*ʿiṭq wal-walāʿ*), a slave’s purchase of his or her

¹²⁶ Murphy, *Cultural and Social Anthropology*, 203.

freedom (*makātib*), a slave made to be free after his or her master's death (*mudabbar*), penal law (*ḥudūd*), drinks (*ashriba*), blood money (*'uqūl*), the law of retaliation (*qasāma*)¹²⁷, a compendium on the virtues of Madīna (*jāmi'*), predestination (*qadar*), good character (*ḥusn khuluq*), clothing (*libās*), the description of the Prophet's personal characteristics, the "evil eye" (*'ayn*), poetry (*shi'r*), true vision (*ru'ya*), fraternal greetings (*salām*), seeking permissions (*isthi'dhān*), oaths of allegiance (*bay'a*), speech niceties (*kalām*), Hell-fire (*jahannam*), charity (*ṣadaqa*), knowledge (*'ilm*), the prayer of the oppressed (*da'wa al-maẓlūm*), and the Prophet's names (*asmā'*).¹²⁸

Concerning inputs into the Islamic political system from the outside, it has been pointed out, in the chapter on the structure of the Islamic State, that the Madīna Constitution retained the indigenous, Yathribite legal conventions of wergild (*dīya*), *lex talionis* (*qīṣāṣ*), and *jiwār* ("protection covenant of neighbors"), which the Qur'an, in its Madanite *āyāt*, later endorsed or modified but never repealed. Whether these *jāhilī* laws were of Jewish or Roman origins is immaterial; suffice it that they were diffused cultural items into the new polity governed by the Prophet. He also continued the marital institution of dowry (*mahr*) well known to pagan Arab and Judeo-Christian communities of Arabia, except that he did not fix it in cash or kind, leaving its details to be worked out through mutual consultation of the couple. The Qur'an retained the *jāhilī* marriage institution of polygyny but reduced the number of multiple wives to no more

¹²⁷ It is reported that *al-qasāma* which existed in *jāhiliyya*, was approved by the Prophet; the *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim (no. 1670) in al-Nawawī, *al-Minhāj*, 1068.

¹²⁸ Mālik b. Anas, *al-Muwaṭṭa'* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1985).

than four at a time,¹²⁹ adjusted the *īlā'* ("vow")¹³⁰, and modified certain pilgrimage rites, such as standing at Arafat and the ritualistic procession from one sacred site to another,¹³¹ which are among a long list of pre-Islamic cultural items reworked in Islam during the Prophet's time. Finally, the Islamic legal system rejected *jāhilī* influences incompatible with its ideology and philosophy of law, such as idolatry, polytheism, infanticide, *jāhilī* marriages,¹³² adoption,¹³³ alcohol consumption, gambling, immolation to false deities,¹³⁴ certain types of meat,¹³⁵ usury (*ribā*),¹³⁶ and so forth. The greater substance of Islamic Law appears to be originally derived from the fundamental sources of the Qur'an and Sunna and not from "foreign influences," which were retained in their *jāhilī* forms, appropriated, or reworked to reflect Islamic values; thus, "anything of

¹²⁹ Q 4:3 (Asad): "And if you have reason to fear that you might not act equitably towards orphans, then marry from among [other] women such as are lawful to you - [even] two, or three, or four: but if you have reason to fear that you might not be able to treat them with equal fairness, then [only] one - or [from among] those whom you rightfully possess. This will make it more likely that you will not deviate from the right course." The Prophet, though, was exempted from this general ruling. He had a total of 11 wives, the majority of whom he had at the same time.

¹³⁰ See Q 2:226 (Asad) – "Those who take an oath that they will not approach their wives shall have four months of grace; and if they go back [on their oath]; behold, God is much-forgiving, a dispenser of grace."

¹³¹ Q2:199 (Asad): "and surge onward together with the multitude of all the other people who surge onward, and ask God to forgive you your sins. . . ."

¹³² See Ibn Athīr, *Jāmi' al-uṣūl fī āḥādīth al-rasūl* (chapter on *jāhilī* marriage) (Maktaba al-Ḥalawānī, 1972), vol. 11, 451-56.

¹³³ The pagan Arab custom considered adopted children, especially males, as their own. In Makka, Muḥammad had adopted Zayd, a black Abyssinian slave; he was known as Zayd b. Muḥammad ("Zayd, the son of Muḥammad"). This pseudo paternity enabled adopted children, like biological children, to inherit from their parents. The Qur'an abolished this cultural practice in Q 33: 4, 5.

¹³⁴ Q 2: 219 (Asad): "O you who have attained to faith! Intoxicants, and games of chance, and idolatrous practices, and the divining of the future are but a loathsome evil of Satan's doing: shun it, then, so that you might attain to a happy state!"

¹³⁵ Q 2: 173: "He has forbidden to you only carrion, and blood, and the flesh of swine, and that over which any name other than God's has been invoked. . . ."

¹³⁶ Usury (*ribā*) was common among pagan Arab and Judeo-Christian communities and integral to the Arabian economic system, as it was in the wider region. It was among the last things that the *Sharia* prohibited before the Prophet died. For the proof-texts on its prohibitions, see Q 2: 275-76, 278; Ibn Hajar, *Bulūgh al-marām min adillat al-aḥkām* (section on *ribā*) (Riyadh: Maktab Nizār Muṣṭafā al-Bāz, 2003), 2nd edition, 139-42.

utility that did not contradict a principle of Islam was accepted and sanctioned by the Prophet, and it thus became part of the Sunna”¹³⁷ and, by extension, part of the *Sharia*.

Part V:

g. Some Major Characteristics of *Sharia*

Bearing in mind that the Qur’an unfolded over a period of twenty-three years in different socio-political environments (Makka and Madīna), Islamic Law exhibits certain discernible approaches to legislation. Culled from the works of Muslim jurists, legal theorists, exegetes, and others, some of these patterns and maxims of *Sharia* are discussed in the next few paragraphs; the listing is not comprehensive but it highlights several distinct features of the *Sharia* evident in the context of the *sīra*.

i. Abrogation (*naskh*):

The underlying assumption of abrogation (*naskh*) is that just as God has the supreme legislative authority to issue divine ordinances, He can also repeal them as He wishes. The Qur’an mentions *naskh* in two places:

(v) “When We substitute (**baddalnā**) one revelation for another—and Allah knows best what He reveals (in stages)—they say, ‘Thou art but a forger’: but most of them understand not”¹³⁸ and

(vi) “Any message which We annul (**nansakh**)¹³⁹ or consign to oblivion, We replace with a better or a similar one. Dost thou not know that God has the power to will anything?”¹⁴⁰

¹³⁷ Ramadan, *Islamic Law: Its Scope and Equity*, 46.

¹³⁸ Q 16:101 (Y. ‘Alī).

¹³⁹ *Nansakh* in some Qur’anic readings, *nunsikh* in others, which does not alter its semantic value. See al-Zamakhshari, *al-Kashshāf*, vol. 1, 309.

The Qur'anic word *nansakh* (from the verb *nasakha*), according to al-Zamakhsharī (d. 538/1143), means 'to erase something,' replacing it with something else in its place."¹⁴¹ Al-Qurṭubī (d. 671/1272), in his exegesis of the Qur'an, gave an additional meaning of "to transcribe," as in copying a book.¹⁴² *Nasakha* is also used in the Qur'an in the conjugated 10th verbal form, indicating a factitive sense: "*This Our record speaks of you in all truth: for, verily, We have caused to be recorded (nastansikh) all that you ever did!*"¹⁴³

Occasions of revelation (*asbāb al-nuzūl*) given for these āyāt are the same: they were sent down to address the pagans' mockery of Muḥammad, accusing him of ordering his Companions to do something one day and then forbidding it the next day or reducing the burden, which they interpreted as deception, for he was saying contradictory things.¹⁴⁴ It is also related that the Prophet would receive a certain revelation in the night but forget it in the morning; hence, "*any message which We annul or consign to oblivion. . .*"¹⁴⁵ In his review of al-Wāḥidī's (d. 468/1075) *asbāb al-nuzūl*, Ibn Hajar commented:

He (al-Wāḥidī) was followed in that (report) by al-Tha'labī (d. 427/1035) and al-Zamakhsharī who summarized it.¹⁴⁶ They related that (the pagans) repudiated (the principle of) divine abrogation (of revelation), as al-Qurṭubī wrote,¹⁴⁷ adding that they also rejected the Qibla affair [i.e., the switching of the direction of prayer (*qibla*) for Muslims from the Aqṣā Mosque in Jerusalem to the Holy Mosque in Makka¹⁴⁸] and other

¹⁴⁰ Q 2:106 (Asad).

¹⁴¹ Al-Zamakhsharī, *al-Kashshāf*, vol. 1, 309.

¹⁴² Al-Qurṭubī, *al-Jāmi' lil-aḥkām al-qur'ān*, vol. 2, 301.

¹⁴³ Q 45:29 (Asad).

¹⁴⁴ Al-Wāḥidī, *asbāb al-nuzūl*, , *Asbāb al-nuzūl*, 34, 280;

¹⁴⁵ Al-Suyūṭī, *Lubāb al-nuqūl*, 20.

¹⁴⁶ Al-Zamakhsharī, *al-Kashshāf*, vol. 1, 309.

¹⁴⁷ Al-Qurṭubī, *al-Jāmi' lil-aḥkām al-qur'ān*, vol. 1, 302.

¹⁴⁸ Q 2:144 (Y. 'Alī) – "*We see the turning of thy face (for guidance) to the heavens: now shall We turn thee to a qibla that shall please thee. Turn then Thy face in the direction of the sacred Mosque (al-masjid al-ḥarām): Wherever ye are, turn your faces in that direction.*" *Qibla* means "direction"; in the axial texts of Islam, it denotes the direction of the Ka'ba in Makka, which Muslims face when they perform the daily *ṣalāh*. See *Lisān al-'arab*, 3521.

examples of *naskh* (in the Qur'an). I myself found transmitted reports from the early Muslim generations (*salaf*), such as that of 'Abd b. Ḥamīd [b. Naṣr] (d. 249/863) who narrated [on the authority of Qatāda (d. 117/735) who said], 'there were *āyāt* that abrogated other *āyāt*. The Prophet would recite an *āya* from a *sūra* (of the Qur'an), which was later rescinded and he would sometimes forget it, as in '*any message which We annul or consign to oblivion*'. . . .Otherwise, nothing in Ḥadīth unequivocally specifies (as Qatāda suggested) that this *āya* 'abrogates' that *āya*; rather, abrogation is inferred (from the proof texts)."¹⁴⁹

In relation to *naskh*, the Prophet reportedly said, "*I used to prohibit you from visiting the graves, but it is now permitted for Muḥammad to visit his mother's grave, so visit them now, since they remind you of the hereafter (or "death," in another narration).*"¹⁵⁰ Another example, taken from the *sīra*, is that during the Battle of the Trench (*khandaq*) in 5/627,¹⁵¹ the Prophet and his Companions did not perform the Noon (*ẓuhr*) and Afternoon ('*aṣr*) Prayers until after sunset that day.¹⁵² Abū Sa'īd al-Kudrī (d. 74/693), a Companion, narrated that "on the Day of the Trench, we were preoccupied (in military activity) from performing the ritual prayers (*Ẓuhr* and '*Aṣr*) until sunset. That was before God sufficed in the Qur'an with the words: '*Thus, for all their fury, God repulsed those who were bent on denying the truth; no advantage did they gain, since God was enough to [protect] the*

¹⁴⁹ Ibn Hajar, *al-Ujāb*, vol. 1, 348-49.

¹⁵⁰ Al-Tirmidhī, *Sunan* (*ḥadīth* no. 1054 - *ṣaḥīḥ*), 250; Muslim (*ḥadīth* nos. 976-77) in al-Nawawī, *al-Minhāj*, 622, 1255; Abū Dāwūd, *Sunan* (*ḥadīth* no. 3234-5 - *ṣaḥīḥ*), vol. 2, 308; al-Nasā'ī, *Sunan* (*ḥadīth* nos. 2032-34 - *ṣaḥīḥ*), 324; Ibn Māja, *Sunan* (*ḥadīth* nos. 1569-70, 1572 - *ṣaḥīḥ*), 275-76; Aḥmad, *Musnad* (*ḥadīth* no. 9686; 2/441), 699; Ibn Abī Shayba, *al-Muṣannaf* (*ḥadīth* nos. 11915-24), eds. al-Ḥaydān and al-Jumu'a (Riyadh: Maktaba al-Rushd Nāshirūn, 2004), 1st edition, vol. 4, 562-65; al-Bayhaqī, *Sunan al-kubrā* (*ḥadīth* nos. 7192-98) Beirut: Dār al-Kutub 'Ilmiyya, 2003), 3rd edition, vol. 4, 127-29. It was also reported by al-Bazzār in his *Musnad*; see al-Ḥaythamī, *Majma' al-zawā'id*, vol. 3, 185.

¹⁵¹ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 64-65; Ibn Sayyid al-Nās, *Uyūn al-athar*, vol. 2, 95.

¹⁵² Muslim chroniclers agreed that the Battle of Khandaq occurred in 5 AH/626 CE but differ on which month. Ibn Ishāq said that it was Shawwāl and Ibn Sa'd, Dhul-Qa'da. Ibn Qayyim confirmed Shawwāl based on the more authentic report: "(The battle of) Uḥud occurred in Shawwāl, 3/624, when the pagans had made an agreement with the Messenger of Allah until the following year. Then they broke it because of the drought that year, reneging on their word. The next year, 5/626, they came (to Madīna)." See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 392; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 62; Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 240.

believers in battle - seeing that God is most powerful, almighty.’¹⁵³ The Prophet then ordered Bilāl (to make the call for prayer—*adhān*) for each *ṣalāh* missed (*Ẓuhr*, *‘Aṣr*, and *Maghrib*), performing them, as he used to do it in the prescribed time.¹⁵⁴ After that incident came the revelation “*If ye fear, pray on foot, or riding, (as may be most convenient), but when ye are in security, celebrate Allah's praises in the manner He has taught you, which ye knew not (before). . . .*”¹⁵⁵ indicating that their action during the Trench was “abrogated” (*mansūkh*).¹⁵⁶ Later, during the Ḥudaybiyya incident in 8/630, they performed the ritual prayers quite differently. Instead of delaying them until after sunset, they performed them in the prescribed times but in the form of the Fear Prayer (*ṣalātul-khawf*), in which one group performed a unit of the prayer (*rak’a*), while another group stood guard facing the enemy; next, the groups switched positions, performing another *rak’a* to

¹⁵³ Q 33:25 (Asad).

¹⁵⁴ Aḥmad, *Musnad* (*ḥadīth* nos. 11216-17, 11485, 11667), 793; al-Nasā’ī, *Sunan* (no. 661 - *ṣaḥīḥ*), 110; al-Bayhaqī, *al-Sunan al-kubrā* (no. 6005) (Beirut: Dār al-Kutub al-‘Imiyya, 2003), 3rd edition, vol. 3, 358; al-Albānī, *Irwā’ al-ghalīl*, vol. 1, 256-57. The *ḥadīth* is reported by al-Dārāmī, *Sunan* (*ḥadīth* no. 1524), (Karachi: Qadīmī Kutube Khaneh, 1996), vol. 1, 430; Ibn Khuzayma, *Ṣaḥīḥ* (no. 974), ed. al-A‘zamī (Beirut: al-Maktab al-Islāmī, 1980), vol. 2, 88; al-Taḥāwī, *Sharḥ al-ma‘ānī* (no. 1890) (Cairo: ‘Ālam al-Kutub, 1994), 1st edition, vol. 1, 321; Ibn Ḥibbān (no. 2879 - *ṣaḥīḥ*) in al-Albānī, *ta’līqāt al-ḥissān ‘alā ṣaḥīḥ ibn ḥibbān*, vol. 4, 443; al-Shāfi‘ī, *Musnad*, in Ibn al-Athīr, *al-shāfi‘ī fī sharḥ musnad al-shāfi‘ī* (Riyadh: Maktaba al-Rushd, 2005), 1st edition, vol. 1, 355-51; Aḥmad, *Musnad* (no. 11216), 793. See Ibn Hajar, *Ithāf al-mahara* (*ḥadīth* no. 5410), ed. ‘Abdul Ḥasan (Madīna: Islamic University of Madīna, 1994), vol. 5, 283.

¹⁵⁵ Q 2:239 (Y. ‘Alī).

¹⁵⁶ A student of Aḥmad b. Hanbal (d. 240/855) who also wrote a book on the subject, Abū Bakr al-Athram (d. 260/874) attempted to reconcile apparent contradictory *āḥādīth* in his *nāsikhul-ḥadīth wa mansūkhīh*. He called the antecedent event, if it could be supported by dating, *mansūkh* (abrogated) and the subsequent event *nāsikh* (the abrogator). Those events that could not be supported by dates (i.e., history), he reconciled them in terms of the “general” and the “specific,” “absolute” and “restricted,” and the like. Thus, already in the third century AH, we are beginning to see the technical usage of *naskh*. Al-Athram’s work is probably the earliest extant work in this genre of Ḥadīth literature, since that of his teacher is unavailable or lost. Similar works in the field, as listed in the bibliographical dictionaries, all date from the fourth century AH. See Abū Bakr al-Athram, *Nāsikhul-ḥadīth wa mansūkhīh*, ed. Abdullah b. Ḥamd al-Manṣūr (Riyadh, 1999), 1st edition, 34-35; his book is listed in al-Nadīm, *al-Firhrist*, ed. Riḍā-Tajaddud, 1971, vol. 6, 285; Haji Khalfā, *Kashf al-zunūn* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1941), vol. 2, 490.

complete the prayer.¹⁵⁷ The Qur'an also describes it.¹⁵⁸ Most scholars among the early Muslim generations (*salaf*) understood *naskh* to be “annulment of a ruling (*raf' al-ḥukm*) completely at times. According to Ibn Qayyim,

Such is also its technical usage among later Muslim generations, like annulment of what is 'general' (*ām*), 'absolute' (*muṭlaq*) and so forth, with 'specification' (*takḥṣīs*), 'restriction' (*taqyīd*), 'explanation' (*tafsīr*), or 'elaboration' (*tabyīn*) of these expressions. The early Muslim scholars also called 'exceptions (to general rules),' 'conditions,' and 'descriptions' *naskh*, so that it circumscribed cancellation of the apparent, even as it explained the meaning. Thus, for them *naskh* was, as they articulated it, explaining the meaning of an expression (in the axial texts of Islam)—not by the (same) expression but by something outside of it. Whosoever contemplates their discourse sees that aplenty, which removes ambiguities caused by referencing their discourse to the technical usage of later generations.¹⁵⁹

In the field of *uṣūl al-fiqh*, an overwhelming majority of Muslim jurists and legal theorists held that not only *naskh* is theoretically possible but that it did occur in Islam's axial texts, which have important implications for Islamic Law but its discussion lie beyond the scope of this work.¹⁶⁰

¹⁵⁷ That is how Ibn 'Umar (d. 73/692), a Companion, described the Fear Prayer. See Abdul-Razzāq, *al-Muṣannaf* (*ḥadīth* no. 4241), ed. Ḥabīb al-Raḥmān al-A'zam (Johannesburg: Al-Majlis al-'Ilmī, 1970), 1st edition, vol. 2, 506-07. The Prophet is said to have performed the Fear Prayer only twice in his life: once at Dhīl-Riqā', during the *ghazwa* of Najd in 4/626, and another time at 'Uṣfān near Ḥudaybiyya (Abdul-Razzāq, *al-Muṣannaf*, vol. 2, 503). In other chains of authorities, like Ṣāliḥ b. Khawwāt's *isnād*, the Fear Prayer is described similarly but with additional details, as reported by al-Jamā'a (excluding Ibn Māja): al-Bukhārī (*ḥadīth* no. 942) in Ibn Hajar, *Fath al-bārī*, vol. 3, 241; Muslim (no. 839) in al-Nawawī, *al-Minhāj*, 553; Aḥmad, *Musnad* (no. 23524), 1717; Abū Dāwūd, *Sunan* (no. 1238-39 - *ṣaḥīḥ*), vol. 1, 339; al-Tirmidhī, *Sunan* (no. 567 - *mu'allaq*), 146; and al-Nasā'ī, *Sunan* (nos. 1529 - *ṣaḥīḥ*), 252-56.

¹⁵⁸ Q 4:101-02 - AND WHEN you go forth [to war] on earth, you will incur no sin by shortening your prayers if you have reason to fear that those who are bent on denying the truth might suddenly fall upon you: for, verily, those who deny the truth are your open foes. Thus, when thou art among the believers and about to lead them in prayer, let [only] part of them stand up with thee, retaining their arms. Then, after they have finished their prayer, let them provide you cover while another group, who have not yet prayed, shall come forward and pray with thee, being fully prepared against danger and retaining their arms: [for] those who are bent on denying the truth would love to see you oblivious of your arms and your equipment, so that they might fall upon you in a surprise attack. But it shall not be wrong for you to lay down your arms [while you pray] if you are troubled by rain or if you are ill; but [always] be fully prepared against danger."

¹⁵⁹ Ibn Qayyim, *I'lām al-muwaqqi'in*, vol. 2, 66.

¹⁶⁰ For more on *naskh*, see Fakhriddīn al-Rāzī, *al-Maḥṣūl*, ed. al-'Alawānī (Beirut: Mu'assasa al-Risāla, 1992), 2nd edition, vol. 3, 277-381; al-Āmadī, *Ihkām fī uṣūl aḥkām*, vol. 3, 127-226; al-Shawkānī, *Irshād al-fuḥūl* (Riyadh: Dār al-Faḍila, 2000), vol. 2, 781-90.

ii. Incrementalism (*tadrījīyya*):

That is, a gradual, piecemeal approach to legislating. The best example of it—perhaps the most successful of its kind in political history—is the Qur’an’s abolition of the alcohol industry (making, trading, and consumption of it) in Madīna. Islamic Law, under the Prophet’s stewardship, progressively outlawed intoxicants in three phases over a period of eight years (1-8/622-29).¹⁶¹ Scholarly opinions differ on the exact date.¹⁶² Before discussing these phases, it is important to know of the various types of intoxicants available during the period, which are mentioned in the Qur’an. The first reference is “[We grant you nourishment] from the fruit of date-palms and vines: from it you derive fermented drinks (**sakar**) as well as wholesome sustenance (**rizq ḥasan**); in this, behold, there is a message indeed for people who use their reason.”¹⁶³ Muslim exegetes agreed that the āya (Q16: 67), including the *sūra* itself (*al-naḥl*, “The Bee”) are Makkan, that is, pre-Hijra,¹⁶⁴ except for three āyāt towards the end.¹⁶⁵ The āya refers to the production of fermented drinks from dates and grapes in Makka and wholesome benefits derived from them. *Sakar* (“Intoxicants”), according to Ibn ‘Abbās, was generic for beverages

¹⁶¹ That it was prohibited not later than 8/629 is gleaned from the *ḥadīth* of Jābir who narrated that he heard the Messenger of Allah say, on the day of the Conquest (of Makka), while he was in Makka, “*Verily, Allah and His Messenger have prohibited the sale of khamr, carrion, swine, and idols. . .*” See Muslim (*ḥadīth* no. 1581) in al-Nawawī, *al-Minhāj*, 1004; al-Qaṭṭān, *Ta’rīkh tashrī‘ al-islāmī*, 155-56.

¹⁶² According to al-Shawkānī, “al-Dimyāṭī, in his *sīra*, wrote that (*khamr*) was prohibited in the year of the Ḥudaybiyya (incident), which was in 6/627. Ibn Ishāq said that it occurred during the al-Naḍīr incident, after Uḥud, in 4/625.” Ibn Hajar placed it in 8/629 at the time of the revelation of Q 5:90, during the year of the Conquest of Makka; see al-Shawkānī, *Nayl al-awtar*, vol. 10, 316; Ibn Hajar, *Fath al-bārī*, vol. 12, 588.

¹⁶³ Q 16:67 (Asad).

¹⁶⁴ See al-Suyūṭī, *al-Itqān*, vol. 1, 49-59.

¹⁶⁵ According to al-Ḥasan, ‘Ikrima, ‘Aṭā’, and Jābir, the *sūra* (Q 17) is Makkan, as narrated by Ibn Mardawih on the authority of Ibn ‘Abbās and Abū-l Zubayr. Al-Nuḥās (d. 337/948) narrated from Mujāhid (d. ca. 101-04/719-22) who narrated on the authority of Ibn ‘Abbās who said that *sūra al-naḥl* was revealed in Makka except for 3 āyāt toward the end, which were revealed between Makka and Madīna when the Prophet left Uḥud (after the battle there). These *āyat* are nos. 95-96 or 110, 126, and 127. See al-Shawkānī, *Fath al-qadīr* (Beirut: Dār al-Ma‘rifa, 2007), 4th edition, 771.

like *nabīdh* (i.e. a drink made of dates, honey, or grapes left to ferment in a vessel or skin of water; hence, its name, intoxicating or not¹⁶⁶), *khal* (“vinegar”¹⁶⁷), and the like, while *rizq ḥasan* (“good sustenance”) was generic for unfermented fruits (i.e., in their natural state) or drinks.¹⁶⁸ There is no consensus on the etymology of *sakar*. One report suggested that *sakar* is taken from al-Sukrān, a valley on the outskirts of Damascus, where Quraysh used to gather to bid farewell and greet their traders to and from Syria.¹⁶⁹ In his exegesis, al-Ṭabarī gave four lexical usages of *sakar* among Arabs at the time of Islam: (i) that which causes intoxication after drinking it, (ii) something eaten as food, (iii) a stationary state, and (iv) the verbal noun of the verb *sakira*, “to become inebriated, drunken, or intoxicated.” In respect of the *āya*, only the first and last of these are applicable; thus far, it is devoid of any censure or prohibition of intoxicants—merely stating a fact—and does not use the word *khamr*, as in those *āyāt* that castigate and prohibit intoxicants, wherein the word *khamr* is used to designate the first meaning of *sakar*, which causes intoxication after drinking it,¹⁷⁰ which is examined next.

In Madīna, there was a thriving culture of divination, gambling, and intoxicants when the Prophet arrived. As for alcohol, which the Prophet condemned as the “mother of all sins,”¹⁷¹ the Qur’an did not outlaw it at the outset of the Islamic State. In the first phase, the Divine Legislative Authority approached intoxication through moral

¹⁶⁶ *Nabīdh* is mead, when it is made of wheat or barley, etc; must, when it is made of honey; and its namesake, when it is made of grapes. See Lane, *Arabic-English Lexicon*, 2757.

¹⁶⁷ That is, the expressed juice of grapes, dates, and the like, which have become acidic or sour. Lane, *Arabic-English Lexicon*, 779.

¹⁶⁸ Ibn Abī Hātim, *Tafsīr*, vol. 7, 2288;

¹⁶⁹ Al-Baghdādī, *Mu‘jam al-buldān*, vol. 3, 230.

¹⁷⁰ See al-Ṭabarī, *Tafsīr*, vol. 14, 284-85 .

¹⁷¹ Al-Dāraquṭni, *Sunan (ḥadīth* no. 4613), vol. 5, 444; al-Ṭabarānī, *al-Mu‘jam al-kabīr* (no. 11372), vol. 11, 164; al-Albānī, *Sisila al-āḥādīth al-ṣaḥīḥa* (no. 1854), vol. 4, 468-69.

suasion, highlighting its harms as greater than its benefits: “*They will ask thee about intoxicants (khamr) and games of chance (maysir). Say: ‘In both there is great evil as well as some benefit for man; but the evil which they cause is greater than the benefit which they bring.’*”¹⁷² In this āya, we have the first mention of *khamr* (“intoxicants”); it was reportedly revealed on the occasion when ‘Umar, b. al-Khaṭṭāb, Mu‘ādh b. Jabal, and a group of Anṣārītes said to the Prophet, “Give us a verdict concerning intoxicants and gambling, for they carry the intellect and despoil wealth!”¹⁷³ The Qur’an refers to intoxicants as *khamr*, according to al-Zamakhsharī, because it “covers” the intellect and one’s ability to discern things clearly, using the verbal noun of *khamara* (“to veil, cover, conceal”), as if it does the act of covering the intellect excessively.¹⁷⁴ It is also said that *khamr* is used because the drink becomes limpid, as its turbidity is lowered.¹⁷⁵ Nonetheless, the Muslim community did not immediately abstain from intoxicating drinks, interpreting the āya to mean that, although *khamr* is associated with sin, it was not expressly forbidden; so they continued to indulge in it socially and economically. The Prophet’s saying “*Whosoever drinks khamr in the life of this world and does not repent from the act has made it unlawful for him in the hereafter*”¹⁷⁶ is among his verbal attempts to dissuade people from its indulgence, stopping short of prohibiting it.

¹⁷² Q 2: 219 (Asad).

¹⁷³ Al-Wāḥidī, *Asbāb al-nuzūl*, 71; Ibn Hajar, *al-‘Ujāb*, vol. 1, 545-46; al-Suyūfī, *Lubāb al-nuqūl*, 109.

¹⁷⁴ Al-Zamakhsharī, *al-Kashshāf*, vol. 1, 427.

¹⁷⁵ Ibn Abī Ḥātim, *Tafsīr*, vol. 2, 390.

¹⁷⁶ The ḥadīth is *ṣaḥīḥ* and is reported with an *isnād* of Ibn ‘Umar by al-Jamā‘a (except al-Tirmidhī), that is, al-Bukhārī (no. 5575) in Ibn Hajar, *Fath al-bārī*, vol. 12, 587; Muslim (no. 2003) in al-Nawawī, *al-Minhāj*, 1272-73; Ibn Māja, *Sunan* (nos. 3373-74), 567; al-Nasā’ī, *Sunan* (no. 5671), 850; Abū Dāwūd, *Sunan* (no. 3679), vol. , 418; Aḥmad, *Musnad* (no. 4690), 386; it is also reported by Abū ‘Awwāna, in his *Musnad*, al-Ḥākim, in his *al-Mustadrak*, and ‘Abdur Razzāq, in his *al-Muṣannaf*, from other chains of authorities; see Ibn Hajar, *Ithāf al-mahara*, vol. 9, 53-54.

In the second phase, the Qur'an strictly banished alcoholic drink from public but not private life, as we read, "O you who have attained to faith! Do not attempt to pray while you are in a state of drunkenness (**sukārā**), [but wait] until you know what you are saying."¹⁷⁷ The *sabab al-nuzūl* given for this āya is that Abdur Raḥmān b. 'Awf, a Companion of the Prophet, hosted a feast at his home and served his guests *khamr*. When the time of prayer came, he led it, mixing up the āyāt and committing errors in his recitation. For example, instead of "Say: O disbelievers! I worship not that which ye worship,"¹⁷⁸ he recited instead "We worship what you worship" due to his intoxication; hence, "Do not attempt to pray while you are in a state of drunkenness (**sukārā**), [but wait] until you know what you are saying."¹⁷⁹ At this point, *khamr* has become a Qur'anic term designating all liquid intoxicants, which the Prophet confirmed, "Every intoxicant (**muskir**) is unlawful (**ḥarām**), and every intoxicant is **khamr**."¹⁸⁰ He also warned Madīna of the likelihood of a stricter injunction on *khamr*, allowing them time to make the necessary cultural adjustments: "Verily Allah is alluding to (His disdain of) **khamr**. Perhaps He shall send down something

¹⁷⁷ Q 4:43 (Asad).

¹⁷⁸ Q 109: 1-2 (Pickthall).

¹⁷⁹ Al-Wāḥidī reported it from the *isnād* of Abū Bakr al-Asfahānī ⇒ Abū Shaykh al-Ḥāfiz ⇒ Abū Yaḥyā ⇒ Sahl b. 'Uthmān ⇒ Abū Abdur Raḥmān al-Afrīqī ⇒ 'Aṭā' (b. al-Sā'ib) ⇒ Abdur Raḥmān b. 'Awf who narrated the *ḥadīth*. His report, however, is *ḍa'īf* caused by two things: *i*) 'Aṭā' used to mix up what he heard and *ii*) no confirmed report exists that Abū Abdur Raḥmān heard and narrated reports from 'Aṭā'. Despite that, the *ḥadīth* is *ṣaḥīḥ* in respect of other *asānīd* in which trustworthy authorities like Sufyān al-Thawrī and Ḥāmid b. Zayd both heard and narrated from 'Aṭā' before he began to mix things up. See Ibn Hajar's *Tahdhib al-tahdhib* (Hyderabad: Majlis Dā'ira al-Ma'ārif al-Nizāmiyya al-Kā'ina, 1908), first edition, vol. 7, 205; Abū Dāwūd, *Sunan* (*ḥadīth* no. 3671 - *ṣaḥīḥ*), vol. 2, 416; al-Tirmidhī, *Sunan* (*ḥadīth* no. 3026 - *ṣaḥīḥ*), 676-77; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 7302), vol. 4, 251; al-Wāḥidī, *Asbāb al-nuzūl*, 153; al-Suyūṭī, *Lubāb al-nuqūl*, 76-77.

¹⁸⁰ The *ḥadīth* is *ṣaḥīḥ* and is reported by Aḥmad, *Musnad* (*ḥadīth* no. 4645), 384; Abū Dāwūd, *Sunan* (*ḥadīth* no. 3679), vol. 2, 418; Ibn Māja, *Sunan* (*ḥadīth* no. 3390), 569; al-Nasā'ī, *Sunan* (*ḥadīth* no. 5582), 840; al-Tirmidhī (*ḥadīth* no. 1861), 428; another narration of it is found in Muslim (*ḥadīth* no. 2003) in al-Nawawī, *al-Minhāj*, 1272; al-Dāraquṭnī, *Sunan* (*ḥadīth* no. 4616), vol. 5, 445-46; and "Every intoxicating drink is unlawful" in al-Bukhārī (*ḥadīth* nos. 262, 5585-86), in Ibn Hajar, *Fath al-bārī*, vol. 1, 602.

concerning it. Therefore, one who has **khamr** in his possession should sell it and benefit from its proceeds (whilst he or she still can)."¹⁸¹

The third and final stage finally debuted, not long after the second, promulgating a total ban on intoxicants: "O ye who believe! Intoxicants (**khamr**), gambling, (dedication of) stones, and (divination by) arrows are an abomination of Satan's handwork: eschew such (abomination), that ye may prosper."¹⁸² The *sabab al-nuzūl* for this āya is that when a Companion invited his friends over to drink, they became intoxicated and argued over who is better: the Anṣār or the Muhājirūn, leading to violence.¹⁸³ At the time, *khamr* was made from grapes, dates, honey, wheat, and barley-corn. The Qur'an prohibition was wide ranging and included Muslims' drinking *khamr* in small or large quantities, buying, selling, producing, serving, and distributing it inside and outside the State. As was his custom every year, a certain man brought the Prophet a gift of *khamr* but was told that it was prohibited. He asked, "Shall I not sell it?" The Prophet said, "The One who has forbidden its drinking has also forbidden its sale." He asked, "Can I be generous to the Jews with it?" The Prophet replied, "The One who has forbidden it has also forbidden that it be used generously with the Jews." He asked, "What shall I do with it?" The Prophet answered, "Pour it in al-Baṭḥā!"¹⁸⁴ Not only did he forbid consumption of

¹⁸¹ Muslim (*ḥadīth* no. 1578) in al-Nawawī, *al-Minhāj*, 1002-03.

¹⁸² Q 5:90 (Y. 'Alī).

¹⁸³ Al-Wāḥidī, *Asbāb al-nuzūl*, 206; al-Suyūṭī, *Lubāb al-nuqūl*, 109-10; Muslim (*ḥadīth* no.1748), in al-Nawawī, *al-Minhāj*, 1474; Aḥmad, *Musnad* (*ḥadīth* no. 1565), 163; Abū Ya'lā, *Musnad* (*ḥadīth* no. 782 - *ṣaḥīḥ*) (Beirut: Dār al-Ma'mūn, 1990), 2nd edition, vol. 2, 116-18; cf also al-Haythamī, *Baghiya al-rā'id* (*ḥadīth* no. 10985 - *ṣaḥīḥ*), vol. 7, 83.

¹⁸⁴ Al-Ḥumaydī, *Musnad* (*ḥadīth* no. 1064 - *ṣaḥīḥ*) (Damascus: Dār al-Saqā, n.d.), vol. 2, 229; Ibn Hajar, *al-Maṭālib al-'āliya bi zawā'id al-masānīd al-thamāniya* (*ḥadīth* nos. 1802, 1806) (Riyadh: Dār al-'Āṣima, 1998), 1st edition, vol. 8, 611, 619.

intoxicants in large amounts as well as small amounts,¹⁸⁵ he also made public intoxication a crime that carried the penalty of forty lashes.¹⁸⁶ The Prophet also reportedly said, “*Verily, Allah has made **khamr** unlawful. Whomsoever this āya reaches and has **khamr**, let him not drink it or sell it.*” Thus, when the town criers echoed the State’s ban, the people responded ardently, flooding the streets of Madīna with discarded *khamr*.¹⁸⁷ “There is not, so far as we know, such a precedent in the history of legislation of a people complying so swiftly with the law,” wrote Ramadan, “especially in the case of the prohibiting of drinking (alcohol), which was a deep-rooted habit of Arab society, glamorized by its poets and affecting its trade.”¹⁸⁸ In the final analysis, the *Sharia*’s incremental (*tadarrujī*) approach is distinguished from abrogation (*naskh*). For example, in the case of the Fear Prayer, as discussed earlier, the *Sharia* substitutes it for the general format of ritual prayer because of the extenuating circumstances of war and the like, whereas in the case of *khamr*, the *Sharia* prohibited it progressively, tailoring the social fabric to suit Islamic morality aimed at protecting the intellect and body politic from the fallout of alcoholism. But it never allowed *khamr* in the first place and thereafter cancelled its permissibility, so that its prohibition henceforth could be considered abrogation.

¹⁸⁵ Aḥmad, *Musnad* (*ḥadīth* no. 5648), 440; Ibn Māja, *Sunan* (*ḥadīth* no. 3392), 569; al-Dāraqutnī, *Sunan* (*ḥadīth* no. 4630), vol. 5, 450; al-Albānī, *Irwāʾ al-ghalīl*, vol. 8, 42-44.

¹⁸⁶ It is reported by al-Ṭayālīsī, Abū Yaʿlā, al-Ḥākim, al-Bayhaqī, and Musaddad; see al-Būṣūrī, *Ithāf al-mahara al-khayra* (Riyadh: Dār al-Waṭan, 1999), 1st edition, vol. 4, 1907-09; al-Zaylaʿī, *Naṣab al-rāya* (Jedda: Dār al-Qibla, 1997), 1st edition, vol. 3, 346-52.

¹⁸⁷ Muslim (*ḥadīth* no. 1980) in al-Nawawī, *al-Minhāj*, 1263.

¹⁸⁸ Ramadan, *Islamic Law: Its Scope and Equity*, 71. Indeed, contrast the Islamic State’s prohibition of alcohol to the modern attempt made by the American legislature, for example, to do the same through the Prohibition Act of 1919.

iii. Summary Nature of Qur'anic Law¹⁸⁹

Qur'anic injunctions are, for the most part, general in enunciation and principle, which holds true for religious as well as secular affairs. As an example, the Qur'an ordains ritual prayer for believers but does not specify its exact times, number of units, components of each unit, prerequisites, performance method, nullifiers, and so forth. These details are fleshed out in the Sunna, as demonstrated in his words "*Pray as you see me pray*"¹⁹⁰ and "*take your pilgrimage rituals from me.*"¹⁹¹ Similarly, the Qur'an exhorts against usury (*ribā*), forbidding it, but without identifying its various forms and commodities, which are found in the Sunna.¹⁹² This 'general-specific' relationship between the Qur'an and the Sunna could become blurred by those who regarded the Qur'an in the absolute, literally having answers for everything in view of such āyāt as "*We have sent down to thee the Book explaining all things*"¹⁹³ and others.¹⁹⁴ When the female Companion Umm Ya'qūb from Banū Asad, who used to read the Qur'an a lot, heard of Ibn Mas'ūd's harangue that "Allah has cursed female tattooers (*wāshimāt*) and tattooed females (*mutawashshamāt*). . . .,"¹⁹⁵ she remonstrated with him. He said, "Why shouldn't I curse the one whom the Messenger of Allah has cursed, which is in the Book of Allah." She replied, "I have read (the Qur'an), from cover to cover, but did not find it!" He said,

¹⁸⁹ Al-Shafī'ī, *al-Risāla*, 53-72; al-Qaṭṭān, *Tārīkh al-tashrī' al-islāmī*, 43, 69, 133.

¹⁹⁰ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī et al; see al-Albānī, *Irwā' al-ghalīl* (*ḥadīth* no. 262), vol. 1, 291.

¹⁹¹ The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim, Abū Dāwūd, al-Nasā'ī, al-Tirmidhī, Ibn Māja, Aḥmad, Abū Ya'lā, and al-Bayhaqī; see al-Albānī, *Irwā' al-ghalīl* (*ḥadīth* no. 1074), vol. 4, 271.

¹⁹² Ibn Hajar, *Bulūgh al-marām*, 139-42.

¹⁹³ Q 16:89 (Y. 'Alī).

¹⁹⁴ See Q 6:38 (Pickthall) – "*We have neglected nothing in the Book.*"

¹⁹⁵ Part of a *ḥadīth* that is *ṣaḥīḥ*, it is reported by al-Bukhārī, Muslim, Abū Dāwūd, Ibn Māja, al-Nasā'ī, and al-Tirmidhī; see al-Albānī, *Silsila al-aḥadīth al-ṣaḥīḥa* (no. 2792), vol. 6, 691-95.

“Perhaps if you had read it (carefully), you would have found it, for Allah says, ‘*And whatsoever the Messenger giveth you, take it. And whatsoever he forbiddeth, abstain (from it).*’”¹⁹⁶ When she acknowledged it, he said, “Verily, he (the Prophet) has prohibited it,” indicating that the Sunna was considered a source of specific information on general Qur’anic injunctions pertaining to Islamic worship, societal transactions, and ethical conduct. The hermeneutic problem lies in misreading Qur’anic words like “all things,” “everything,” or “nothing,” which often convey hyperbolic figures of speeches, as literal, absolute expressions. The Qur’an describes the pagan Queen of Sheba, for example, as having been given “all things (*kullu shay*).”¹⁹⁷ Yet she said “all things” that she had did not include Solomon’s kingdom, monotheism, the world’s treasures, and so forth; therefore, the phrase “all things” is to be understood in a general sense, designating “great things” or “things in abundance” but not literally all things.

iv. Practical, Non-Hypothetical Legislative Agenda

“From the very beginning, these [axial] texts were directly meant to deal with actual events. Presupposition was basically excluded from its philosophy of legislation, thus differing from other codes of law that legislate upon the presumption and calculation of probabilities,” wrote Ramadan. “This trend in Islamic Law is deliberate and not a matter of coincidence.”¹⁹⁸ The Qur’an says, “*O ye who believe! Ask not of things that, if they were made known unto you, would trouble you; but if ye ask of them when the Qur'an is being revealed, they will be made known unto you. Allah pardoneth this, for Allah is*

¹⁹⁶ Q 59:7 (Pickthall). For a discussion of this incident and others related to it, see al-Albānī, *Silsila al-aḥādīth al-ṣaḥīḥa* (ḥadīth no. 2792), vol. 6, 692-95.

¹⁹⁷ Q 27:23 – “*Behold, I found there a woman ruling over them; and she has been given all things.*”

¹⁹⁸ Ramadan, *Islamic Law: Its Scope and Equity*, 66.

*Forgiving, Clement.*¹⁹⁹ The *sabab al-nuzūl* given for this āya is that some people used to mock the Prophet with frivolous questions, such as “Who is my father?” or “Where is my lost camel.”²⁰⁰ Another occasion of revelation given is that when the āya (“*Upon the people is pilgrimage to the House...*,” Q 3:97) was revealed, the Prophet was repeatedly asked, “Is Hajj every year?” He kept silent, eventually saying, “*No. Had I said ‘yes,’ it would have become mandatory (annually)*”; hence, ‘*O ye who believe! Ask not of things that, if they were made known unto you, would trouble you. . . .*’”²⁰¹ Ibn Hajar saw no contradiction between the two reports, since it is possible that the āya was revealed on both occasions.²⁰² Because of the āya, some Companions were afraid to ask the Prophet anything, urging the Bedouins who came to visit him to do so. Ibn Hajar added,

What is established in Ḥadīth about the Companions’ frequent questioning of the Prophet probably occurred before revelation of the āya. It is also probable that its prohibition excluded what they needed to ask in order to confirm his ruling on a matter or what they needed to know at the time, such as animal slaughter (*dhabḥ*) with a reed, obligation of obeying rulers who order transgressions against Allah, conditions on the Day of Judgment, the battles and tribulations before that, questions in the Qur’an about *kalāla*, *khamr*, gambling, fighting in the sacred month, orphans, menses, women, hunting, and so forth. But those who held that the āya concerned the dislike of asking too much about the non-occurrence of things took excessive questioning to mean that it ought to be shunned, since it is a cause of onerous ordinances.²⁰³

Perhaps aware of the diverse motives—disambiguation, accession, testing, procrastination, mockery, frivolity—behind some questions that he received from audiences, the Prophet warned of excessive questioning of the divine law, which resulted in little or no benefit. For too many legal questions could lead to abundant

¹⁹⁹ Q 5:101 (Pickthall).

²⁰⁰ Al-Wāḥidī, *Asbāb al-nuzūl*, 211; al-Suyūfī, *Lubāb al-nuqūl*, 110; al-Bukhārī (*ḥadīth* no. 4622), vol. 10, 99-100; al-Ṭabarānī, *al-Mu’jam al-kabīr* (no. 12695), vol. 12, 137-38.

²⁰¹ Muslim (*ḥadīth* no. 1337) in al-Nawawī, *al-Minhāj*, 837; al-Tirmidhī, *Sunan* (nos. 814 - *ḍa’īf*; 3055 - *ḍa’īf*), 199, 684; Ibn Māja, *Sunan* (no. 2884 - *ḍa’īf*); al-Ḥākim (no. 1611), *al-Mustadrak*, vol. 1, 608.

²⁰² Ibn Hajar, *Fath al-bārī*, vol. 10, 102.

²⁰³ Ibn Hajar, *Fath al-bārī*, vol. 17, 156.

ordinances, becoming increasingly difficult to abide by them, as underlined in the Qur’anic ‘Baqara Syndrome’²⁰⁴ and the following *āḥādīth*:

i) “Allah has enjoined certain enjoinders, so do not abandon them. He has imposed certain limits, so do not transgress them. He has prohibited certain things, so do not fall into them. He has remained silent about many things, out of mercy and deliberateness—as He never forgets—so do not search for it.”²⁰⁵

ii) “Leave me alone as I leave you. Those before you were not destroyed but for their excessive questioning and conflicts with their prophets. If I order you to do something, then do it in accordance with your ability; and if I forbid you something, then abstain from it!”²⁰⁶

iii) “This worst guilt of a Muslim against Muslims is that of him whose inopportune questioning caused the prohibition of what would have been left permitted had he not asked.”²⁰⁷

Associated with this characteristic of the *Sharia* are two more. The first is reduction in divine ordinances, as Ramadan explained. “This method of legislation, intended to legislate only for actual events and not upon presuppositions, is apt to minimize the definite limitations imposed on human dealings. We may call it a method of ‘realism.’ The Companions of Muḥammad were filled with this spirit of realism and

²⁰⁴ Q 2:67-71. The story is told that Moses informs his people, the Children of Israel, that God commands them to sacrifice a cow. Instead of complying immediately with the ordinance, they procrastinated, asking Moses a series of aimless questions about the cow, such as its nature, color, and so forth, until it became increasingly difficult to find the kind of cow specified for the ritual sacrifice, so that they almost did not perform the ritual.

²⁰⁵ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Dāraqutnī, *Sunan* (*ḥadīth* no. 4396, from Abū Tha‘laba), vol. 5, 325-26; al-Bazzār, *Musnad* (*ḥadīth* no. 4087, from Abū Al-Dārdā’), vol. 10, 26-27; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 3477), vol. 2, 442.

²⁰⁶ See al-Bukhārī (*ḥadīth* no. 7288) in Ibn Hajar, *Fath al-bārī*, vol. 17, 131; Muslim (*ḥadīth* no. 1337) in al-Nawawī, *al-Minhāj*, 837; al-Tirmidhī, *Sunan* (*ḥadīth* no. 2679 - *ṣaḥīḥ*), 604; al-Nasā’ī, *Sunan* (*ḥadīth* no. 2619 - *ṣaḥīḥ*), 409; Ibn Māja, *Sunan* (*ḥadīth* nos. 1, 2 - *ṣaḥīḥ*), 13; Aḥmad, *Musnad* (*ḥadīth* no. 9519), 689; see al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 155 - *ṣaḥīḥ*), vol. 1, 183.

²⁰⁷ Al-Bukhārī (*ḥadīth* no. 7289) in Ibn Hajar, *Fath al-bārī*, vol. 17, 153;

often refrained from speculation on hypothetical issues. Ubayy b. Ka'b, when once asked for his opinion on such (and such) an issue, asked, 'Has it happened?' As the answer was 'no,' he said, 'Then leave us at ease until it happens. When it does happen, we shall pass our judgment accordingly.'"²⁰⁸ The second is alleviation of the burden of divine ordinances—*raf' al-ḥaraj*—to the extent that they fall within the capacities of individuals to bear them, as expressed in the Qur'an as follows.

- i) "Allah desireth for you ease; He desireth not hardship for you"²⁰⁹;
- ii) "On no soul doth Allah place a burden greater than it can bear"²¹⁰;
- iii) "Allah doth not wish to place you in a difficulty, but to make you clean, and to complete his favor to you, that ye may be grateful"²¹¹;
- iv) "He has chosen you, and has imposed no difficulties on you in religion."²¹²

v. 'Necessity Knows No Laws'²¹³

The *Sharia* deemed preservation of life a higher objective than mere ritualistic observance of divine commands and prohibitions, especially when such adherence fatally threatens survival. "He has forbidden to you only carrion (**mayta**), blood (**dam**), the flesh of swine (**laḥm al-khinzīr**), and that over which any name other than God's has been invoked (**al-tahlīl li ghayr allāh**); but if one is driven by necessity—neither coveting it nor exceeding his immediate need—no sin shall be upon him; for, behold! God is much-forgiving, a

²⁰⁸ Ramadan, *Islamic Law: Its Scope and Equity*, 67.

²⁰⁹ Q 2: 185 (Pickthall).

²¹⁰ Q 2:286 (Y. 'Alī).

²¹¹ Q 5:6 (Y. 'Alī).

²¹² Q 22:78 (Y. 'Alī).

²¹³ See al-Qinawwajī, *Fatḥ al-bayān*, vol. 1, 344; Khallāf, *Ilm 'uṣūl al-fiqh*, 208.

dispenser of grace."²¹⁴ The *sabab al-nuzūl* given for the *āya* is that during the Prophet's military expedition to Tabūk, they remained three days without food. His Companions sought his permission to cut the veins of their camels and consume the blood for survival. He permitted it, and they cooked and ate it until they found some victuals.²¹⁵ The *āya* permits devouring forbidden meats on the conditions that one is exposed to starvation or death and that he or she does not exceed satiety (*bāghh*) and craving (*ād*).²¹⁶ In that is self-preservation, for the Qur'an does not allow willful suicide: "Do not kill yourselves."²¹⁷ These, then, are but five of many distinct characteristics of the *Sharia* based on the Qur'an and Sunna, which suffice for the purpose of this chapter.

Part VI:

h. Role of Ijtihād Under the Islamic State

Under the Islamic State, supreme legal authority resided in the *Sharia*, that is, in 'Allah and His Messenger,' which legislated on the lawful and unlawful and to which arbitration of conflicts among individuals, tribes, clans, communities, slaves and masters, husbands and wives, and non-Muslims and Muslims were referred. But at times the Companions faced situations in which there was no clear cut Qur'anic guidance or precedent from the Prophet's Sunna. In such cases, they used to exercise their independent judgments and would later have recourse to the Prophet who acknowledged, repudiated, or kept silent on their decisions until it was referred to in the Qur'an, as the following illustrate. It is narrated that two Companions once

²¹⁴ Q 2: 173; see also 6:145.

²¹⁵ Ibn Hajar, *al-'Ujāb*, vol. 1, 418.

²¹⁶ See al-Ṭabarī, *Tafsīr*, vol. 3, 58, 62-63.

²¹⁷ Q 4: 29. See Ibn al-Mundhir, *Kitāb tafsīr al-qur'ān* (Madīna: Dār al-Māthir, 2002), 1st edition, vol. 2, 238.

performed the *tayyamum* (“dry” ritual ablution²¹⁸) and then did the ritual prayer. Shortly thereafter, they came across water and while one of them performed the *wuḍū’* (“wet” ablution²¹⁹) and repeated the ritual prayer, the other did not. When they met the Prophet, they informed him of their actions. He said to the one who did not repeat the ritual ablution or prayer: “You attained the **Sunna** and your ritual prayer will be rewarded,” and to the other person: “You have earned two rewards.”²²⁰ On another occasion, the Prophet dispatched a reconnoitering unit ahead of him to Qurayṣa’s stronghold in 5/626, instructing them: “Do not perform the Midday Prayer²²¹ until Qurayṣa.” But the time for the ritual prayer came in before they arrived at Qurayṣa; so a party of them prayed on the way, while the other did not pray until they arrived at the destination. When the Prophet met them later that evening, he approved of their different interpretations and actions based on his order.²²² It is also related that a group of Companions were out on a razzia, when one of them was wounded in the head by a rock. That night he experienced nocturnal emission and, at the time of the Dawn Prayer (*ṣalātul-fajr*) the next day, he consulted his comrades about performing *tayammum* instead of the ritual

²¹⁸ Hughes, *Dictionary of Islam*, 631; al-Ṣan‘ānī, *Subul al-salām*, vol. 1, 283.

²¹⁹ *Wuḍū’* - ritual ablution with water that a Muslim performs generally in order for prayer (*ṣalāh*). See Hughes, *Dictionary of Islam*, 3; al-Ṣan‘ānī, *Subul al-salam*, vol. 1, 106.

²²⁰ Al-Nasā’ī, *Sunan* (*ḥadīth* no. 433 - *ṣaḥīḥ*), 74; Abū Dāwūd, *Sunan* (*ḥadīth* no. 365 - *ṣaḥīḥ*), vol., 101-02; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 632), vol. 1 vol. 1, 273.

²²¹ Muslim’s report says *ṣalātul-ẓuhr* but it is *ṣalātul-‘aṣr* (i.e. the Afternoon Prayer) in other reports of the *ḥadīth*, as in al-Bukhārī’s (see the next footnote). The reports of Abū Ya‘lā, Ibn Sa‘d, Ibn Ḥibbān, and others agree with Muslim’s, while those of al-Ḥākim, Ibn Ishāq, al-Ṭabarānī, and al-Bayhaqī, agree with al-Bukhārī’s. Ibn Hajar gathered various scholarly reconciliations of the apparent discrepancy of the time (whether *ẓuhr* or ‘*aṣr*) in his *Fath al-bārī*, vol. 9, 207-09.

²²² Muslim (*ḥadīth* no. 1770) in al-Nawawī, *al-Minhāj*, 1139; al-Bukhārī (*ḥadīth* nos. 946, 4119) in Ibn Hajar, *Fath al-bārī*, vol. 9, 206. See also Ibn Ishāq in Ibn Hishām (vol. 3, 181) with a report that is *mursal*.

bath (*ghusl*²²³). Since they had access to water, they advised him that he did not have any legal grounds for *tayammum*. Heeding their advice, he performed the *ghusl* and later died. The Prophet is said to have harshly condemned their counsel: “*They have killed him! May Allah kill them! Why didn’t they ask, if they did not know? The remedy of ignorance is to seek knowledge. It would have sufficed him to perform **tayammum**, tying his wound with a rag, wiping over it, and washing the rest of his body.*”²²⁴ While out on a *ghazwa*, the Companion al-Sulāsil ‘Amr b. al-‘Āṣ experienced a nocturnal emission one cold night. Fearing that performance of *ghusl* might be detrimental to him, he performed *tayammum* instead and led the ritual prayer the next morning. He later explained his action to the Prophet, saying “I heard Allah say (in the Qur’an) ‘*Nor kill (or destroy) yourselves: for verily Allah hath been to you Most Merciful!*’”²²⁵ The Prophet laughed and said nothing,²²⁶ which was interpreted as a sign of his approval, thereby making it part of his *Sunna*. Those examples suggest that the Prophet sanctioned individual judgment in the absence of a ruling from the Qur’an and the *Sunna*.

As the Islamic State grew in power and extended its jurisdiction over the Arabian Peninsula, the Prophet authorized his teachers and governors in various provinces to execute the *Sharia* based on the Qur’an, his *Sunna*, or exercise their own

²²³ *Ghusl* – the ritual bath that a Muslim takes after emission of seminal fluid or marital intercourse, which has a basis in the Qur’an (5:6) and the *Sunna*; see Hughes, *Dictionary of Islam*, 139-40; al-Ṣan‘ānī, *Subul al-salam*, vol. 1, 256-57.

²²⁴ Abū Dāwūd, *Sunan* (*ḥadīth* no. 336-37 - *ḥasan*), vol. 1, 101; al-Ḥākim, *al-Mustadrak* (*ḥadīth* nos. 633-34), vol. 1, 273-74; al-Bayhaqī, *al-Sunan al-kubrā* (*ḥadīth* nos. 1074), vol. 1, 346-47.

²²⁵ Q 4:29 (Y. ‘Alī);

²²⁶ Abū Dāwūd, *Sunan* (*ḥadīth* no. 334 - *ṣaḥīḥ*), vol. 1, 100; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 632), vol. 1, 272; al-Bukhārī (*ḥadīth* no. – *mu‘allaq*) in Ibn Hajar, *Fath al-bārī*, vol. 2, 42; Aḥmad, *Musnad* (*ḥadīth* no. 17, Book of Purification) in al-Bannā, *Fath al-rabbānī li tartīb musnad aḥmad b. ḥanbal al-shaybānī* (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī), vol. 2, 191-92; Ibn Ḥibbān (*ḥadīth* no. 1312 - *ḥasan*) in al-Albānī, *al-ta’līq al-ḥassān ‘alā ṣaḥīḥ ibn ḥibbān*, vol. 3, 29-30; al-Bayhaqī, *al-sunan al-kubrā* (*ḥadīth* nos. 1070-71), vol. 1, 345.

opinion on matters, concerning which the Qur'an and *Sunna* were 'silent.' When the Prophet sent Mu'ādh b. Jabal to Yemen, he reportedly said to him: "How will you judge (a matter that comes before you)?" Mu'ādh replied, "I will judge by that which is in Allah's Book." He said, "And if it is not in the Book?" Mu'ādh replied, "I will judge by the *Sunna* of His Messenger." He said, "And if it is not in the **Sunna** of Allah's Messenger?" Mu'ādh replied, "Then I will exercise (*qitahid*) my own opinion." He said, "Praise Allah who has blessed the messenger of Allah's Messenger!"²²⁷ The *ḥadīth*, according to this narration, is *ḍa'īf*, because of its defective chain of authorities,²²⁸ but scholars have accepted its meaning as *ṣaḥīḥ*, to wit, the Prophet permitted *ijtihād* to operate within the framework of issues to which the Qur'an or *Sunna* did not speak, directly or indirectly, which appears to have been the general understanding of the Companions.²²⁹ Thus, sanctioned by the *Sharia*, *ijtihād* allowed for flexibility in meeting new challenges that the Muslim *Umma* might face. In his licensing of *ijtihād*, the Prophet did not intend that independent legal opinions or judgments be arbitrarily attributed to divine law or God's rule—*ḥukm allāh*. In light of the Islamic political narrative, authority flowed from God to His Messenger and thence to leaders in the community in that order. As the Qur'an says, "Whoever obeys the Messenger obeys Allah"²³⁰; "whoever obeys Allah and His

²²⁷ The *ḥadīth* is *ḍa'īf* and is reported by al-Tirmidhī, *Sunan* (*ḥadīth* no. 1327), 313-14; al-Albānī, *Ḍa'īf abī dāwūd* (*ḥadīth* no. 3592) (Riyadh: Maktaba al-Ma'ārif, 1998), 287; al-Dārāmī, *Sunan* (*ḥadīth* no. 168 - *ḍa'īf*), vol. 1, 72.

²²⁸ For an extensive discussion of its "weakness" (*ḍa'īf*), see *Al-Albānī, Silsila al-āḥādīth al-ḍa'īf*, vol. 2, 273-86. In sum, the *ḥadīth* is both *ḍa'īf* and *ṣaḥīḥ*, though not from the same aspect; it is *ḍa'īf* in respect of the *isnād* (because some of its authorities—"Mu'ādh's companions"—are "unknown" or *majhūl*) and *ṣaḥīḥ*, as al-Albānī concluded, "in respect of its meaning connected to *ijtihād* in the absence of a proof-text (*naṣṣ*), which scholars agree upon."

²²⁹ See al-Dārāmī, *Sunan*, vol. 1, 69-73.

²³⁰ Q 4:80.

Messenger. . .”²³¹; “obey Allah and obey the Messenger, and those in authority among you.”²³² In the last āya, the Arabic verb “obey” (a‘ṭā) comes before God and before the Messenger but not before “those in authority among you” (ūlūl-amr minkum), which is preceded by the conjunctive article wa (“and”), as if to emphasize that obedience is due to God and His Messenger first and foremost and thence to leaders who obey God and His Messenger. Indeed, the Prophet used to send out military expeditions, instructing his commanders²³³: “If you besiege the enemy (and they surrender) to **ḥukm allāh** (God’s rule), do not bring them down to it, since you do not know if you have truly attained **ḥukm allāh**; rather, bring them down to your **ḥukm** and the **ḥukm** of your comrades (through consultation).”²³⁴ Ibn Qayyim commented, “Consider how the Prophet differentiated between **ḥukm allāh** proper and the **ḥukm** of the commander who exercises *ijtihād* (and may not be aware of a judgment from the Qur’an or Sunna on the matter), thereby prohibiting the **ḥukm** of those who exercise personal judgment (*mujtahidūn*) from being called **ḥukm Allāh**.”²³⁵ In this way, the Prophet insulated the role of Divine Legislative Sovereignty, the loci of which were the Qur’an and Sunna, from unwarranted appropriation or manipulation. Thus, *ijtihād* is either correct or incorrect: “If the judge exercises his independent judgment

²³¹ Q 4:13, 69; 24: 52; 33:71; 48:17.

²³² Q 4:59.

²³³ This *ḥadīth* (the *isnād* of which includes Sufyān⇒‘Alqama b. Murthid⇒Sulaymān b. Burayda⇒Burayda’s father) was reported by Abū ‘Ubayd, *Kitāb al-amwāl* (no. 60), 95; al-Ṭahāwī in his *sharḥ al-ma‘ānī* (Beirut: ‘Ālam al-Kutub, 1994), 1st ed., vol. 3, 206-07. Al-Shāfi‘ī (1139) also reported it and al-Nasā‘ī in his *al-Sunan al-kubrā*; see al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 1247 – *ṣaḥīḥ*), vol. 5, 86.

²³⁴ Muslim (*ḥadīth* no. 1731) in al-Nawawī, *al-Minhāj*, 1115; Abū Dāwūd, *Sunan* (*ḥadīth* no. 2612 – *ṣaḥīḥ*), vol. 2, 126-27; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1617 – *ṣaḥīḥ*), 380-81; Ibn Māja, *Sunan* (*ḥadīth* no. 2858 – *ṣaḥīḥ*), 485 ; al-Dārāmī, *Sunan* (*ḥadīth* no. 2442), vol. 2, 285-86; al-Atharī, *Ghawth al-makdūd bi takhrīj muntaqā ibn al-Jārūd* (*ḥadīth* no. 1042) (Beirut: Dār al-Kitāb al-‘Arabī, 1988), 1st edition, vol. 3, 295-97; al-Bayhaqī, *al-Sunan al-kubrā* (*ḥadīth* no. 18180) (Beirut: Dār al-Kutub al-‘Ilmiyya, 2003), vol. 9, 163; Aḥmad (*ḥadīth* no. 151) in *Faṭḥ al-rabbānī*, vol. 14, 46-47.

²³⁵ Ibn Qayyim, *I‘lām al-muwaqqi‘in*, vol. 1, 31.

*and is right, he is rewarded twice; but if he does so and is wrong, he receives only one reward.”*²³⁶

On the other hand, whenever *ijtihād* reflected a judgment of the Qur’an and Sunna, the Prophet would commend or authorize it as “God’s rule,” as in the case of Sa’d b. Mu’ādh who ruled that the men of Qurayza be killed, their women and children enslaved, and their wealth be divided among the Muslim fighters. The Prophet reportedly said to him, “You have judged them (in accordance) with ḥukm Allāh!”²³⁷

²³⁶ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī, Muslim, Abū Dāwūd, Ibn Māja, al-Dāraqutnī, Aḥmad, and al-Bayhaqī; see al-Albānī, *Irwā’ al-ghalīl*, vol. 8, 223-25.

²³⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (*ḥadīth* no. 4121) in Ibn Hajar, *Fath al-bārī*, vol. 9, 212; Muslim (*ḥadīth* no. 1768) in al-Nawawī, *al-Minhāj*, 1137; Aḥmad, *Musnad* (*ḥadīth* nos. 11185, 11187-89), 791; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1582), 374; al-Nasā’ī, *al-Sunan al-kubrā* (*ḥadīth* no. 5938), vol. 3, 465.

Jihad: Warfare **Introduction**

The Islamic State's military policy represented by *Jihad* is examined here. All states, early and modern, have had to provide internal security (against theft, insurrection, aggression, and violence from members of society) and external security (against attacks from other political systems).¹ From the Structural-Functionalist-System (SFS) perspective, defense or war is an output or policy function of the polity. That is because "the military function of government is one of the original—and is still one of the chief—functions of government. The very existence of a state depends on the readiness of the government to maintain domestic peace and order, and to defend the state even at the cost of war when the nation's safety or vital interests are at stake."² The Islamic State is no exception. In his theory of war, Ibn Khaldūn's declared that war has existed since God created the world. The basis of war is the mutual desire for revenge against each other over a certain issue, eventually involving tribes that obdurately cling to their respective positions. If they are instigated to fight over it, upon which they mutually agree, then one group will seek revenge, while the other group will defend; inevitably, war is never absent from a nation or generation and is therefore natural to mortals. According to his 'sociological' reading of the historical record, the reasons for vengeance are usually found in four things: (i) jealousy (*ghayra*), (ii) rivalry (*munāfasa*), (iii) enmity (*'udwān*), and (iv) anger (*ghaḍab*) for one's religion or king aimed at leveling the object of anger. From these four traits, four principal causes

¹ Almond *et al*, *Comparative Politics Today*, 4.

² Hudson H. Lucius, *Elementary Principles of Modern Government* (NY: The Macmillan Company, 1927), 361.

of war can be derived. The first cause—*warfare based on jealousy*—is the most common and is found among feuding families and tribes dwelling in proximity to one another. The second cause—*warfare based on rivalry*—is mostly found in desolate regions among barbaric nations, such as the Bedouins, Turks, Turkomen, Kurds, and the like, who procure their provisions and means of sustenance with spears from the labor of others, declaring war on those who defend their possessions and have no other military aim besides that; indeed, their main concern or objective is the subjugation of a people for the sake of their properties. The third cause—*warfare based on enmity*—is that which the *Sharia* designates as *jihad*. The fourth cause—*warfare based on anger*—involves states and rebels against authorities. Thus, “these are four types of warfare. The first two types also include wars of *baghyī* (rebellion) and *fitna* (strife). As for the third and fourth types, they are the wars of *jihad* and ‘*adl* (justice). . . .”³ This chapter is primarily focused on the fourth type or *jihad* warfare in the context of the early Islamic State. The *Jihad* narrative in the Qur’an, its sanction, objectives, and types, the Prophet’s wars, and his policy regarding the role of women in *Jihad*, prisoners of war, enslavement, torture, internal dissent (e.g., apostasy), territorial expansion, and neutrality will be discussed here, situating the discourse in the historical context of the *sīra*.

Part I:

a. Qur’anic Injunction to Fight

Throughout the Makkan phase, including a couple of years into the Madanite phase of his prophetic mission—a period of about fourteen years—Muḥammad initiated a cultural strategy of non-violence in the face of persecution, torture, and systematic

³ Ibn Khaldūn, *Muqadimma* (Cairo: Dār al-Fajr lil-Turāth, 2004), 333.

killing of his faithful followers by Arab pagans and virulent opposition to his Islamic Call. He advised the Muslim *Umma* to hold fast to patience, secrecy, perseverance, dissimulation of their faith and practice, emigration to other lands, “fair segregation” (*hajr*),⁴ pardoning (*‘afw*) their offenders, and forbearance (*ṣafh*)⁵, in accordance with their capacities and circumstances. Exegetes (*mufasssīrīn*) of the Qur’an relate that the Muslims of Makka used to be tormented verbally and physically to such an extent that when they complained to the Prophet, he could help but say to them: “*Be patient, for fighting has not been divinely ordained for me.*”⁶ Nevertheless, he seems to have anticipated an inevitable military showdown with his enemies in the struggle to establish Islam, obliging the Anṣār of Madīna during the Third al-‘Aqaba Pledge “to fight with him against everyone (i.e. their enemies) and help him near and far, and assuring them of Paradise (as the reward for the fulfillment of their Islamic duties).”⁷ The three al-‘Aqaba Pledges, as we mentioned previously, occurred in the environs of Makka, which led Ibn Ishāq to believe that the Prophet had received permission to fight before the Hijra.⁸ In Madīna, until the Greater Battle of Badr, his *da‘wa* or Islamic Call was bitterly opposed by the pagan Arab and Jewish communities there, yet we find him urging restraint at first.⁹ In keeping with its characteristically incremental legislative approach, the Qur’an

⁴ Q 73:10 (Asad) – “and endure with patience (**ṣabr**) whatever people may say [against thee], and avoid them with a comely avoidance (**hajr**).”

⁵ Q 2:109 (Asad) – “Nonetheless, forgive (**ī‘fū**) and forbear (**īṣfahū**), until God shall make manifest His will.”

⁶ Al-Wāḥidī, *Asbāb al-nuzūl*, 309.

⁷ Ḥamīdullāh, *Majmū‘a wathā’iq*, 49-51; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 89; Aḥmad, *Musnad* (*ḥadīth* no. 14510), 1011; al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 2, 442-44. Its *isnād* is “good” (*jayyid*), according to Ibn Kathīr, *al-Bidāya wal-nihāya* (Riyadh: International Ideas Home), 436.

⁸ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 108-09.

⁹ Al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 2, 576-78.

progressively unveiled the principles of *Jihad*. Firstly, the Qur'an prohibited Muslims from fighting in Makka; secondly, on the cusp of the Hijra, it permitted them to retaliate in self-defense; and thirdly, it ordained fighting for them against all unbelievers who fought against them.¹⁰ Each of these successive Qur'anic injunctions was contingent on the changing nature of the collective strength and readiness of the Muslim *Umma* for military confrontation.

There is a host of general terms associated with warfare in the MHT, including *ḥarb* (pl., *ḥurūb*), *ma'rika* (pl., *ma'ārik*), and *waqa'a* (pl., *waqa'āt*). The Qur'an itself uses the words *qitāl*, as in "*Fight (qātilū) in the cause of Allah those who fight you. . .*"¹¹ and *jihad*: "*Go forth, lightly and heavily, and strive (jāhidū) with your wealth and your lives in the way of Allah!*"¹² Etymologically, *jihad* means "difficulty" or "effort." This non-military sense of *jihad* was used in the Qur'an during the pre-Hijra phase of the Islamic Call in Makka: "*Had it been Our Will, We could have sent a warner to every center of population. Therefore, listen not to the Unbelievers, but strive against them with the utmost strenuousness (jāhidūhum bihi jihādan kabīrā).*"¹³ That is, strive hard against them with the Qur'an, since fighting itself was forbidden. The āya is part of *Sūra* (*al-Furqān*, "the Criterion," Q 25), which is Makkan (i.e. pre-Hijra).¹⁴ In it, Muslims are clearly ordered to do *Jihad* against unbelievers—not with violence but with theological argumentation, disclosing

¹⁰ Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 69-71.

¹¹ Q 2:190.

¹² Q 9:41. It is a Madanite *sūra*. See al-Suyūṭī, *al-Itqān fī 'ulūm al-qur'ān* (Beirut: al-Makataba al-ʿAṣriyya, 2006), ,

¹³ Q 25:51-52 (Y 'Alī).

¹⁴ Al-Bayhaqī, *Dalā'il al-nubuwwa*, vol. 7, 142-45; al-Zarkashī, *al-Burhān fī 'ulūm al-qur'ān* (Cairo: Dār al-Ḥadīth, 2006), 136. The early *mufasssīrīn* agreed that *al-Furqān* is Makkan, except for al-Ḍaḥḥāk who believed that it was Madanite, which perhaps refer to *āyāt* 68-70. See al-Suyūṭī, *Itqān*, 35, 40, 47.

Qur'anic revelations to all and sundry with the hope of their conversion to Islam.¹⁵

Therefore, *jihad* in the Qur'an is polysemous, having different meanings in different contexts. Similarly, *jihad* in Ḥadīth connotes a spiritual struggle, at times, as the Prophet is reported to have said, "*The mujāhid is he who strives (jāhada) against his (baser) self in obedience to Allah. . .*"¹⁶ as well as a military struggle, at other times: "*Allah guarantees the **mujāhid fī sabīl Allāh** that He will cause him to die and grant him Paradise or cause him to return (from the battlefield) safely with his reward or spoils.*"¹⁷ Thus, the usage of *jihad* in the axial texts of Islam is neither only a moral or spiritual struggle or only a military struggle; nevertheless, its predominant connotation indicates military engagement with the enemy in some form or the other.

Muslim scholars differ on which āya of the Qur'an sanctioned war for the first time¹⁸ from among the following āyāt:

- (i) "*Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loveth not transgressors*" (Q 2:190 - Y. Ali).
- (ii) "*Go forth, light armed [khifāf] and heavy armed [thiqāl], and strive [jāhidū] with your wealth and your lives in the way of Allah! That is best for you if ye but knew*" (Q 9:41- Pickthall).

¹⁵ Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 5.

¹⁶ The *ḥadīth* is *ṣaḥīḥ* and is reported by Aḥmad, *Musnad* (*ḥadīth* nos. 24458, 24467), 1796; Ibn Ḥibbān (*ḥadīth* no. 4842), *al-Ta'liqāt al-ḥissān 'alā ṣaḥīḥ ibn ḥibbān*, vol. 7, 216; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 24), vol. 1, 51; and al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 2, 89-90.

¹⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (*ḥadīth* no. 2787) in Ibn Hajar, *Fath al-bārī*, vol. 7, 43; Muslim (*ḥadīth* no. 1876) in al-Nawawī, *al-Minhāj*, 1207; in Mālik, *al-Muwatta'* (*ḥadīth* no. 930/19233) in Ibn 'Abdul Barr, *al-Istidhkār* (Cairo: Dār al-Wa'ī, 1993), vol. 14, 8.

¹⁸ Ibn Hajar, *Fath al-bārī*, vol. 9, 7.

(iii) “*Permission [to fight] is given to those against whom war is being wrongfully waged and, verily, God has indeed the power to succor them*” (Q 22:39 - Asad).

Those who argued for the last āya—Q 22:39—cited as evidence al-Zuhrī’s statement: “The first āya revealed concerning fighting (*qitāl*) is, as ‘Urwa informed me, on the authority of ‘Ā’isha, ‘*Permission [to fight] is given to those against whom war is being wrongfully waged. . .*’”¹⁹ Another *ḥadīth*, on the authority of Ibn ‘Abbās, states, “When the Prophet abandoned Makka, Abū Bakr (d. 13/634) said, ‘they have caused their prophet to leave—verily, to Allah we belong and to Him we shall return!—so that the people might perish.’ Thereafter the āya (Q 22:39) was revealed, and Abū Bakr said, ‘Then I knew that there will be fighting.’ It is the first āya on fighting.”²⁰ As noted earlier, Ibn Ishāq, Ibn Hishām *et al* believed that permission to fight was authorized in Makka.²¹ The claim that Q 22:39 was revealed in Makka, thereby sanctioning fighting there and not in Madīna, was incisively refuted by Ibn Qayyim.²² It may be that the Prophet, based on his own *ijtihād*, had permitted fighting only for those Muslims whom Quraysh forcefully prevented from migrating from Makka to Madīna (which the Qur’anic later endorsed in the early post-Hijra period), eliciting Abū Bakr’s comment. This type of Qur’anic endorsement of the Prophet’s *ijtihād* is neither unknown nor rare. For example, Ibn Mas‘ūd narrated that he asked the Prophet, “What is the greatest sin?” He said,

¹⁹ Ibn Hajar, *Fath al-bārī*, vol. 7, 7; al-Wāḥidī, *Asbāb al-nuzūl*, 309; al-Suyūṭī, *Lubāb al-nuqūl*, 162.

²⁰ Al-Tirmidhī, *Sunan*, (*ḥadīth* no. 3071), 713; “its *isnād* is *ḍa‘īf*” not *ḥasan*, according to al-Albānī. See also al-Ḥākim, *al-Mustadrak*, vol. 3, 9, in which it is *mursal* and therefore not *ṣaḥīḥ*. But al-Nasā’ī reported it with an *isnād* that is *ṣaḥīḥ* in his *Sunan*, (*ḥadīth* no. 3085), 475; Aḥmad, *Musnad* (*ḥadīth* no. 1865), 189.

²¹ Al-Suhaylī, *al-Rawḍ al-unf*, vol. 2, 280, 288-89.

²² Ibn Qayyim, *Zād al-ma‘ād*, vol., 3, 70-71.

“Ascribing partners with Allah who created you.” He then asked, “What’s next?” He said, “Killing your child out of fear that he will eat with you.” He then asked, “What’s next?” He said, “Adultery with your neighbor’s wife.” Later, the Qur’an confirmed it: “And those who cry not unto any other god along with Allah, nor take the life which Allah hath forbidden save in (course of) justice, nor commit adultery and whoso doeth this shall pay the penalty” (Q 25: 68).²³

In this way, we can reconcile the conflicting views of historians and exegetes on the questions of when and where fighting was first authorized for Muslims. To buttress this textual reconciliation, al-Ṭabarī reported a fight (in which the Prophet did not participate) that occurred between a group of Makkan Muslims and pagans, when the latter attempted to prevent the former from migrating to Madīna. If accurate, it would predate the *ghazwa* al-Abwā’,²⁴ which Muslim historians agreed was the first *ghazwa* in Islam.

Those who argued for the first āya—Q 2:190 (*Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loveth not transgressors*)—asserted that it was revealed in Madīna, permitting Muslims to fight. It is said to have abrogated some 70 āyāt revealed before it.²⁵ According to this view, the Prophet fought those who fought him but did not fight those who did not fight him, that is, until the revelation of *Barā’a* or *Tawba* (Q 9)—especially “and fight the Pagans all together as they fight you all

²³ Al-Bukhārī (*ḥadīth* no. 7520) in Ibn Hajar, *Fath al-bārī*, vol. 17, 546; Muslim (*ḥadīth* no. 142) in al-Nawawī, *al-Minhāj*, 147; al-Suyūṭī, *Lubāb al-nuqūl*, 177.

²⁴ Al-Ṭabarī, *Tafsīr*, vol. 16, 575; al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 2, 579; al-Suyūṭī, *al-Durr al-manthūr fī tafsīr al-ma’thūr* (Cairo: Markaz Hajar Lil-Buḥūth Wa Dirāsa al-‘Arabīyya Wal-Islāmiyya, 2003), 1st edition, vol. 10, 513.

²⁵ Al-Qinnawjī, *Fath al-bayān*, vol. 9, 55.

together,”²⁶ which reportedly abrogated Q 2:190,²⁷ giving the divine order to fight all pagans. Dismissing abrogation, others have read Q 2:190 as prescribing limited warfare for men and exempting women, children, elderly, Christian monks, the crippled, the insane, and those who offer peace or pay the *jizya*, which is firmly established in *Sharia*; hence, Q 2:190 was definitely not abrogated by Q 9:36. Reconciling the two views, al-Ṭabarī posited the plausibility of the second interpretation, which is stronger because that which has a firm legal basis takes precedence over a probable claim of abrogation.²⁸ In other words, fighting is regulated by Islamic Law and is not an unbridled activity against all unbelievers.

As for those who argued for the second *āya*—Q 9:41 (“Go forth, light armed and heavy armed, and strive with your wealth and your lives in the way of Allah! That is best for you if ye but knew”)²⁹—they debated whether it or the *āya* (Q 9:25 - “Assuredly Allah did help you in many battle-fields and on the day of Hunayn. . . .” was the first *āya* of *Barā’a* to be revealed.³⁰ Al-Ṭabarī held that Q 9:41 is proof that *jihad* was intended for all able-bodied Muslim men who were at ease and free to travel, could ride or walk, were young, healthy or sick, for God did not distinguish one group—the *khifāf*—from the other—the *thiqāl*—but ordained *jihad* for both groups.³¹ But the *sabab al-nuzūl* given by al-Wāḥidī *et al* relates that when the *āya* (Q 9:41) was revealed, the military task that it set forth

²⁶ Q9:36 (Y. ‘Alī).

²⁷ Al-Ṭabarī, *Tafsīr*, vol. 3, 289-90.

²⁸ Al-Ṭabarī, *Tafsīr*, vol. 3, 291-92.

²⁹ Pickthall’s translation of *khifāf* and *thiqāl* as “light armed” and “heavy armed” respectively is an interpretation that is not reflected in the exegetical literature, which suggest a pair of opposite terms related to a person’s physical condition—not the gear that he carries, such as young and old, weak and strong, healthy or sick, and the like.

³⁰ Al-Ṭabarī, *Tafsīr*, vol. 11, 475.

³¹ Al-Ṭabarī, *Tafsīr*, vol. 11, 474; al-Suyūṭī, *Lubāb al-nuqūl*, 126.

therein proved burdensome, since it was understood to be general, which would include the entire Muslim community. Thereafter, it was said to have been abrogated by another āya, namely, “*There is no blame on those who are infirm, or ill, or who find no resources to spend (on the cause), if they are sincere (in duty) to Allah and His Messenger.*”³² Some *mufasssirīn*, however, interpreted Q 9:41 not in terms of abrogation (*naskh*) but optionality; that is, *Jihad* is mandated only on those capable of undertaking it. This view is supported by a report that Q 9:91 was revealed during the Prophet’s military expedition to Tabūk, 9/630, when he left the women behind in Madīna, assigning some men for their protection, which demonstrated that *Jihad* was not mandatory for everyone.³³ That is to say, in the terminology of jurists, *Jihad* was *farḍ al-kifāya* (obligatory upon the community as a whole) and not *farḍ al-‘ayn* (obligatory upon each individual in the community). Ibn Qayyim has deconstructed these juristic categories, stating that the *jihad* of physical combat is *farḍ al-kifāya*, whereas the *jihad* of the heart, the *jihad* of the tongue, the *jihad* of wealth, and the *jihad* of the hand (as regards forbidding evil) is *farḍ al-‘ayn*, as in “...and ye should strive (**tujāhidūna**) for the cause of Allah (**fi sabīl Allāh**) with your wealth and your lives. . . .” (Q 61:11).³⁴

b. Objectives of Jihad

In almost every āya in which fighting is mentioned, the Qur’an links it to a causative factor or objective. In some āyāt, fighting appears not to be sanctioned for the sake of fighting or aggression but as either a pragmatic reaction to the Muslim polity’s

³² Q 9: 91 (Y. ‘Alī). See al-Wāhidī, *Asbāb al-nuzūl*, 247; al-Suyūṭī, *Lubāb al-nuqūl*, 131-32;

³³ Al-Qinnawjī, *Fath al-bayān*, vol. 5, 308-09.

³⁴ Ibn Qayyim, *Zād al-Ma‘ād*, vol. 3, 72.

dynamic internal and external environments for defense purposes or the promulgation of its ideology—the call to worship the One God—in spite of an innate perversity toward fighting. As the Qur'an puts it: "*Fighting is ordained for you, even though it be hateful (kurh) to you; but it may well be that you hate a thing the while it is good for you, and it may well be that you love a thing the while it is bad for you: and God knows, whereas you do not know.*"³⁵ It is 'hateful' or disliked, since it separates a fighter from his family, wealth, country, and exposes him to injury or death. Therefore, to mitigate this social reality and prepare Muslims to defend person, property, religion, and state, Islam underscored *Jihad* as a duty of paramount importance, honorable, rewarding, and a veritable service to God. For this reason, *Jihad* is often described in Islam's axial texts with the construct phrase *fi sabīl Allāh*³⁶ (variously translated as "in the path of God," "for God's pleasure," and the like). Ḥadīth explains *fi sabīl Allāh* as the fight or struggle to make God's message prevail. When asked about the one who fights courageously, angrily, or ostentatiously, the Prophet reportedly pontificated, "[Only] *the one who fights in order that Allah's message might prevail is doing so fi sabīl Allāh.*"³⁷

The Qur'an permits, recommends, or mandates *Jihad* as a course of action in order to achieve specific policy objectives of the Islamic State. Thus, we find that *Jihad* is described as a means to certain ends as follows.

³⁵ Q 2: 216 (Asad).

³⁶ Q5:54.

³⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by *Muslim* (no. 1904) in *al-Nawawī, al-Minhāj*, 1219; in *al-Nasā'ī, Sunan* (no. 3136), 483-84; *Ibn Māja, Sunan* (no. 2783), 473.

- (i) To repel aggression: “Fight in the cause of Allah (**fi sabīl Allāh**) those who fight you, but do not transgress limits; for Allah loveth not transgressors.”³⁸
- (ii) To defend the state and the religion: “O ye who believe! Take your precautions, and either go forth in parties or go forth all together.”³⁹
- (iii) To suppress strife: “And fight them until persecution (**fitna**) is no more, and religion is for Allah. But if they desist, then let there be no hostility except against wrongdoers.”⁴⁰
- (iv) To establish Islam in the land: “Fight those who believe not in Allah nor the Last Day, nor hold that forbidden which hath been forbidden by Allah and His Messenger, nor acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the **jizya** with willing submission, and feel themselves subdued.”⁴¹
- (v) To repel injustice: “Those who have been driven from their homes unjustly only because they said, ‘Our Lord is Allah--For had it not been for Allah's repelling some men by means of others, cloisters and churches and oratories and mosques, wherein the name of Allah is oft mentioned, would assuredly have been pulled down.”⁴²
- (vi) To retaliate against the persecution of Muslims: “And how could you refuse to fight in the cause of God and of the utterly helpless men, women, and children who are crying, ‘O our Sustainer! Lead us forth [to freedom] out of this land whose people

³⁸ Q 2: 190 (Y. ‘Alī).

³⁹ Q 4: 71 (Y. ‘Alī). Cf Muḥammad Shīr Khattāb, *al-Rasūl al-qā'id* (Baghdad:, Maktaba al-Ḥayāh, 1965), 2nd edition, 20.

⁴⁰ Q 2:193 (Pickthall).

⁴¹ Q 9:29 (Y. ‘Alī). See also “It is He Who hath sent His Messenger with guidance and the Religion of Truth, to proclaim it over all religion, even though the Pagans may detest (it)” (Q 9: 33). Cf. Khattāb, *al-Rasūl al-qā'id*, 20.

⁴² Q 22:40 (Pickthall).

*are oppressors, and raise for us, out of Thy grace, a protector, and raise for us, out of Thy grace, one who will bring us succor!”*⁴³

(vii) To repel the greater evil of oppression: “*And slay them wherever you may come upon them, and drive them away from wherever they drove you away - for oppression (fitna) is even worse than killing.*”⁴⁴ According to some exegetes, this directive addressed the Muhājirūn who were at war with Quraysh.

(viii) To achieve peace as the ultimate dividend of war: “*Now when ye meet in battle those who disbelieve, then it is smiting of the necks until, when ye have routed them, then making fast of bonds; and afterward either grace or ransom till the war lay down its burdens.*”⁴⁵

In sum, these Qur’anic injunctions informed the Prophet’s military policy and steered its prosecution throughout the decade of his government in Madīna.

c. Jihad Preparations

The Qur’an not only sanctioned *Jihad*, but it also counseled preparation for it. “*Hence, make ready against them whatever force and war mounts you are able to muster, so that you might deter thereby the enemies of God, who are your enemies as well, and others besides them of whom you may be unaware, [but] of whom God is aware; and whatever you may expend in God's cause shall be repaid to you in full, and you shall not be wronged.*”⁴⁶ This preparation for military engagement was mental, physical, and material, steeling Muslims for self-sacrifice and unification of their ranks. The Prophet impressed mental readiness on his

⁴³ That is, persecution of Muslims in general and of imprisoned Muslims in Makka in particular, as in Q 4:74:

⁴⁴ See Q 2:191 (Asad):

⁴⁵ Q 47: 4 (Pickthall). Cf Khaṭṭāb, *al-Rasūl al-qā'id*, 20.

⁴⁶ Q 8: 60 (Asad).

followers by preaching to them hope, assurance of divine help, victory, and promise of happiness postponed to the hereafter. Islamic doctrine demanded from Believers an unwavering belief in the omnipotence of Divine Sovereignty, depreciated the worldly life,⁴⁷ extolled the virtues of martyrdom,⁴⁸ and conceptualized *jihad fī sabīl Allāh* as a divine commerce of immeasurable profit.⁴⁹ Love for God and His Messenger was promoted as the highest virtue in Islam, but such spiritual love could not be attained without exhibiting hatred for unbelief, hypocrisy, and enmity toward Islam and striving against these negative forces, thereby completing the duality of love for God and hate for God. The physical readiness for *Jihad* was carefully organized through military drills,⁵⁰ *ribāṭ* (i.e. keeping posts at the enemy's frontier or frontline with the enemy),⁵¹ archery,⁵² horseback riding,⁵³ and wrestling.⁵⁴ As for the material preparedness for *Jihad*, it consisted of several methods of weapon procurement:

⁴⁷ Q 29: 64.

⁴⁸ Q 2: 154.

⁴⁹ Q9:111.

⁵⁰ Abdul Laṭīf Zāyid, *al-Jānib al-‘askarī min ḥayātil-rasūl* in 3rd World *Sira* Conference (Beirut: Manshūrāt al-Maktaba al-‘Arabiyya, 1981), 1st edition, vol. 5, 61.

⁵¹ *Ribāṭ* (pl., *rawābiṭ*). See al-Dārāmī, *Sunan* (*ḥadīth* no. 2424 - *ḥasan*), vol. 2, 277; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1667 - *ḥasan*), 390; al-Nasā’ī, *Sunan* (*ḥadīth* no. 3169 - *ḥasan*), 489-90.

⁵² Abū Dāwūd, *Sunan* (*ḥadīth* no. 2514 - *ṣaḥīḥ*), vol. 2, 100; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1638 - *ṣaḥīḥ*), 385; Ibn Māja, *Sunan* (*ḥadīth* no. 2812 - *ṣaḥīḥ*), 478.

⁵³ Al-Bukhārī (*ḥadīth* no. 2828) in Ibn Hajar, *Fath al-bārī* vol. 7, 146.

⁵⁴ The Prophet sometimes chose fighters from among those who excelled in wrestling. See al-Suyūṭī, *al-Musāri‘a ilā-l muṣāri‘a* (Jedda: Maktaba al-Sawādi, 1992), 1st edition, 80; al-Kattānī, *Nizām al-ḥukūma al-nabawiyya* also known as *al-Tarātīb al-idāriyya*, (Beirut: Dār al-Arqam b. Abi al-Arqam), 3rd edition, vol. 2, 95-97.

- (i) *Borrowing* – The Islamic State borrowed as much as 100 coats of mail and accessories from Ṣafwān b. Umayya, a Makkan pagan who later converted to Islam, for use in the battles of Ḥunayn and al-Ṭā'if.⁵⁵
- (ii) *Expropriation* – the Islamic State seized many weapons from the properties of Jews in the *ghazwa* of al-Naḍīr.⁵⁶
- (iii) *Manufacture* – The Companions Khabbāb b. al-Arat and Sa'd b. Abī Waqqāṣ, used to make swords and arrows respectively.⁵⁷
- (iv) *Purchase* – There are several instances of the Islamic State purchasing weapons. The Prophet once sent Sa'īd b. Zayd to Najd to purchase horses and an assortment of weapons.⁵⁸ He also used a portion of the *fay'* obtained from al-Naḍīr to purchase weapons for *Jihād*.⁵⁹
- (v) *Ransom* – Nawfal b. al-Ḥarath, a prisoner of war after the Battle of Badr, paid his own ransom with 1000 spears from his spear business in Jedda. He later converted to Islam and his spears were used in the battle of Ḥunayn.⁶⁰
- (vi) *Acquisition of the technology of war machines* – Urwa b. Mas'ūd and Ghayān b. Salama were among the Companions who did not participate in the battles of Ḥunayn and al-Ta'if. That is because the Prophet had sent them to Jurash to study the manufacture of siege weapons, such as battering rams (*dabābāt*),

⁵⁵ See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 550; al-Wāqidī, *al-Maghāzī*, vol. 2, 855, Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 84; al-Ṭabarī, *Ta'rikh*, vol. 3, 73; al-Maqrīzī, *Imtā' al-asmā'* (Beirut: Dār al-Kutub Al-'Ilmiyya), 1999, vol. 14, 7).

⁵⁶ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 383; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 144-45).

⁵⁷ Al-Kattānī, *Nizām al-hukūma al-nabawiyya*, vol. 2, 106.

⁵⁸ Al-Kattānī, *Nizām al-hukūma al-nabawiyya*, vol. 2, 279.

⁵⁹ Al-Tirmidhī, *Sunan*, (*ḥadīth* no. 1719 - *ṣaḥīḥ*), 401.

⁶⁰ See Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 4, 42; al-Kattānī, *Nizām al-hukūma al-nabawiyya*, vol. 2, 29.

catapults (*majānīq*; sing., *manjanīq*), and war machines called *ḍubūr* (sing., *ḍabr*). The latter was a crude type of battering ram covered with animal skin, which protected foot soldiers, and was brought near fortresses for attacks.

The Islamic State deployed *ḍubūr* in the military operation against al-Ṭā'if.⁶¹

As a testimony to his astute military leadership, the Prophet did not hesitate to put the fortified human and material resources at his disposal on full display as symbols of Islamic might, adhering to the Qur'anic maxim: "*so that you might deter thereby the enemies of God, who are your enemies as well, and others besides them of whom you may be unaware, [but] of whom God is aware.*"⁶² An example of that is his directive to detain Abū Sufyān at a narrow mountain pass outside Makka ahead of the Muslim march to conquer the city, so that the Quraysh chief could behold the powerful spectacle of Madīna's squadrons brandishing their military equipment and fluttering their bright colored war flags and banners. When he saw the squadrons from afar, Abū Sufyān asked al-'Abbās, the Prophet's uncle, "Who are they?" Al-'Abbās said, "They are the Muhājirūn and the Anṣār surrounding the Messenger of Allah, protecting him." Abū Sufyān remarked, "Verily, your nephew has become a great king!" He replied, "No, it is (not kingship) but the power of prophethood (*nubuwwa*)." As soon as Abū Sufyān was released, he hastened to Makka and warned Quraysh: "Muḥammad is advancing toward you, and with him is what has never come to you before!"⁶³ This military display was a

⁶¹ See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 571; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 117-18; al-Tabarī, *Ta'rīkh*, vol. 3, 81-84.

⁶² Q 8:60.

⁶³ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 524-25; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 44-45; Al-Bukhārī (*ḥadīth* no. 4280) in Ibn Hajar, *Fath al-bārī*, vol. 9, 388; Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 428.

perceptively tactical decision of the Prophet to alert Abū Sufyān in this way, since the first-hand report from none other than the Quraysh chief himself, bearing witness before his people about the overwhelming Muslim military force about to invade Makka, went a long way in preparing them psychologically for non-resistance, which saved many lives on that fateful day. Indeed, the Prophet conquered Makka with an overwhelming force ⁶⁴ and little bloodshed. ⁶⁵

Indeed, the Prophet's adept military command matched his brilliant political acumen. He led by example. Not only did he plan military strategies in consultation with his Companions, but he was also involved in their implementation, participating in some of the *ghazawāt*, in which he was known to be the bravest and closest to the enemy in fighting. ⁶⁶ At first glance, nothing was apparently extraordinary about his military maneuvers, since he adopted many tactics of conventional Arab warfare,

⁶⁴ The majority Sunnite view is that Makka was conquered with force (*'anwa*), but al-Shāfi'ī held the opposite view. Ibn Qayyim has explained both arguments at length and their juridical implications for Islamic public law. He endorsed the majority view, since the Conquest of Makka as reported in the sources indicates that it was subdued under the shade of the sword and not because of a peace treaty (*ṣulḥ*). Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 429-34.

⁶⁵ The Muslim invasion force was met with some resistance outside of Makka in which three of its fighters were killed (Kurz b. Jābir, Khunays b. Khālid b. Rabī'a b. Aṣram al-Khuzā'i, and Salama b. Al-Mīlā' Al-Juhanī), while the pagans lost 13 men. Inside Makka, they lost three more of their men and one woman among those whom the Prophet did not grant amnesty: Abdul 'Uzzā b. Khaṭal, Al-Ḥurayrith b. Nuqadh, Miqyas b. Ṣubāba, and a female slave songstress. Ibn Khaṭal had been appointed by the Prophet as a revenue collector, but he killed his Muslim companion, committed apostasy, and returned to enemy state Makka. Al-Ḥurayrith used to hurl insults at the Prophet in the pre-Hijra period. As for Miqyas, he had converted to Islam and then reneged from it after he killed a member of Anṣār from whom he took blood money for the killing of his brother. See al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 166- 69; Ibn Sayyid al-Nās, *'Uyūn al-athar*, vol. 2, 236-38; Ibn Abdul Barr, *al-Durar fī ikhtisar al-maghazi walsīra*, 232-23; al-Bukhārī (*ḥadīth* no. 3044) in Ibn Hajar, *Fatḥ al-bārī*, vol. 7, 294.

⁶⁶ Muslim (*ḥadīth* no. 1776) in al-Nawawī, *al-Minhāj*, 1148; al-Bukhārī (*ḥadīth* no. 4314) in Ibn Hajar, *Fatḥ al-bārī*, vol. 9, 424.

organizing his army into divisions⁶⁷; utilizing arrows, swords, spears, shields, helmets, and coats of mail; having horsemen, camelry, and foot-soldiers; assenting to *mubāraza*⁶⁸; displaying secular war symbols like flags and banners; reciting poetry in order to motivate troops; and employing spies.⁶⁹ On closer examination, however, gleaned from the literature of *jihad* in Ḥadīth,⁷⁰ one gets a keener appreciation of his military genius. For example, he introduced into Arab warfare for the first time the digging of defense trenches (borrowed from the Persians),⁷¹ siege weapons, and besieging fortresses. Barakat Aḥmad has discussed the devastating use of the siege method used by the Prophet against the Jewish strongholds in Madīna, which required foresight, planning, logistics to which traditional Arab warfare was not predisposed given its singular raiding style.⁷² He coded military commands (e.g. *amit amit*, *yā manṣūr*, *ḥā mīm lā yunṣarūn*, etc)⁷³ and spy communications,⁷⁴ planned attacks based on intelligence

⁶⁷ The Arabs used to call an army *khamīs* because of its division into 5 units: *qalb* (“heart or center”), *maymana* (“right”), *mayṣara* (“left”), *muqaddama* (“forward” or “front”), and *sāq* (“flank” or “calf”). See also al-Kittani, *Nizām al-ḥukūma al-nabawiyya*, vol. 1, 268-69.

⁶⁸ The meeting of two adversaries from opposing armies in the field, dueling until death before the battle begins. See Abū Dāwūd, *Sunan* (ḥadīth no. 2665), vol. 2, 143.

⁶⁹ Abū Dāwūd, *Sunan* (ḥadīth no. 2618), vol. 2, 127.

⁷⁰ For details, see the chapters or books on *jihad* in al-Bukhārī, Muslim, al-Tirmidhī, Ibn Māja, Abū Dāwūd, and al-Nasā’ī, and other authoritative ḥadīth collections.

⁷¹ It was used effectively in the Battle of Khandaq, preventing the Arab pagan confederacy from invading Madīna.

⁷² See Barakat Aḥmad, *Muhammad and The Jews: A Re-examination* (New Delhi: Vikas Publishing House, 1979), 107-08.

⁷³ The sources mention the use of such battlefield mottos as *amit amit*, *yā manṣūr*, “O Manṣūr,” (Abū Shaykh, *akhlāq al-nabī*, 155), *ḥā mīm lā yunṣarūn*, “*Ḥā mīm*. They shall not be helped!”. These mottoes served the purposes of distinguishing friend from foe, especially at night, identifying tribes, and motivational rhetorical devices to induce courage and zeal in fighters, on the one hand, and to confuse, surprise, and scare the enemy, on the other. The Muhājirūn used *yā banī ‘abdur raḥmān* (“O, tribe of ‘Abdur Raḥmān!”) in the Conquest of Makka and battle of Hunayn, while al-Khazraj used *yā banī ‘abdullāh* (O, tribe of ‘Abdullah!) and al-Aws *yā banī ‘ubayd allāh* (O, tribe of ‘Ubaydullah!). See Abū Dāwūd, *Sunan* (ḥadīth no. 2596 - *ḥasan ṣaḥīḥ*; no. 2597 - *ṣaḥīḥ*), vol. 2, 121; Ibn Abd al-Barr, *al-Durar fī iktisār al-maghāzī wal-sīra*, 232.

⁷⁴ Suspicious of treachery on the part of the Jewish tribe Qurayza, the Prophet, during preparations in the Battle of Khandaq, sent four spies (Sa’d b. Mu’ādh, Sa’d b. ‘Ibāda, ‘Abdullah b. Rawāḥa, and Khawwāt b.

gathered on the enemy's positions, strengths, weaknesses, and cultural background, and launched attacks at critical times of the day and night.⁷⁵ He also espoused a revolutionary ideology, organized disinformation campaigns,⁷⁶ consecrated fighting as a religious duty, relied on the metaphysical forces of angels and Divine Succor, initiated his warriors into to a grand, sublime universal scheme linked in spirit to the historical tradition of prophets, and envisioned a brighter future for Islam beyond the gloomy *jāhili* present. Last—but not the least—his stunning victories over his pagan enemies and those among the People of the Book rapidly extended his political authority over almost the entire Arabian Peninsula in a less than a decade. This description of Muḥammad's successful military approach is not exhaustive but highlights its sophistication and innovativeness.⁷⁷

Part II:

d. The Prophet's Wars

Hostile relations between the Islamic State of Madīna and the pagan state of Makka can be described as a *de facto* state of war in which many battles were fought and razzias carried out by both sides. The total number of battles during the Prophet's time amount to over 100 by some estimates in the Muslim Historical Tradition (MHT). The wars and battles are collectively referred to as *ghazawāt* (sing. *ghazwa*) by Muslim

Jubayr) and instructed them to communicate in pidgin Arabic (*lahn*). They informed him that Qurayza had broken their treaty with the Islamic State—intelligence that he kept secret from his Companions, so as not to distract them in their defense preparations for Madīna. After Khandaq, he disclosed the secret and ordered his fighters to besiege Qurayza, taking them by surprise. Al-Suhaylī defined *lahn* as a deviation from the popular speech known by people to a variety that is known only to its speaker; it also refers to errors in speech, which is not intended here. See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 38-39.

⁷⁵ Abū Dāwūd, *Sunan (ḥadīth no. 2655 - ṣaḥīḥ)*, vol. 2, 140.

⁷⁶ We saw an example of this stratagem at work in the killing of Ka'b b. al-Ashraf, which is discussed in the chapter on the State's relations with non-Muslim subjects.

⁷⁷ For more on his traits as a military leader, see Mahfuz, *al-Jānib al-ʿaskarī min ḥayātī al-rasūl*, 528-37.

chroniclers who tend to distinguish them from razzias (*sarāyā*; sing. *sarriya*), which specifically refer to raiding parties spearheaded by the Companions that targeted the trading and military units of Quraysh and their allies. The Prophet participated in the *ghazawāt* and actually fought in some of them but not the *sarāyā* or military forays (*bu'ūth*; sing. *ba'th*). In Ibn Ishāq's account of the 27 odd *ghazawāt*⁷⁸ that the Prophet personally organized, he fought in only 9 of them—Badr, Uḥud, al-Khandaq, Qurayza, al-Muṣṭaliq, Khaybar, al-Faṭḥ (i.e. the Conquest of Makka), Ḥunayn, and al-Ṭā'if. This account is, however, without *isnād*. But in al-Bukhārī's *ṣaḥīḥ*, the total number of the Prophet's *ghazawāt* is given as 19.⁷⁹ Commenting on the figure, Ibn Hajar wrote the following. “Abū Ya'lā narrated on the authority of Abū al-Zubayr who narrated on the authority of Jābir who said that ‘the number of (the Prophet's) *ghazawāt* was 21. Its *isnād* is *ṣaḥīḥ* and its origin is in (the *ṣaḥīḥ* of) Muslim. Based on that, Zayd b. Arqam's report (in al-Bukhārī's *ṣaḥīḥ*) omits two (other battles) maybe al-Abwā' and Buwāṭ. Perhaps Ibn Arqam missed them because of his young age.”⁸⁰ Other numbers given are 24 and 18. The discrepancy on the exact number of the Prophet's *ghazawāt* might be omission due to lack of knowledge, forgetfulness, non-separation of certain battles (e.g. linking Qurayza and al-Khandaq, involving the pagan Arab confederacy, as one *ghazwa*, whereas they were two separate military encounters) given the proximity of their

⁷⁸ Ibn Ishāq listed the Prophet's *ghazawāt* chronologically, identifying them by place or people, as follows: the battle of Waddān (or al-Abwā'), Buwāṭ, al-'Ushayra, the first battle of Badr, the greater Battle of Badr, Banū Sulaym, al-Sawīq, Ghaṭafān (or Dhū Amarr), Buḥrān, Uḥud, Ḥamrā' al-Asad, Banū al-Naḍīr, Dhāt al-Riqā', the last battle of Badr, Dūma al-Jandal, al-Khandaq, Banū Qurayza, Banū Liḥyān, Dhū Qarad, Banū al-Muṣṭaliq, al-Ḥudaybiyya, Khaybar, al-Qadā', al-Faṭḥ, Ḥunayn, al-Ṭā'if, and Tabūk. See *al-Sīra al-nabawiyya* (Beirut: Dār al-Kutub al-'Ilmiyya, 2004), 1st edition, vol. 2, 674-75.

⁷⁹ Al-Bukhārī, *ṣaḥīḥ* (*ḥadīth* no. 3949; see also nos. 4404, 4471) in Ibn Hajar *Faṭḥ al-bārī*, vol. 9, 5.

⁸⁰ Ibn Hajar, *Faṭḥ al-bārī*, vol. 9, 7-8.

occurrences.⁸¹ Nevertheless, the majority of *sīra* and *maghāzī* sources, following Ibn Ishāq, agreed that the total number of *ghazawāt* was 27.⁸² As for the total number of *sarāyā* and *bu'ūth*, figures range from 38⁸³ to over 100.⁸⁴ This inexactitude might be due to not discerning the special characteristics of *ghazawāt*, *sarāyā*, and *bu'ūth* on the part of some Muslim chroniclers.

The first battle of Islam in which the Prophet participated (but did not fight), is the *ghazwa* of al-Abwā', which is generally agreed upon in the MHT. It occurred 11 months⁸⁵ to a year⁸⁶ after the Hijra in the month of Ṣafar; that is, in 2/623.⁸⁷ The Prophet arrived there with 70 men. Seeking to persuade Banū Ḍamra of the Kināna clan not to aid enemies of the Islamic State, he sent a letter to them that read:

*From Muḥammad, the Messenger of Allah,
To Banī Ḍamra [b. Bakr b. Abd Manāh b. Kināna]:
That they are safe with their wealth and property,
That they have help against those who attack them—
Except that they fight for Allah's religion,
'As long as the sea wets a portion of wool'
If the Prophet summons them to help, they must answer his call,
For which they shall have the protection (**dhimma**) of Allah and the protection
of His Messenger
And they also shall have the help of those among them and are conscious (of Allah).⁸⁸*

After reading it, the chief Majdī b. 'Amr al-Ḍamrī agreed to a pact with the Prophet. It was at al-Abwā' where a group of the Prophet's men, headed by 'Ubayda b. al-Ḥārith, clashed with some Quraysh men, shooting arrows at one another. Sa'd b. Abī

⁸¹ Ibn Hajar, *Fath al-bārī*, vol. 9, 8.

⁸² Ibn Hishām, *al-Sīra al-nabawīyya*, vol. 4, 255-56; al-Wāqidī, *al-Maghāzī*, vol. 1, 7; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 499. Al-Wāqidī enumerated 27 *ghazawāt*, including al-Musayrīq but not al-Muṣṭaliq and 9 in which the Prophet fought, including al-Musayrīq but not Tabūk. Ibn Sa'd agreed with him.

⁸³ Ibn Ishāq, *al-Sīra al-nabawīyya*, vol. 2, 675.

⁸⁴ Ibn Hajar, *Fath al-bārī*, vol. 9, 8.

⁸⁵ Al-Wāqidī, *al-Maghāzī*, vol. 1, 11-12.

⁸⁶ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 7.

⁸⁷ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 267, in which the date given is Safar 12, 2 AH.

⁸⁸ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 160.

Waqqās shot the first arrow for Islam.⁸⁹ In sum, these reports make it clear that fighting was sanctioned for Muslims in the post-Hijra Period, following which the Islamic State's policy was to instruct its forces—whenever they were sent out on *bu'ūth*, *sarāyā*, and *ghazawāt*—on the proper protocols governing warfare. As Burayda narrated, “When the Prophet appointed a commander of a military unit (*jaysh*) or *sarriya*, he instructed him to fear Allah and his men to goodness (*khayr*), saying to them all: ‘Fight fī sabīl Allāh. Fight those who disbelieve in Allah. Fight, but do not be excessive, mutilate (the dead), kill children, or transgress.’”⁹⁰ In spite of the Islamic State's fighting status early in 2/623, it did not yet possess the necessary military strength to bring Quraysh to adopt a stance of neutrality or enter into a peace treaty, let alone vanquish them on the battlefield or effectively occupy their territory. Thus, the Prophet sought to use various resources at his disposal, including human (as in male fighters), material (wealth), ideological (Islamic doctrine on *Jihad*), symbolic (flags, banners, invocations, supplications, promises of the spoils of war and the reward of Paradise), and knowledge (Islamic protocols, tactics, and strategies of warfare)⁹¹ in order to achieve certain political, economic, and military objectives.

Contrary to what some scholars (Roy *et al*) have opined, the razzias (*sarāyā* or *bu'āth*) were, for the most part, not random or simply robberies spearheaded by the

⁸⁹ Ibn Hajar, *Fath al-bārī*, vol. 9, 6; al-Bayhaqī, *Dalā'il al-nubuwa* (Beirut: Dār al-Kutub al-'Ilmiyya, 1988), vol. 3, 9.

⁹⁰ Muslim (*ḥadīth* no. 1731) in al-Nawawī, *al-Minhāj*, 1115. See also the following fn.

⁹¹ *Ḥadīth* literature is replete with the Prophet's *jihad* doctrine pertaining to his use of human, tangible, ideological, symbolic, and knowledge resources. See, for example, al-Bukhārī's book of *jihad* and Muslim's book of *jihad*.

Prophet's Companions, taking their own initiatives⁹²; rather, they were carefully coordinated by the Prophet himself, selecting his targets, commanders (whom he gave specific rules of engagement with the enemy), and ambush locations. The Islamic State predominantly targetted Makkan trade caravans, which had to pass between Madīna and the Red Sea—a distance of about 80 miles (approx. 129 km)—to get to Syria. Muslim commanders were sometimes chosen from among the Muhājirūn and sometimes from the Anṣār. The Achilles' heel of Quraysh was exposed along this route, which was not a secret in Madīna, as the following report shows. Sa'd b. Mu'ādh, a Madanite Muslim, and his pagan Makkan counterpart Umayya b. Khalaf, who were on good terms, used to visit each other often. After the Prophet's arrival in Madīna, Sa'd set out to perform the 'Umra (minor pilgrimage) and met Umayya. While circumambulating the Ka'ba, Sa'd was confronted by Abū Jahl: "Ah! Would that I had not seen you circumambulating the Ka'ba with Umayya's security! You have given the *Ṣubbā'*⁹³ refuge and assisted them. If you were not under Abū Ṣafwān's (i.e., Umayya's) protection, I swear by God, I would have prevented you from returning safely to your family." Dismissing the threat, Sa'd responded, "If you had prevented me from (circumambulating), I swear that I would have cut off your trade route to Syria."⁹⁴ This report is a barometer of the hostility level between Makka and Madīna as well as the vulnerability of Makkan trade caravans to and from Syria, which were not safe from attacks by Madīna, since no treaty existed between the two states. The Prophet therefore lost no time in taking the offensive,

⁹² M. N. Roy, *The Historical Role of Islam* (Bombay: Vora and Co. Publishers Ltd, 1938), 30-31.

⁹³ A pejorative used by Quraysh for an Arab who converted from their pagan religion to Islam; sing. *ṣābī'*.

⁹⁴ Al-Bukhārī (*ḥadīth* no. 3950) in Ibn Hajar, *Fath al-bārī*, vol. 9, 9-10; al-Bayhaqī, *Dalā'il al-nubuwwa*, vol. 3, 26-27.

ordering raids on Quraysh caravans, which were well underway in 1/622 . The Islamic State's *sarriya* strategy came near to realizing Sa'd's counter threat, proved devastatingly effective, and achieved three main political objectives:

- (i) It undermined Quraysh economic interests, jeopardizing their foreign trade.
- (ii) It isolated Makka in the broader political arena, thwarting them from entering into defensive or neutrality pacts with Arab tribes around Madīna. Thus, the Islamic State won over to its side, in the early Post-Hijra years, Ḍamra, Juhayna, Khuzā'a, Ghaffār, Mudlij, and Islam tribes,⁹⁵ thereby diminishing Quraysh power and prestige in Arabia.
- (iii) As a result of these military conflicts, Madīna not only threatened Makka's political and economic interests but also became a military force to be reckoned with in Arabia and acquired a new source of revenue—spoils of war (*fay'*, *khumus*, *ṣafi*), which will be treated in the chapter on the political economy of the Islamic State.

Part III:

e. Women's Role in Jihad

Under the Prophet's rule, it was not mandatory for Muslim women to be drafted for active military duty; rather, their enlistment was purely voluntary. The Islamic State could grant a woman's request to serve in the military or turn it down.⁹⁶ The laws

⁹⁵ Cf Aḥmad, *al-Sīra al-nabawiyya*, 327.

⁹⁶ Al-Bukhārī (*ḥadīth* no. 2877-78) in Ibn Hajar, *Fath al-bārī*, vol. 7, 154. In this *ḥadīth*, Milḥān's daughter Umm Ḥarām sought permission from the Prophet to fight *jihad* on the seas and was granted it. See also al-Nasā'ī, *Sunan* (*ḥadīth* no. 3171 - *ṣaḥīḥ*), 490.

of *Jihad* in relation to the women allowed them to contribute to the war effort with wealth, moral, and social support.⁹⁷ The *Sharia* viewed a higher form of *jihad* for the female gender, namely, the spiritual struggle against the baser self and striving to fulfill the pillars of Islam—not raw physical combat. Such that when ‘Ā’isha, the wife of the Prophet, sought his permission to participate in military *jihad*, he reportedly told her: “The **jihad** of women is to perform Hajj.”⁹⁸ He used to take along one of his wives with him on *ghazawāt*, but that was before the law of veiling (*ḥijāb*) was instituted. When Muslim women did accompany their men on military expeditions, they did not fight alongside them but provided medical and logistical aids. Anas narrated that during the battle of Uḥud, he saw Ā’ishā and Umm Sulaym, with parts of their garments tucked up, fetching water-skins, providing drink for the fighters, and refilling them when they became empty.”⁹⁹ Additionally, women used to tend to the wounds of injured Muslim fighters.¹⁰⁰ When a group of women joined the expedition to Ḥunayn, the Prophet questioned them. They replied, “We have come to recite poetry, help *fī sabīl Allāh*, treat the wounded, replenish the quivers with arrows, and prepare meals (*sawīq*).”¹⁰¹ One of them, Umm Salīm, had brought a large double-edged dagger (*khanjar*), explaining, “I have it in case a pagan comes close to me. I will rip open his belly with it!”¹⁰² The women also assisted in the transport of the Muslim dead and wounded from the

⁹⁷ Al-Sarkhasī, *Sharḥ kitāb al-siyar al-kabīr* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1997), 1st edition, vol. 1, 129-30.

⁹⁸ Al-Bukhārī (*ḥadīth* nos. 2784, 2875-76) in Ibn Hajar, *Fath al-bārī*, vol. 7, 39, 153; al- Nasā’ī, *Sunan (ḥadīth* no. 2628 - *ṣaḥīḥ*), 410.

⁹⁹ Al-Bukhārī (*ḥadīth* no. 2880) in Ibn Hajar, *Fath al-bārī*, vol. 7, 157.

¹⁰⁰ Muslim (*ḥadīth* no. 1810) in al-Nawawī, *al-Minhāj*, 1175.

¹⁰¹ *Sawīq*, a meal prepared from parched barley or wheat.

¹⁰² Muslim (*ḥadīth* no. 1809) in al-Nawawī, *al-Minhāj*, 1174-75.

battlefields to Madīna.¹⁰³ It is reported that Ibn ‘Abbās once received a letter from Najda (al-Ḥurūrī), a Kharijite, concerning the role of Muslim women in *Jihad*. It read, “Tell us, did the Prophet go to war with women in his company? Did he assign them a portion (*sahm*) of spoils? Did he kill children? When does a person’s orphanhood (*yutm*) end? And who is entitled to *khumus* (i.e., the division of spoils into fifths)?” He wrote back: “The Prophet used to go to battle with women who treated the wounded. They were also given something from the spoils known as *raqḥ*, but it was not a *sahm* (like that given to his male fighters). The Messenger of Allah never killed children, so do not kill them. . . .”¹⁰⁴ In the oldest extant *sīra* available, the *Kitāb al-sīra* of al-Fazārī (d. 187/802), is one of the clearest *ḥadīth* yet on the Prophet’s ruling on the role of women in *Jihad*. In it, Umm Salma asked him, “O Messenger of Allah! Can I come with you to fight?” He said, “**Jihad** is not prescribed for women.” She replied, “Can I treat the wounded and the (injured) eye and provide water?” He said, “Yes.”¹⁰⁵

When Muslim women did participate in *Jihad* as combatants, it was purely a voluntary act on their part or out of social necessity, as the following story illustrates. During the Battle of the Khandaq, the Prophet and his fighters were stationed in the Trench, defending the north of Madīna against the formidable pagan Arab confederacy (comprising Quraysh, Ghaṭafān, Banū Salīm, Asad, and Ashja‘) united on the destruction of the Islamic movement, leaving their women and children at home inside the city but

¹⁰³ Al-Bukhārī (*ḥadīth* no. 2882) in Ibn Hajar, *Fath al-bārī*, vol. 7, 160.

¹⁰⁴ Muslim (*ḥadīth* no. 1812) in al-Nawawī, *al-Minhāj*, 1175-76.

¹⁰⁵ Al-Fazārī reported it with the following *isnād*: from Abū Sāliḥ al-Farā’ ⇒ Abū Ishāq al-Fazārī ⇒ Abdul-Raḥmān b. Ishāq ⇒ al-Ḥasan al-Baṣrī ⇒ Anas b. Mālik ⇒ Umm Salma who narrated the *ḥadīth*. See al-Fazārī, *Kitāb al-siyar* (*ḥadīth* no. 557), 300. The same *ḥadīth* is collected by al-Ṭabarānī in his *al-Mu‘jam al-kabīr* (*ḥadīth* no. 740), vol. 1, 256.

exposed to the Qurayẓa settlement, which was east of Muḥammad's camp.¹⁰⁶ The Qurayẓī Jews, as we learnt in an earlier chapter, had decided not to aid the Muslims and were conspiring with the Arab confederacy and making Madīna vulnerable to an attack via their enclave. The home of Ṣafiyya bint Abdul Muṭṭalib, the Prophet's aunt, was stalked by a hostile Qurayẓī who patrolled it, seeking unlawful entry. She sought the protection of a man called Ḥassān b. Thābit who was not involved in the Trench defense. He refused or was afraid to intervene, so Ṣafiyya took a piece of wood and struck the Jew with it, killing him and inviting Ḥassān to the spoils of his corpse. Later, when the Prophet heard of her self-defense, he allotted her a portion (*sahm*) of the Qurayẓī spoils, treating her as if she were a *mujāhida*.¹⁰⁷

f. Policy on Prisoners of War

The Islamic State maintained a flexible policy on prisoners of war. The policy was heavily influenced by the Prophet's wish to win hearts over to Islam and assist war in laying down its burdens. The genesis of prisoners of war in Islam is traced back to the great battle of Badr.¹⁰⁸ What started out as a routine *sarraya* turned out to be perhaps the greatest battle of Islam—the Battle of Badr.¹⁰⁹ The aftermath of Badr posed a fresh set of policy challenges for the Muslim polity, including spoils and prisoners. In the prelude to Badr, the Prophet had received intelligence of a trade caravan of Quraysh,

¹⁰⁶ Wensinck, *Muhammad and the Jews of Medina*, 27.

¹⁰⁷ Al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 37; Ibn Abdul Barr, *al-Durar fī ikhtisār al-maghāzī wal-siyar*, 186;

¹⁰⁸ There were three battles fought at Badr between Muslims and pagans. The second battle at Badr, which is discussed here, is considered the greatest battle of Islam by Muslim historians and is called al-Badr al-Kubrā or the Great Battle of Badr.

¹⁰⁹ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 249; al-Wāqidī, *al-Maghāzī*, vol. 1, 19; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 2, 504; al-Ṭabarī, *Ta'rīkh*, vol. 2, 421. See also Watt, *Muhammad at Medina*, 10.

worth some 50,000 dinars,¹¹⁰ returning to Makka from Syria. Abū Sufyān led the huge caravan with about 30-40 men. The Prophet rounded up some men to attack it, promising them great wealth. The raid would be light, quick, and have the element of surprise. They set out, a group of 319 men¹¹¹ (61 from al-Aws, 70 from al-Khazraj, and the rest from the Muhājirūn), having a ratio of 4 or 5 men to 1 camel and 3 men to 1 sword. But spies working for Makka had informed Abū Sufyān about the Prophet's intended raid and movements. Abū Sufyān sent a rider ahead of the caravan to raise an alarm in Makka and fetch reinforcements. Quraysh summoned a chief representative of almost all the tribes in Makka and ordered them to ride out to intercept the caravan before it could be attacked. They comprised an army of about 1000 men in full battlegear. At a wadi called al-Ṣafra, the Prophet's spies reported that Makkan reinforcements were on their way to protect the trade convoy. Abū Sufyān, receiving intelligence of a planned ambush near Badr, redirected the caravan along the Red Sea coast to avoid the Madīna route and sent fresh word to Quraysh that their military assistance was no longer needed, since he had managed to evade the planned Muslim attack. Some Quraysh forces, led by Ṣafwān, returned to Makka. But Abū Jahl, Arab pride at stake and determined to send a message to Madīna that raids on Makkan foreign trade would not go unpunished, decided to press on, set up camp at Badr for at least three days, and refreshen themselves before returning to Makka. A village situated between Makka and Madīna and a four-day journey away from the latter, Badr

¹¹⁰ Watt, *Muhammad at Medina*, 10.

¹¹¹ Muslim (*ḥadīth* no. 1763) in al-Nawawī, *al-Minhāj*, 1133-34.

was a well known watering hole.¹¹² The Muslim force arrived at Badr ahead of Quraysh, seizing control of the wells. They stationed themselves at the lower end of the water flow, making a reservoir for themselves, while draining off its upper ends by filling its wells with palm piths. Thus, they effectively cut off Quraysh from access to the only water resource in the area, easily picking off their men, one by one, who tried to get to it. On Friday, Ramaḍān 17, 2/624, the two forces clashed at Badr. Before the heavy battle ensued, there was the conventional *mubārāza* between the opponents. To make a long story short, the Muslims routed their enemies at Badr, losing about 14 of their own men (6 Muhājirīn, 8 Anṣār, including 6 from al-Aws and 2 from al-Khazraj). As for Quraysh, 70 of their men were killed, including many *ṣanādīd* (“prominent heads”) like Ḥanzala b. Abī Sufyān, ‘Ubayda b. Sa‘īd b. al-‘Āṣ, al-‘Āṣ b. Sa‘īd b. al-‘Āṣ. ‘Utba b. Rabī‘a, Shayba b. Rabī‘a, al-Walīd b. ‘Utba b. Rabī‘a, and ‘Aqaba b. Abī Mu‘ayṭ.¹¹³ The number of prisoners taken by the Muslims was around 70. Quraysh failed to take any prisoners, retreating to Makka and leaving their dead behind. In the MHT, there is general agreement that the number of Quraysh warriors killed was 70 and that the number of them taken prisoners was also 70 but details vary on precisely who was killed by whom or taken as a prisoner, and the like.¹¹⁴

In a war that could have broken Islam, instead it bestowed a resounding victory to Muslims who were, on that occasion, vastly outnumbered by a formidable Quraysh strike force spearheaded by none other than many of their chiefs. The Qur’an attributes

¹¹² Theories abound on the meaning of Badr: it was named after its founder Badr b. Yakhluḍ b. Al-Naḍr b. Kināna or Badr b. Ḥārith who was the first to dig a well there; it was the name of the well itself;

¹¹³ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 347-54; al-Wāqidī, *al-Maghāzī*, vol. 1, 143.

¹¹⁴ Ibn Abd al-Barr, *al-Durar fī ikhtisar al-maghāzī wal-sīra*, 120.

the Muslim victory at Badr to divine succor and their fighting to divine intervention: “Ye (Muslims) slew them not, but Allah slew them. And thou (Muḥammad) threwest not when thou didst throw, but Allah threw. . . .”¹¹⁵ Ibn Ishāq reported that *Sūra al-Anfāl* (Q 8) was revealed in its entirety concerning Badr. Its 75 āyāt cover the anxieties, hopes, and courage of Muslim combatants, their invocations and supplications, divine aid, punishment for retreat, rewards of *Hijra* and *jihad* for the sake of God, discontents of unbelief, including laws pertaining to spoils of war, its division, and prisoners of war. The *Sharia* protocols regulating spoils of war (*ghanīma*) will be treated in the chapter on the political economy of the Islamic State.

Concerning the Quraysh prisoners of war, the Prophet consulted with his Companions concerning their fate. Various opinions were offered but two dominated their deliberations: (i) either ransom them for money and pray for their guidance to Islam or (ii) kill them on the spot right there. The first suggestion was offered by Abu Bakr, while the second came from ‘Umar. Both suggestions had near equal support from the rest of Muslims at Badr. In the end, the Prophet decided in favor of the Abu Bakr option. The Qur’an, however, seemed to favor the ‘Umar option but, out of divine decree, endorsed the Prophet’s public decision to ransom the Badr prisoners of war: “It does not behove a prophet to keep captives unless he has battled strenuously on earth. You may desire the fleeting gains of this world but God desires [for you the good of] the life to come: and God is almighty, wise. Had it not been for a decree from God that had already gone forth, there would indeed have befallen you a tremendous chastisement on account of all [the captives] that

¹¹⁵ Q 8: 17 (Pickthall).

you took.”¹¹⁶ That Qur’anic support for the Prophet’s decision (not without mild rebuke) was followed by injunctions governing the status prisoners of war in Muslims’ hands: “[Hence,] O Prophet, say unto the captives who are in your hands: ‘If God finds any good in your hearts, He will give you something better than all that has been taken from you, and will forgive you your sins: for God is much-forgiving, a dispenser of grace.’”¹¹⁷ According to al-‘Abbās, the Prophet’s uncle, “This āya was revealed concerning me.” Al-‘Abbās, who was captured at Badr, had requested the Prophet to ransom him for the 20 dinars taken from him during the battle. The Companions, however, were recalcitrant.¹¹⁸ Declaring his Islam, al-‘Abbās hoped for leniency and forgiveness. He informed the Prophet that he was a Muslim who had come to Badr against his will.¹¹⁹ The Prophet gave him, as a substitute for the dinars, 20 male slaves who were traded for his release. That is how al-‘Abbās interpreted “the something better that was taken” from him in the āya.¹²⁰

Overall, the Islamic State’s policy regarding the Badr prisoners of war integrated ransom for money, kind, literacy services, waiver, prisoner exchange, executive pardon, and execution in some cases. The wealthiest Quraysh prisoners, such as Abū Widā’a *et al*, were ransomed for 14,000 dirhams each; others were ransomed for less, including 1000 dirhams and 40 dirhams.¹²¹ ‘Aqīl b. Abī Ṭālib’s ransom was 80 dinars. The prisoner swap involved ‘Amr b. Abī Sufyān for Sa’d b. al-Nu’mān b. Ukkāl who had gone

¹¹⁶ Q 8: 67 (Asad).

¹¹⁷ Q 8: 70 (Asad).

¹¹⁸ Al-Bukhārī (*ḥadīth* no. 4018) in Ibn Hajar, *Fath al-bārī*, vol. 15, 191?

¹¹⁹ Al-Bukhārī (*ḥadīth* no. 4018) in Ibn Hajar, *Fath al-bārī*, vol. 7, 72 ; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 351-52?

¹²⁰ Al-Ṭabarānī, *al-Mu’jam al-awṣat* (Cairo: Dār al-Ḥaramayn, 1995), vol. 8, 104-05; al-Wāḥidī, *asbāb al-nuzūl*, 241-42; al-Suyūṭī, *Lubāb al-nuqūl*, 122; al-Bukhārī (*ḥadīth* no. 3049) in Ibn Hajar, *Fath al-bārī*, vol. 7, 297; *Āḥādīth muntakhaba min maghāzī musā b. ‘uqba* (Beirut: Dār Ibn Ḥazm, 1991), 1st edition, 70.

¹²¹ *Sharḥ al-mawāhib*, vol. 2, 324.

to Makka to perform ‘*Umra* but had been imprisoned by Abū Sufyān. Those Quraysh prisoners who could not afford to pay for their ransom but were literate, their ransom was their literacy, teaching 10 illiterate Muslims each to read and write, which is proof that Makka had a higher literacy rate than Madīna.¹²² It is reported that one day a Madanite Muslim youth involved in the literacy program ran to his father crying. When asked the reason, he said, “My teacher hit me.” The father said, “The wicked one! He seeks revenge for Badr. Do not return to him after this.”¹²³ Those Quraysh prisoners who were poor and perhaps illiterate themselves, their ransom consisted of non-monetary commodities of value acceptable to their captors, as in the case of Muṭallib b. Ḥantab al-Makhzūmī and Ṣayfī b. Abī Rifā’a, and Abū ‘Izza, the poet. Zaynab, the Prophet’s daughter, attempted to ransom her pagan husband Abul-‘Āṣ b. Rabī’ with her necklace, but the Islamic State rejected it and set him free without any ransom in deference to her status as one the Prophet’s offspring. Indeed, the power of the Islamic State to pardon prisoners of war is evident in the Prophet’s statement: “*If Muṭ‘im b. ‘Adiyyī were alive today and spoken to me about these (prisoners of war), I would have freed them for him.*”¹²⁴ That is because the said Ibn ‘Adiyyī had, in the pre-Hijra Period, granted a “covenant of peace” (*jiwār*) to the Prophet after his failed missionary work in al-Ṭā’if, which allowed him to return to Makka unharmed, and had played a crucial role in the nullification of the Makkan treaty that had imposed a severe socio-economic

¹²² Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 2, 514.

¹²³ Aḥmad, *Musnad* (*ḥadīth* no. 2216), 212.

¹²⁴ Al-Bukhārī (*ḥadīth* no. 3139) in Ibn Hajar, *Fathī al-bārī*, vol. 7, 417.

boycott on the Prophet, his followers, and Banū Hāshim.¹²⁵ Yet another means of freedom for a prisoner of war was conversion to Islam, as indicated in al-‘Abbās’ story discussed earlier.¹²⁶ As for the execution of some prisoners, it occurred during the journey back to Madīna from Badr. Al-Naḍr b. al-Ḥārith was killed by ‘Alī at al-Ṣafrā’ and ‘Uqba b. Abī Mu’yaṭ was killed by ‘Āsim b. Thābit at ‘Irq al-Dhabiyya.¹²⁷ The Prophet had ordered their execution because of their vehement hatred and enmity toward him, deeming them inveterate.¹²⁸ On another occasion, while returning from a *ghazwa*, the Muslim military unit leader Ḥamrā’ al-Asad managed to capture Mu‘āwiya b. al-Mughīra and Abū al-‘Izza al-Jahma. The latter had been a Badr captive whom the Prophet had unconditionally pardoned. This time, however, he was executed; but before he put him to death, the Prophet said to him: “*You deceived Muḥammad twice*”¹²⁹ or “*A believer is not bitten from the same burrow twice.*”¹³⁰

These exceptions aside, the Prophet used to exhort his Companions to kindly treat their prisoners of war,¹³¹ which is rooted in the Qur’an: “*and who give food, however great be their own want of it unto the needy, and the orphan, and the captive.*”¹³² The Companions, it is reported, used to eat dates and feed the Badr prisoners bread—a

¹²⁵ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 28-29; Aḥmad, *al-Sīra al-nabawiyya*, 229.

¹²⁶ See also Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 303, where the story is mentioned of ‘Umayr b. Wahb who came ostensibly to pay the ransom of his son who was captured at Badr. He accepted Islam after talking with the Prophet who ordered his son’s release.

¹²⁷ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 285-86.

¹²⁸ Al-Haythamī (*ḥadīth* no. 10017 - *ṣaḥīḥ*), *Baghiya al-rā’id*, vol. 6, 121; al-Ṭabarānī, *al-Mu’jam al-kabīr* (*ḥadīth* no. 12154 - *ṣaḥīḥ*), vol. 11, 406-07; Ḥamīdullāh, *Muslim Conduct of State*, 206.

¹²⁹ Cf Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 68. The *ḥadīth* is *mu’dal*.

¹³⁰ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (no. 6133) in Ibn Hajar, *Fath al-bārī*, vol. 13, 704; Muslim (no. 2998) in al-Nawawī, *al-Minhāj*, 1720; Abū Dāwūd, *Sunan* (no. 4862), vol. 3, 194; Ibn Māja, *Sunan* (no. 3983), 658; al-Darāmī, *Sunan* (no. 2781), vol. 2, 411; and Aḥmad, *Musnad* (no. 5964), 459.

¹³¹ al-Zarqānī, *Sharḥ al-mawāhib*, vol. 2, 338.

¹³² Q 76:8 (Asad). See al-Suyūṭī, *Lubāb al-nuqūl*, 251.

behavior that made them uncomfortable, since they did not expect such humane treatment from their captors.¹³³ Kind treatment of prisoners also involved their right to decent clothing¹³⁴ and shelter from the heat and cold,¹³⁵ even though they were usually shackled during captivity.¹³⁶ The issue of prisoner-of-war status is revisited in *Sūra Muḥammad* (Q 47): “Therefore, when ye meet the Unbelievers (in fight), smite at their necks; At length, when ye have thoroughly subdued them, bind a bond firmly (on them): thereafter (is the time for) either generosity (**mann**) or ransom (**fidā’**), until the war lays down its burdens. Thus (are ye commanded): but if it had been Allah's Will, He could certainly have exacted retribution from them (Himself); but (He lets you fight) in order to test you, some with others. But those who are slain in the Way of Allah, He will never let their deeds be lost.”¹³⁷ The āya decrees two options vis-à-vis prisoners of war: either *mann* (full pardon and release without compensation of any kind) or *fidā’* (ransom in cash or kind). It was reportedly revealed at Uḥud, when the tide of battle had turned against Muslims who were exchanging taunts with their enemy.¹³⁸ Some exegetes held that the legal ruling in the āya was abrogated by the following āyāt:

- (i) *If thou find them at war [with you], make of them a fearsome example for those who follow them, so that they might take it to heart. . . .*¹³⁹);

¹³³ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 12-13, 15. Two āyāt of *sūra al-Jāthiya* “Crouching” (Q 45:7-8) are said to have been revealed concerning Naḍr b. al-Ḥārith and *al-Furqān* (Q 25:27-29) concerning ‘Uqba.

¹³⁴ Al-Bukhārī (*ḥadīth* no. 3008) in Ibn Hajar, *Fath al-bārī*, vol. 7, 261.

¹³⁵ Ḥamīdullāh, *Muslim Conduct of State*, 207.

¹³⁶ Al-Wāqidī, *al-Maghāzī*, vol. 1, 185; al-Bukhārī (*ḥadīth* no. 3010) in Ibn Hajar, *Fath al-bārī*, vol. 7, 262-63.

¹³⁷ Q 47: 4 (Y. ‘Alī).

¹³⁸ Al-Suyūṭī, *Lubāb al-nuqūl*, 213.

¹³⁹ Q 8: 57 (Asad).

(ii) “When the forbidden months are past, then fight and slay the Pagans wherever ye find them, and seize them, beleaguer them, and lie in wait for them in every stratagem (of war); but if they repent, and establish regular prayers and practice regular charity, then open the way for them: for Allah is Oft-forgiving, Most Merciful”¹⁴⁰;

(iii) “And fight the pagans all together as they fight you all together. But know that Allah is with those who restrain themselves.”¹⁴¹

But other exegetes like al-Ṭabarī *et al* held that it were not abrogated, claiming that the ruling remains operative and applicable for all time. They argued against abrogation (*naskh*)—for those who ascribe to its theory—because one of the conditions of *naskh* is that it is not permissible for two rulings to come together on the same condition or that proof of the ‘abrogating’ (*nāsikh*) and ‘abrogated’ (*mansūkh*) āyāt has to be established. Even though these āyāt mention the slaying of pagans, it is not odd that the Prophet could also pardon or ransom prisoners of war, as the same is for those who came after him, since that was consistently his war conduct following its divine sanction in the Qur’an until his death. Among his Badr prisoners, for example, he pardoned Thumāma b. Uthāl al-Ḥanifī; but he killed the men of Qurayza, who had submitted to Sa’d’s judgment, although he had the power to ransom or pardon them. Pardon and ransom are mentioned specifically in this āya (Q 47:4) because the command to kill—and his

¹⁴⁰ Q 9: 5 (Y. ‘Alī).

¹⁴¹ Q. 9:36 (Y. ‘Alī).

permission of it—came before the rest of the āyāt repeatedly, granting him these additional choices.¹⁴²

Ibn Qayyim summed up the Prophet's treatment of prisoners of war as follows:

(The Prophet) used to pardon some prisoners of war, kill some, ransom some for wealth or with the prisoners of other Muslims. He did all of that out of [the Islamic State's] interest. . . . About 80 armed assailants unexpectedly descended upon his camp at al-Ḥudaybiyya, and he had them imprisoned and then released them.¹⁴³ He also imprisoned Thumāma b. Athāl, chief of Banū Ḥanīfa, tying him to a column in the mosque. He was later freed and accepted Islam. . . . He requested Salama b. al-Akwa', a slave girl, whom Abū Bakr had taken as part of the spoils from a battle, as a gift. When he received her, he sent her to Makka, ransoming her for a group of Muslim prisoners there.¹⁴⁴ He also ransomed two Muslim men with a man from 'Aqīl. He repatriated the Hawāzin captives after the division (of spoils). He appeased the hearts of Muslim fighters, and they responded to him positively. As for those who were dissatisfied, he compensated them with six *farā'id* (i.e. allotments) each. He had 'Uqba b. Ubayy Mu'ayṭ and al-Naḍr b. al-Ḥārith killed because of their avowed hatred for Islam. . . . He did not enslave those who accepted Islam before being captured (in war). He did enslave Arabs, as he did non-Arabs from among the People of the Book, one of whom—a female slave—was owned by 'Ā'isha who was told 'free her because she is a descendant of Ishmael.'¹⁴⁵

g. Policy on Enslavement

The enslavement of conquered peoples date back to biblical times, as we find in *Deut. xx: 10-14*, for example. It was also not foreign to warfare in Arabia among the feuding Jewish and Arab tribes. The Islamic State did not avoid the enslavement of war captives, especially women and children. The Qur'an provided the Islamic basis for enslavement (*al-saby* or *istirqāq*), as a consequence of war:

O Prophet! Lo! We have made lawful unto thee thy wives unto whom thou hast paid their dowries, and those whom thy right hand possesseth (mā malakat yamīnuk) of those whom Allah hath given thee as spoils of war, and the daughters of thine uncle on the father's side and the daughters of thine aunts on the father's side, and the daughters of thine uncles on the mother's side emigrated with thee, and a believing woman if she give herself unto the Prophet and the Prophet desire to ask her in marriage, a privilege for thee only, not for the (rest of) believers. We are aware of that which We enjoined upon them concerning their wives and those whom their

¹⁴² Al-Ṭabarī, *Tafsīr*, vol. 21, 182-91. Al-Ṭabarī himself was of the view that Q 47: 4 was not abrogated, presenting a strong case. See also al-Qinnawjī, *nayl al-murām min tafsīr āyāt al-aḥkām*, 315.

¹⁴³ Muslim (*ḥadīth* 1808) in al-Nawawī, *al-Minhāj*, 1174.

¹⁴⁴ Muslim (*ḥadīth* no. 1755) in al-Nawawī, *al-Minhāj*, 1127.

¹⁴⁵ Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 99-102.

right hands possess (**mā malakat yamīnuhum**) that thou mayst be free from blame, for Allah is Forgiving, Merciful.¹⁴⁶

The *sabab al-nuzūl* for this āya is that the Prophet had proposed marriage to Umm Hānī', but she excused herself, triggering the Qur'an to qualify the lawful types of consorts for him.¹⁴⁷ The āya mentions *mā malakat al-yamīn* ("what the right hand possesses"), that is, female captives of war. Among the Prophet's consorts, six of them were concubines (*sarāriyy*; sing. *surriya*) but did not remain in that status for long. They were Rayḥāna, the daughter of 'Amr b. Khunāfa; Māriya, an Egyptian Copt; Ṣafiyya, daughter of Ḥuyay b. Ahkṭab; and Juwayriya, the daughter of al-Ḥārith b. Abī Ḍirār,¹⁴⁸ Nafīsa, a female slave girl given to him by his wife Zaynab, daughter of Jahsh, and another whose name is not given in the sources.¹⁴⁹ Rayḥāna was among the Jewish female captives seized as part of the spoils of war from Qurayza. She might originally have been a member al-Nadīr who married a Qurayzite and became the Prophet's ṣafiyya¹⁵⁰ of the spoils. He offered to free her and marry her, but she preferred her *surriya* status under the impression that it would be a lighter social burden for them. The majority view is that he did not marry Rayḥāna, which might explain why she is not

¹⁴⁶ Q 33: 50 (Pickthall).

¹⁴⁷ Al-Suyūṭī, *Lubāb al-nuqūl*, 192-93; al-Tirmidhī, *Sunan* (*ḥadīth* no. 3214 – "its *isnād* is very *ḍa'īf*"), 725-26; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 3631 - *ḍa'īf*), vol. 2, 494, because of Abū Ṣāliḥ, in the *isnad*, who is considered *ḍa'īf* or accused of lying. It is *ḍa'īf*, however, only insofar as citation of the āya (Q33:50) and the excuse of Umm Hānī' are concerned, since the first part of the *ḥadīth* is *ṣaḥīḥ*, as in Muslim, *ḥadīth* no. 2527 in al-Nawawī, *al-Minhaj*, ; Aḥmad, *Musnad* (*ḥadīth* no. 2/269-75, ; and Ibn Ḥibbān, *Saḥih* (*ḥadīth* no. 6235 -*ṣaḥīḥ*) in al-Albānī, *al-ta'liqāt al-ḥissān 'alā ṣaḥīḥ ibn ḥibbān*, vol. 9, 86, from Abdullah b. Muhammad al-Azdi⇒Ishaq b. Ibrahim⇒Abdul-Razzaq⇒Ma'mar⇒al-Zuhri⇒Sa'id b. al-Musayyab⇒Abū Hurayra who narrated that the Prophet proposed to Umm Hānī' but excused herself because of her elderly age and children .

¹⁴⁸ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 1, 283-85, 288; vol. 2, 418; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 194; vol. 4, 293-94; al-Ṭabarī, *Ta'rīkh*, vol. 2, 592?

¹⁴⁹ al-Zarqānī, *Sharḥ al-mawāhib*, vol. 4, 463.

¹⁵⁰ Ṣafiyya refers to the Prophet's right to choose from the spoils before its division among his troops, as discussed fully in the chapter on the "Political Economy" of the Islamic State.

identified among his wives (*azwāj* or *zawjāt*). Some reports, however, suggest that he married her, after she accepted Islam,¹⁵¹ paying her a dowry of 12 dinars.¹⁵² Māriya, a *surriya* gift from Muqawqis, the ruler of Coptic Egypt, accepted Islam, but her concubine status apparently remained unchanged (which suggests that conversion to Islam might not have been a prerequisite for releasing a believing female slave from concubinage) unlike giving birth to a Muslim child; for when she gave birth to Ibrāhīm, the Prophet's son who died in infancy, when he heard of Māriya's childbirth, he reportedly said, "Her son has freed her!"¹⁵³ Şafiyya was the Prophet's *şafiy* from among the Jewish female captives at Khaybar. As for Juwayriya, she was the Prophet's *sariya* from the spoils of al-Muṣṭaliq. Both Şafiyya and Juwayriya converted to Islam, and he freed them and married them. Şafiyya's release was her dowry, while Juwayriya's dowry was 400 dirhams. His practice was that, when slaves came to him, he was wont not to separate them from their families, assigning the slave's family to a Muslim family.¹⁵⁴

Because it was not a legal right, the Prophet's example did not become a *Sharia* norm for those concubines under his Companions' custody. War captives who were children were reared by Muslim families, became their property, and their treatment and release were governed by Islamic Law. Women and children captives were spoils in

¹⁵¹ Al-Wāqidi, *al-Maghāzī*, vol. 2, 521; Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 10, 4718-20.

¹⁵² al-Zarqānī, *Sharḥ al-mawāhib*, vol. 4, 459-61.

¹⁵³ Ibn Sa'd, *al-Ṭabaqāt al-kubrā* (vol. 10, 4798) with three chains of authorities (*asānīd*) in which is al-Ḥusayn who is considered *ḍa'īf*; it also reported by Aḥmad, Ibn Māja, al-Dārāmī, al-Dāraquṭnī, al-Ḥākim, and al-Bayhaqī with *asānīd* that includes al-Ḥusayn, making it *ḍa'īf*. See al-Albānī, *irwā*, vol. 6, 185. But the *ḥadīth* is also reported with a different *isnād* (Ibn Ḥazm ⇒ Qāsim b. Aṣḥab ⇒ Muḥammad ⇒ Muṣ'ab ⇒ 'Ubaydulla b. 'Amr ⇒ Abdul Karīm al-Khazrī ⇒ 'Ikrima ⇒ Ibn 'Abbās), which some scholars consider *ṣaḥīḥ*.

¹⁵⁴ Al-Fazārī, *al-Sīra* (*ḥadīth* no. 103 - *ḍa'īf*), 140; Abdul-Razzāq, *al-Muṣannaf* (*ḥadīth* no. 15315 - *ḍa'īf*), vol. 8, 307; Ibn Māja, *Sunan* (*ḥadīth* no. 2248 - *ḍa'īf*), 386.

the battles of Qurayṣa, Khaybar, al-Muṣṭalaq, and Ḥunayn. In the latter, the Prophet released them to Hawāzin, some 6000¹⁵⁵ of them, but he kept their wealth, distributing it among his troops. In general, the Muslim government did not enslave adult male non-Muslim captives, subjecting them to Islamic Law, which entailed their pardon, ransom, banishment, swap for Muslim prisoners, or killing, depending on the conditions of their surrender, as discussed in the previous section. Unlike Qurayṣa and Khaybar, no captives or prisoners of war were seized from the Jewish tribes of Qaynuqā', al-Naḍīr, and Fadak, since they negotiated the terms of their capitulation to Muslim forces. In the case of Qurayṣa, they had deferred to the judgment of Sa'd b. 'Ubad, who ruled that their men be killed and women and children enslaved, whereas Khaybar negotiated a treaty with the Prophet after the battle in which captives were taken.

In sum, the Islamic State did not abolish slavery. No such unequivocal evidence to the contrary is found in Islam's axial texts, even in the MHT as a whole. But Islamic legislation on slaves appears to point in the direction of emancipation, as indicated in the *Sharia's* regimes of penalties and atonement for commission of different kinds of sins and infractions. In the Qur'an, for example, freeing a slave was the expiation for *ṣihār*¹⁵⁶ (a pre-Islamic or *Jāhili* type of divorce),¹⁵⁷ manslaughter of a Muslim or non-

¹⁵⁵ Al-Zuhrī narrated that the number of captives, comprising men, women and children, from Hawāzin returned was 6000, giving the women a choice to remain with their Muslim captors or return to their people. Musa b. 'Uqba, *Maghāzī* (published as *āḥādīth maghāzī mūsā b. 'uqba*), 90. The *mursal* report is also found in Abdul-Razzāq's *al-Muṣannaf* (*ḥadīth* no. 9741), 5/371 (Beirut: Majlis al-'Ilmi, 1972), 1st edition, 381.

¹⁵⁶ Q 58 : 3 (Pickthall) – “*But those who divorce their wives by ṣihār, then wish to go back on the words they uttered, - (It is ordained that such a one) should free a slave before they touch each other. . . .*”

Muslim,¹⁵⁸ and intentionally breaking a mandatory oath.¹⁵⁹ The Qur'an also ordained manumission as one of the eight compulsory beneficiaries of *Zakāh*¹⁶⁰ and linked it to the general practice of righteousness in the *Umma*.¹⁶¹ In Ḥadīth, the Prophet stipulated that a man, who intentionally had marital intercourse during the fasting hours in Ramaḍān,¹⁶² had to free a slave. It was the same for the master or mistress who mutilated a slave.¹⁶³ He also decreed that any female slave who bears a child for her Muslim master wins freedom for herself and her child¹⁶⁴ and that upon the death or a master or mistress, his or her slave (or slaves) goes free.¹⁶⁵ Moreover, he continued the pre-Islamic practice of allowing slaves to purchase their freedom by paying the full

¹⁵⁷ *Zihār*, a pre-Islamic divorce, in which a husband says to his wife: "You are to me like my mother's back (*zahr*); hence, the term *zihār*.

¹⁵⁸ Q 4 : 92 (Pickthall) – "It is not for a believer to kill a believer unless (it be) by mistake. He who hath killed a believer by mistake must set free a believing slave, and pay the blood money to the family of the slain, unless they remit it as a charity. If he (the victim) be of a people hostile unto you, and he is a believer, then (the penance is) to set free a believing slave. And if he cometh of a folk between whom and you there is a covenant, then the blood money must be paid unto his folk and (also) a believing slave must be set free..."

¹⁵⁹ Q 5 : 89. (Pickthall) – "Allah will not take you to task for that which is unintentional in your oaths, but He will take you to task for the oaths which ye swear in earnest. The expiation thereof is the feeding of ten of the needy with the average of that wherewith ye feed your own folk, or the clothing of them, or the liberation of a slave. . . ."

¹⁶⁰ Q 9: 60.

¹⁶¹ Q 2:177.

¹⁶² Al-Bukhārī (*ḥadīth* no. 1936) in Ibn Hajar, *Fath al-bārī*, vol. 5 , 307 ; Muslim (*ḥadīth* no. 1111) in al-Nawawī, *al-Minhāj*, 695; Abū Dāwūd, *Sunan* (*ḥadīth* no. 2390-92 - *ṣaḥīḥ*), vol. 2, 65-67; Ibn Māja, *Sunan* (*ḥadīth* no. 1671 - *ṣaḥīḥ*), 293 .

¹⁶³ See Abū Dāwūd, *Sunan* (*ḥadīth* no. 4519 - *ḥasan*), vol. 3, 92-93; Ibn Māja, *Sunan* (*ḥadīth* no. 2680 - *ḥasan*), 455-56; al-Albānī, *Irwā al-ghalīl* (*ḥadīth* no. 1744), vol. 6, 168-69.

¹⁶⁴ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 10, 4794-98; Ibn Māja, *Sunan* (*ḥadīth* no. 2515 - *ḍa'īf*). In this connection, the Prophet also prohibited the sale, inheritance, giving of female slaves who were mothers of children born to Muslim fathers. But the prohibition might not have been widely known, so that many Companions continued to trade in this category of female slaves until it was finally outlawed during 'Umar's caliphate. For more on this issue, which generated much debate among the *fuqahā'*, see al-Shawkānī, *Nayl al-awṭār*, 1238-40.

¹⁶⁵ Al-Dāraquṭnī, *Sunan* (*ḥadīth* no. 4299 - *ḥasan*), vol. 5, 229-30; Aḥmad, *Musnad* (*ḥadīth* no. 2759; see also nos. 2910, 2937), 252; Mālik, *al-Muwaṭṭa'* (*ḥadīth* no. 6), vol. 2, 776.

amount of their value to their masters in a transaction known as *mukātaba*,¹⁶⁶ which is also found in the Qur'an: "And such of your slaves as seek a writing (of emancipation), write it for them if ye are aware of aught of good in them, and bestow upon them of the wealth of Allah which He hath bestowed upon you."¹⁶⁷ These then are almost a dozen ways in which the *Sharia* discouraged slavery in Muslim society. According to Ḥamīdullāh, "Thus, it may be inferred that though Islam has done much to minimize slavery, it has not abolished it altogether. Certainly, it is not obligatory always to enslave prisoners of war, yet it cannot be denied that the supreme commander of an army has the choice to accord the prisoners either enslavement or any other treatment. . . . 'Slave' in Islam does not convey the same idea as in other civilizations. For a slave of a Muslim has a right to equality with his master in food, clothing, and dwelling. It cannot be denied that it was an easy method of proselytizing non-Muslims, which is the prime policy of a Muslim state."¹⁶⁸

Nevertheless, it is still an open question "Why didn't Islam prohibit slavery, as it prohibited carrion, alcohol consumption, and the like?" Based on the premise that Islamic legislation in the Prophet's time leaned in the direction of emancipation,

¹⁶⁶ *Mukātaba* refers to a verbal or written contract that a slave made with his master or mistress in which it is stipulated that the former (*mukātib*) will pay the latter (*mukātab* or *mukātaba*) the full amount that he is worth and, after the payment is made, he or she will be emancipated. When such a contract is initiated by the master or mistress, the names are reversed, and the first becomes *mukātib*, the second *mukātiba*, and the slave *mukātab* or *mukātaba* in the case of a female slave. It was a *Jāhili* practice, which Islam permitted. See al-Bukhārī (*ḥadīth* no. 456; see also no. 2168) in Ibn Hajar, *Fath al-bārī*, vol. 2, 201; Muslim (*ḥadīth* nos. 1504, 1504:7) in al-Nawawī, *al-Minhāj*, 956-57; See al-Shawkānī, *Nayl al-awṭār*, 1235.

¹⁶⁷ Q 24: 33 (Pickthall).

¹⁶⁸ Ḥamīdullāh, *Muslim Conduct of State*, 210-11.

slavery in Arabia, which spilled over into Muslim society,¹⁶⁹ was like a vessel that distributed socio-economic benefits throughout society, militating against an abrupt formal law approach to its eradication. The Prophet therefore adopted an incremental non-codified approach toward manumission, entailing moral suasion,¹⁷⁰ exemplifying it in his practice, and decreeing it as a punitive punishment against some sins, as we have seen. In this informal way, he made it clear to his *Umma* that, although slavery was allowed for them, Islam frowned on it, relegating emancipation of slavery in Muslim society ultimately to moral, and not strictly legal, dictates.

h. Policy on Torture

There are a few signs of torture in the early Muslim conduct of state mainly in the context of war. The Islamic State did not appear to have a standing policy on torture, resorting to it principally in two ways in order to extract information deemed vital to i) the security interests of the state and ii) the socio-economic needs of the body politic; in other words, preservation or protection of the Muslim body politic. In both situations, torture was used as last resort, when interrogation methods failed, or vital information was obtained through dialog, when torture methods failed, as illustrated in the *sīra*.

¹⁶⁹ There are many reports in Ḥadīth about buying and selling of male and female slaves during the time of the Prophet up to the caliphate of ‘Umar who outlawed sale of female slaves who had made children for their Muslim masters. See al-Albānī, *Irwā al-ghalīl*, vol. 6, 189.

¹⁷⁰ For example, “*Whosoever frees a female slave, Allah will free every limb of his, even his private parts, from the Fire,*” reported by al-Bukhārī (*ḥadīth* no. 2517) in Ibn Hajar, *Fath al-bārī*, vol. 6, 335; Muslim (*ḥadīth* no. 1509:23) in al-Nawawī, *al-Minhaj*, 960-61. A similar *ḥadīth* with a similar meaning is also reported by al-Tirmidhī (*ḥadīth* no. 1547), Aḥmad (*ḥadīth* no. 4/235), and Abū Dāwūd (*ḥadīth* no. 2518) but mentions a male slave. Abū Dāwūd’s version states “Any Muslim woman who frees a Muslim female slave. . . .” It also applied to non-Muslim slaves, but the reward is said to be less. See al-Shawkānī, *Nayl al-awṭār*, 1226.

The first incident of torture occurred at Badr, when some of the Prophet's Companions apprehended two young water-bearers of Quraysh and brought them to the Muslim camp. The youths were questioned about their purpose there. Each time that they said they were mere Quraysh water-bearers, they were beaten. The Companions assumed that the youths were part of the Quraysh trade mission. After a while, the youths confessed that they were indeed from Abū Sufyān's caravan, ending their torture. When the Prophet learnt about it, he remonstrated with his Companions: *"When they spoke the truth, you hit them. But when they lied, you stopped the hitting!"* It is as if he faulted the torture method itself. He himself questioned the youths about the whereabouts of the trade caravans and was informed that it was stationed behind a certain sand dune. He also gleaned from them the number of camels that the Quraysh trade mission slaughtered daily for food. The youths told him, "Sometimes 9 to 10 camels a day." From this intelligence, the Prophet estimated that Abū Sufyān's contingent comprised 900 to 1000 men.¹⁷¹

Another instance of torture is reported to have occurred at Khaybar. Learning that that Kanāna, a leader of al-Naḍīr who were expelled from Madīna, had brought with him a sizeable treasure to Khaybar, the Prophet interrogated him about it. Kanāna denied knowing anything about it. But a Jew informed the Prophet that he saw Kanāna every day milling about a certain site of ruins. There they found a portion of it. When asked about the rest of the treasure, Kanāna refused to direct them to it. The Prophet handed him over to al-Zubayr b. al-'Awām with the instruction to *"torture him until the*

¹⁷¹ Ibn Abdul Barr, *al-Durar fī ikhtisar al-maghazi wa-s seera*, 112.

information is extracted.” Overlooking Kanāna, al-Zubayr pressed a stone wrapped in rags against his chest. Both Kanāna and his brother were finally executed.¹⁷²

i. Policy on Internal Dissent

The Islamic State had drawn up a set of legal and military measures to maintain domestic peace and order and to restore internal stability against certain anti-government activities, which are discussed next.

Apostasy (*ridda*) - In the Islamic context, apostasy, or *ridda* as it known in Islamic jurisprudence (*al-fiqh*), refers to a Muslim’s reneging from his conversion to Islam. That is, he was Muslim and exchanged his Islam for another religion or no religion at all. In Ḥadīth, the Prophet reportedly said, “Whosoever changes his religion (i.e., Islam), kill him.”¹⁷³ The Qur’an refers to apostasy in several places; each time, conjugating its verb *irtadda*, “to revert” or “to go back”:

- (i) “And they will not cease from fighting against you till they have made you renegades from your religion (**yartadid**), if they can. And whoso becometh a renegade and dieth in his disbelief: such are they whose works have fallen both in the world and the Hereafter.”¹⁷⁴
- (ii) “O ye who believe! Whoso of you becometh a renegade from his religion (**yartadda**), (know that in his stead) Allah will bring a people whom He loveth

¹⁷² Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 478; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 286 ; al-Ṭabarī, *ta’rīkh*, vol. 3, 14.

¹⁷³ Al-Tirmidhī, *Sunan*, (*ḥadīth* no. 1458 - *ṣaḥīḥ*) ; Ibn Māja, *Sunan* (*ḥadīth* no. 2535 - *ṣaḥīḥ*); Abū Dāwūd, *Sunan* (*ḥadīth* no. 4351 - *ṣaḥīḥ*); al-Nasā’ī (nos. 4059-65 - *ṣaḥīḥ*); al-Bukhārī (*ḥadīth* no 6922 - *ṣaḥīḥ*); Aḥmad (*ḥadīth* nos. 2551, 1871), 1/217, 1/282,-83; al-Dāraqutnī, *Sunan* (*ḥadīth* nos. 3182, 3200-01 - *ṣaḥīḥ*), vol. 4, 108-09, 119; see also al-Albānī, *Irwā’ al-ghalīl*, vol. 8, 124-25.

¹⁷⁴ Q 2:217 (Pickthall).

and who love Him, humble toward believers, stern toward disbelievers, striving in the way of Allah and fearing not the blame of any blamer.”¹⁷⁵

Thus, the Qur’an is silent on earthly punishment for the apostate but is vocal on condemning apostasy here and the hereafter. Nevertheless, some of the learned among Companions and their followers saw implicit proof in these āyāt that the apostate is to be killed.¹⁷⁶ The Sunnite schools of law (*madhdhāhib*; sing. *madhhab*) are unanimous that Islamic Law prescribes the death penalty for apostasy but differ on whether it applies equally to men and women or men only, including conditions of its implementation, such as *istitāba*,¹⁷⁷ and the like, as expounded in the corpus of *al-fiqh*. What concerns us here, however, is the Islamic State’s position on apostasy during the Prophet’s time. We have seen that the Prophet’s statement entailed that the apostate from Islam is to be killed. There are other statements from him that purport the same legal ruling. Mu‘ādh b. Jabal, whom the Prophet had sent to Yemen to preach Islam and later appointed him as a governor there, narrated that he told him: “Any man who reverts from Islam, call him (i.e., ask him to change his mind); if he reverts to Islam, (then there is no blame). But if he does not, strike his neck. And any woman who reverts from Islam, call her. If she returns, (then there is no blame); but if she does not, strike her neck.”¹⁷⁸ Ibn ‘Abbās narrated that the Prophet said,

¹⁷⁵ Q 5: 54 (Pickthall).

¹⁷⁶ Ibn Hajar, *Fath al-bārī*, vol. 16, 138; Ḥamīdullāh, *Muslim conduct of State*, 161; al-Shaybānī, *Kitāb al-siyar al-ṣaghīr* or “The Shorter Book on Muslim International Law,” trans. Mahmood A. Ghazi (Islamabad: Islamic Research Institute, 1998), 67.

¹⁷⁷ *Istitāba*, from *tāba*, “to repent,” refers to the imprisonment of alleged apostate for a determined period of time (at least 3 days or more) in order for him or her to reconsider the decision to convert from Islam. If the person decides to remain a Muslim, he or she is freed; on the other hand, if the apostasy is not recanted, that is, the person does not embrace *istitāba*, then he or she is executed. The MHT records many instances of apostasy killings in the early Islamic Period and beyond. For a comprehensive discussion on *istitāba* and the rulings of the various schools of law in Islam on apostasy, see al-Shawkānī, *Nayl al-awtar*, 1530-40

¹⁷⁸ The *ḥadīth* is reported with a *ḥasan* chain of authority in Ibn Hajar, *Fath al-bārī*, vol. 16, 146.

“Whoever goes against his religion (**dīn**), the dīn of Islam, strike his neck.”¹⁷⁹ There are a couple of *āḥādīth*, with chains of authorities that are ‘weak’ (*ḍa‘īf*), which relate that the Prophet ordered Umm Marwān, a woman who had apostatized, to be given time for *istitāba* and to be killed if she did not return to Islam. She did not and was killed.¹⁸⁰ From the *sīra* and *maghāzī* literature, as mentioned earlier in this chapter, we learn that the Prophet had three men executed inside the holy city on the day of the Conquest of Makka. Two of them—Ibn Khaṭṭāl and Miqyas—were apostates, but they were also accused of having murdered a Muslim each, so it is not clear from the MHT whether they were killed for their murders or the sin or crime of apostasy. That the Islamic State would kill a subject for apostasy baffles many thinkers and is something that one does not have to like, yet when seen in light of its native logicality, the rationale becomes clearer; for a Muslim who has accepted Islam has in effect made a covenant with God to worship Him alone without any partners or associates and to abide by His Divine Legislative Authority, so that when a person renounces Islam, he or she violates the covenant with God and it is as though the person rejects God as the supreme lawgiver and recognizes another authority, usurping Him, which is a type of *shirk* (polytheism) or treason that the *Sharia* deems punishable by death but not without granting a period of introspection (*istitāb*) to the accused, as found in Ḥadīth.

Sedition, rebellion, treachery, etc - these actions stemmed mainly from the Jewish tribes of Madīna—Qaynuqā’, al-Naḍīr, and Qurayza—and Khaybar, which have been

¹⁷⁹ Al-Ṭabarānī, *al-Mu‘jam al-kabīr* (*ḥadīth* no. 11716 - *ḍa‘īf*), vol. 11, 242.

¹⁸⁰ The *ḥadīth* is *ḍa‘īf* and is reported by al-Dāraquṭnī and al-Bayhaqī; see Ibn Hajar, *al-Talkhīṣ* (*ḥadīth* no. 2011), vol. 4, 92; al-Shawkānī, *Nayl al-awṭār*, 1458-61.

fully examined in the chapter on the Islamic State's relations with non-Muslims. As for the Hypocrites, though they represented a political cleavage opposed to Muslim rule and conspired against it, they were careful not to overtly take up arms against the Islamic State, as we have learnt. Instead of unleashing harsh physical punishment, the Prophet's government treated them with a variety of punitive social measures (e.g. verbal condemnation via Islam's axial texts, social boycott, withdrawing the State's grace from them) in order to curb their rebellious opposition politics as well as to avoid the view and propaganda that "Muḥammad kills his own Companions." In this connection, see the *āḥādīth* on transgressors (*al-baghyī*), such as "Whosoever takes up arms against us is not of us," and the like.¹⁸¹

Insurrection, insurgency, and the like – It is reported that a company of men (*raḥṭ*) from 'Ukal and 'Arīna approached the Prophet and said to him, "O Messenger of Allah, we are 'people of the udder' (*ahl ḍar'*) and not 'people of cultivation' (*ahl rīf*); therefore, we find Madīna to be insalubrious." They sought his permission to return to pasturing their camels and drinking from their milk and urine. But when they were out in the Ḥarra, they renounced Islam, killed some shepherds, and rode off with their camels. The Prophet and some Companions pursued their tracks. When they were found, he had their hands and legs cut off and their eyes put out with an iron. They were left there in the Ḥarra to die in that condition.¹⁸² According to Qatāda, the incident

¹⁸¹ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī and Muslim; see Ibn Hajar, *Bulūgh al-marām*, 203-04.

¹⁸² The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (no. 4192) in Ibn Hajar, *Fath al-bārī*, vol. 9, 285; Muslim (no. 1671) in al-Nawawī, *al-Minhāj*, 1068; Aḥmad (no. 257) in al-Banā, *Fath al-rabbānī*, vol. 18, 128; Abū Dāwūd, *Sunan* (no. 4369; see also no. 4366), vol. 3, 46-47; al-Tirmidhī, *Sunan* (no. 72), 28; and Ibn Māja, *Sunan* (no. 2578), 439; al-Albānī, *Irwā' al-ghalīl* (no. 177), vol. 1, 195.

occasioned the following āya: “*The punishment of those who wage war (yuḥāribūn) against Allah and His Messenger, and strive with might and main for mischief (fasād) through the land is execution (yuqattalū), or crucifixion (yuṣallabū), or the cutting off (tuqaṭa‘) of hands and feet from opposite sides, or exile from (yunfaw) the land: that is their disgrace in this world, and a heavy punishment is theirs in the hereafter.*”¹⁸³ Jurists have differed greatly on the meaning and implications of this āya, as summed up by al-Nawawī: “Mālik said that the āya indicates choice (takhyīr) because the ruler can choose among these options, except when the muḥārib has murdered in which case killing him is absolutely unavoidable. Abū Ḥanīfa and Muṣ‘ab al-Mālikī held that the ruler still has a choice, even if muḥārib has committed murder. Al-Shāfi‘ī *et al* opined that (the āya) presents a division (taqsīm): that is, if they (the muḥāribūn) murder but did not steal any wealth, they are to be executed. If, however, they murdered and stole wealth, they are to be executed as well as crucified. And if they stole wealth but did not commit murder, their opposite limbs of the hands and feet are to be cut off. If they terrorized the road but do not steal or kill, they are to be sought until they are punished, which is the meaning of exile (al-nafy) with us.”¹⁸⁴ As al-Shawkānī explained,

It is clear what the āya indicates, without glancing at the (difference of opinion among the) legal schools of thought (*madhāhib*), as stated ‘*The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is. . .*’ For connected to *muḥāraba* against Allah and His Messenger, that is, rebelling against them, is seeking mayhem in the land, which is legal proof that whosoever disobeys Allah and His Messenger [i.e. the Islamic State] by ‘striving with might and main for mischief in the land,’ the penalty is mentioned in the āya. Since the āya was revealed concerning highwaymen (*qaṭṭā‘ al-ṭarīq*) who were the people of ‘Arīna (‘*ariniyyūn*), the crime of highway robbery was also included in its generality as a priority; after that, the āya confined the punishment to “*execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land. . .* , giving a choice

¹⁸³ Q 5:33 (‘Alī); see also al-Wāhidī, *Asbāb al-nuzūl*, 194-95; and al-Suyūṭī, *Lubāb al-nuqūl*, 95.

¹⁸⁴ See al-Nawawī, *al-Minhāj*, 1068.

among various options. . . . The ruler has discretion in what best serves the public; if not the ruler himself, then whoever is in charge of governance. That is what the (syntactic) arrangement of the āya necessitates, since there is no evidence from the Sunna that changes or qualifies its meaning in Arabic. . . .¹⁸⁵

The harshness of the sentence, like the execution of Qurayṣa, signals the absolute zero-tolerance policy of the Islamic State and *Sharia*, in its preservation or maintenance of internal peace and order against mayhem and crimes against person and property.

j. State Expansion

It is widely acknowledged that the wars of Islam in the Prophet's time were fundamentally defensive in order to repel the belligerency of Makka and its allies perverse to Muḥammad's Islamic Call.¹⁸⁶ But such a default position is difficult to reconcile with *āḥādīth* that suggest Islamic warfare was also markedly offensive. In his *Kitāb al-jihād* ("Book of Jihad"), one of the earliest works in the genre of *jihad* literature and is published,¹⁸⁷ Ibn al-Mubārak (d.181/797) reported that the Prophet said, "Verily, Allah has sent me with the sword before the Hour (of Judgment), provided my sustenance under the shade of my spear, and ordained humiliation (*dhill*) and subjugation (*ṣighār*) for those who

¹⁸⁵ See al-Shawkānī, *al-Dirārī al-muḍīyya*, 305-06.

¹⁸⁶ See, for example, *al-Shubuhāt al-wārida fi ta'addud al-zawjāt wal-ḥurūb wal-ghazawāt* (), 399. That the default war stance of the Islamic State was defensive stems from how war is defined. For them, war is either just or unjust. When war is just, it is defensive, non-expansionist and is concerned with self-preservation and not militaristic; and when it is unjust, it is the opposite. How then can the Islamic State be offensive, expansionist, militaristic, when such a conduct constitutes unjust war? But the wars of Islam altogether cannot be neatly fitted into this either/or proposition.

¹⁸⁷ Ibn Mubārak, *Kitāb al-jihād* (Jedda: Dār al-Maṭbū'āt al-Ḥadītha, 1983), 116. *Kitāb al-jihād* is the earliest written work that treats *jihād* as separate subject. Al-Nadīm omits it in *al-Fihrist*, since his aim was to mention a few and not all of Ibn Mubārak's books. In *Kashf al-zunūn*, we read, "Authors did not refer to 'the science of *jihād*' but included it within the sciences that investigated warfare "(Al-Ḥājji Khalīfa, *kashf al-zunūn*, Beirut: Dār Iḥyā' al-Turāth al-'Arabī, vol. 1, 622)—except, of course, Ibn Mubārak who specifically entitled his work "Book of *Jihad*." Other sources have mentioned it, such as al-Kitānī in his *al-risāla al-mustaṭraqa*, al-Dhahabī in his *mīzān al-i'tidāl*, and Ibn Hajar in his *al-iṣāba*. Dating back to the second/eighth century, it reads like a collection of *āḥādīth* on *jihād* and is not strictly a *sīra/maghāzī* or *fiqhī* treatise.

oppose me. . . .”¹⁸⁸ He also reportedly said, “I have been ordered to fight against people until they testify that there is no god but Allah and that Muḥammad is the Messenger of Allah, perform the ritual prayers (*ṣalāh*), and pay the *zakāh*. If they declare that, they earn my protection of their persons (*dimāʾ*, literally “blood”) and properties, except (for what is exempted) the right (*ḥaqq*) of Islam¹⁸⁹; and their (ultimate) reckoning is with Allah, the Almighty.”¹⁹⁰

Upon closer scrutiny of the early Muslim skirmishes, from the perspective of military strategy, they were defensive, preemptory, and offensive but without a neat evolutionary pattern. Rather, the Prophet prosecuted his war strategy based on the theological requirements of the Islamic Call, security interests of the State, and its growing military strength. Between ca. 2-8/623-29, most of the Islamic State’s battles were defensive, such as Badr al-Kubrā, Uḥud, Sawīq, al-Aḥzab (or Khandaq), al-Ḥudaybiyya, the last Badr battle, and Ḥunayn. Learning that the former warring tribes of al-Aws and al-Khazraj had pledged their full political and military support to Muḥammad, the Makkan regime calculated that warfare against Madīna was inevitable in order to neutralize the Islamic threat against the political and economic ramifications of their pagan hegemony in Arabia. At first the pagan Makkans sought to

¹⁸⁸ The *isnād* of the *ḥadīth* reads from Muḥammad ⇒ Ibn Raḥma ⇒ Ibn al-Mubārak ⇒ al-Awzāʾī ⇒ Saʿīd b. Jabala ⇒ Ṭāwūs al-Yamānī that the Prophet reportedly said, “*Verily, Allah has sent me with the sword. . .*” Ibn al-Mubarak, *Kitāb al-jihad* (*ḥadīth* no. 105), 116. The *ḥadīth* is *ṣaḥīḥ* and is reported with another chain of authorities, on the authority of Ibn ʿUmar, by Aḥmad in his *Musnad*, ʿAbd b. Ḥamīd in his *al-Muntakhab min al-musnad*, Ibn Abī Shaybain in his *al-Muṣannaḥ*, Abū Saʿīd b. Al-ʿArābī in *al-Muʿjam*, and al-Harawī in *dhimm al-kalām*. See al-Albānī, *Irwāʾ al-ghalīl*, vol. 5, 109-111.

¹⁸⁹ That is, the Islamic State protects the lives and properties of its subjects except for circumstances in which the law must run its course, as in crimes punishable by death, *lex talionis*, mandatory taxes, and the like.

¹⁹⁰ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī and Muslim; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 1 (*ḥadīth* nos. 303, 407-09, 612, 764, 767).

sow political instability within the Muslim stronghold by threatening the *Umma* of Jewish tribes with retaliation if they did not oppose Muḥammad and forge an alliance with the Madanite pagan Arab group headed by Abdullah b. Ubayy Salūl. Instead of turning the other cheek, however, Muslims adopted a defensive stance, since Islam had sanctioned fighting, and the rest is, proverbially, history. The Islamic State's preemptory wars included al-Muṣṭalaq, Qaynuqā', al-Naḍīr, Qurayza, Dūma al-Jandal, Ḥamrā' al-Asad, Dhāt al-Riqā', Ghaṭafān (or Dhū Amarr), and Tabūk. Military action was taken in order to prevent open rebellion, the giving of aid and comfort to Quraysh and its allies, insurrection, planned attacks on Madīna, and invasion. As for the Prophet's offensive strategy, it involved a carefully coordinated *sarāyya* campaign on Makkan trade caravans, including the battles of al-Abwā' or Waddān, Buwāṭ al-'Ushayra, the first battle of Badr,¹⁹¹ Banū Sulaym at al-Kudr, Buḥrān, Banū Lahyān (6/627), Dhū Qarad, Khaybar, and al-Ṭā'if. The political and military objectives of these battles were to take the war to the enemy, widen the buffer zone around Madīna, project the Islamic State's power beyond the borders of Madīna, and extirpate military obstacles to its *da'wa* policy. "All of this goes to show that when Muḥammad set out in October 630 with his relatively enormous army (to Tabūk)," wrote Watt, "he was more or less aware that he was launching the Islamic State on a challenge to the Byzantine Empire."¹⁹²

The expansionist phase of the Islamic State began with the Prophet's return to Madīna from al-Ḥudaybiyya, after signing a peace treaty with Makka. He was buoyed by

¹⁹¹ Al-Bukhārī (*ḥadīth* no. 3949) in Ibn Hajar, *Fath al-bārī*, vol. 9, 5.

¹⁹² W. Montgomery Watt, *Muhammad: Prophet and Statesman* (Oxford: Oxford University Press, 1961), 225.

a vision of success for his Islamic Call, as revealed in *Sūra al-Fath* (and discussed in the chapter on the Islamic State's diplomacy). That same year—8/629—he dispatched envoys with letters to the heads of neighboring kingdoms. The diplomatic message was concise, clear, and crisp—an invitation to Islam that contained thinly veiled threats of war or military occupation, if the Islamic Call went unheeded. Thus, when Emperor Heraclius received the Prophet's letter, he consulted his advisors and talked with Arab traders (among them Abū Sufyān) about Muḥammad. He told Diḥya al-Kalbī, the Prophet's envoy, "I personally fear for Rome. If not for that, I would have followed him (the Prophet)." ¹⁹³ Another account of it states, "Don't you see that I fear for my kingdom?" Informed that al-Najāshī I, the king of Abyssinia, ¹⁹⁴ had accepted Islam and had stopped remitting tribute to the Byzantine Empire, Heraclius said, "If not for sake of my kingdom, I would do as he has done." ¹⁹⁵ Hawza b. Ali al-Ḥanafī, the governor of Yamāma, which was under Persian suzerainty, received the Prophet's letter and declared that he would convert to Islam on condition that Islamic rule is shared with him. The Prophet rejected his demand. ¹⁹⁶ Musaylama, who became leader of al-Yamāma after his predecessor Hawdha, made a similar demand that was also rejected. Al-Ḥārith b. Abī Shamr al-Ghassānī read the Prophet's letter and announced, "Anyone who (seeks to) wrest my kingdom from me, I will certainly ride out to him. Even if he is Yemen, I

¹⁹³ Aḥmad, *al-Sīra al-nabawiyya*, 518.

¹⁹⁴ As mentioned in the chapter on the foreign relations of the Islamic State, there were two Abyssinian kings (both of whom are referred to as al-Najāshī or Negus in the MHT) during the time of the Prophet. The first Negus or al-Najāshī I, for our purposes, is the one who gave asylum to Makkan Muslims and who accepted Islam. Al-Najāshī II is the one to whom the Prophet wrote in 8/629, inviting him to Islam but he declined.

¹⁹⁵ Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 606. ; Ibn Sayyid al-Nās, *Uyūn al-athar*, vol. 2, 353-54; al-Zarqānī, *Sharḥ al-mawāhib*, vol.3, 352.

¹⁹⁶ Ibn Sayyid al-Nās, *Uyun al-athar*, vol. 2, 355.

will come to him there. Gather my men!” Then he wrote to Heraclius, seeking permission for his plan. He later met the Emperor in Īlyā’. After reading the letter that al- Ḥārith had received, Heraclius forbade him from riding out to the Prophet.¹⁹⁷ Ri‘ya al-Suḥaymī used the Prophet’s letter to patch a leak in a bucket. Consequently, the Prophet sent out a *sarriya* to his village, which seized their wealth and took them captives. Ruing his decision, Ra‘iyya came to Madīna, converted to Islam, and gave the Prophet the oath of allegiance.¹⁹⁸

It was also in 8/629 that the State imposed *jizya* on non-Muslims, and the Prophet’s instructions to his military commanders include a lucid reference to his political vision of Islam’s expansion and dominance. When appointing a commander of an army (*jaysh*) or *sarriya*, the Prophet used to exhort him to adhere to piety (*taqwā*), seek goodness, and follow his counsel:

Fight in the Name of Allah and for His sake (fi sabīl Allāh). Fight those who disbelieve in Allah. Fight but do not commit excess. Do not be treacherous, do not mutilate (the dead), and do not kill children. If you encounter an enemy polytheist (mushrik), invite him to three things, whichever of them he acknowledges accept it from him and desist from fighting him. [1] Invite them to Islam. If they respond (positively), accept it and desist. Then invite them to leave their abode (dār) for the dār of the Muhājirūn.¹⁹⁹ Inform them that if they do that, they will have the same rights and duties of the Muhājirūn. But if they refuse to relocate, inform them that will be like the Bedouin Muslims (a‘rāb al-muslimīn) upon whom the ḥukm Allāh (“Allah’s rule”) is applicable, but they will have no right to spoils of war (ghanīma and fay’) unless they make Jihād with the Muslims. [2] If they refuse, then request the jizya from them. If they respond (positively), then accept it and desist. [3] But if they refuse (to pay the jizya), then seek Allah’s help and fight them. If you besiege a fortress and its folk wish that you give them the protection (dhimma) of Allah and the dhimma of His Prophet, do not give them (that which you cannot) but give them your dhimma and the dhimma of your comrades. For that you guard over your dhimma and that of your comrades is easier (ahwan, literally “weaker”) for you than to guard over the dhimma of Allah and that of His Messenger. And if you besiege a fortress and its folk wish that you bring them down to ḥukm Allāh, refrain from doing so but bring them down to

¹⁹⁷ Ibn Sayyid al-Nās, ‘*Uyūn al-athar*, vol. 2, 356-57.

¹⁹⁸ Ibn Ṭūlūn, *I‘lām al-sā’ilīn*, 109-11; Aḥmad, *al-Sīra al-nabawiyya*, 522; Ibn Hajar, *al-Iṣāba*.

¹⁹⁹ In this *ḥadīth* is proof of the use of the word *dār* in a political sense to indicate state in the Early Islamic Period.

your **ḥukm** because you do not know if you attained to **ḥukm Allāh** concerning them or not.²⁰⁰

Yet another indicator that the Prophet envisioned an expansionist Islamic state is his promise to his Companions of a future victory over the Byzantines and Persians and the plunder of their wealth. He reportedly said it during the Khandaq battle, at a time when the military might of the pagan Arab confederacy had descended upon Madīna to crush the nascent Muslim polity.²⁰¹ This strategic visioning of the Prophet inspired his followers with confidence, replaced their fear with hope of a brighter future for Islam, and supplied a sustainable momentum for his universal Islamic Call beyond Arabia. To some degree, the rapid conquests of the Islamic State in the post-Muḥammadan period reflects the understanding of the global mission of Islam imbibed in the first Muslim generations.

k. External Neutrality

*“As for such [of the unbelievers] as do not fight against you on account of [your] faith, and neither drive you forth from your homelands, God does not forbid you to show them kindness and to behave towards them with full equity: for, verily, God loves those who act equitably.”*²⁰²

Throughout his tenure as a military leader and head of state, the Prophet rendered the above āya into policy, negotiating treaties with other parties if they were inclined to it. He exploited these opportunities, seeking to alleviate the burdens of war. The Qur’an

²⁰⁰ The *ḥadīth* is *ṣaḥīḥ* reported by Muslim, al-Shāfi‘ī, Abū Dāwūd, al-Nasā‘ī (in his *Sunan al-kubrā*), al-Tirmidhī, al-Dārāmī, Abū ‘Ubayd, Ibn Māja, al-Ṭaḥāwī, Ibn al-Jārūd, al-Bayhaqī, and Aḥmad with the following *isnād*: Sufyān⇒‘Alqama b. Murthid⇒Sulaymān b. Burayda who narrated from his father who said that the Prophet. . . .All of them reported the last part of the *ḥadīth* except in al-Nasā‘ī, al-Tirmidhī, al-Jārūd, and Aḥmad; see al-Albānī, *Irwā’ al-ghalīl*, vol. 5, 86-87.

²⁰¹ Al-Nasā‘ī, *Sunan* (*ḥadīth* no. 3176 – *ḥasan*), 491.

²⁰² Q 60: 8 (Asad).

itself laid down some general principles to regulate treaties, pacts, and agreements, which were mainly concerned with the issues of commitment, treachery, and renegotiation:

- (i) *But excepted shall be -from among those who ascribe divinity to aught beside God - [people] with whom you [O believers] have made a covenant and who thereafter have in no wise failed to fulfill their obligations towards you, and neither have aided anyone against you: observe, then, your covenant with them until the end of the term agreed with them. Verily, God loves those who are conscious of Him.*²⁰³
- (ii) *If thou hast reason to fear treachery from people [with whom thou hast made a covenant], cast it back at them in an equitable manner: for, verily, God does not love the treacherous!*²⁰⁴
- (iii) *How, then, could you be of two minds about the hypocrites, seeing that God [Himself] has disowned them because of their guilt? Do you, perchance, seek to guide those whom God has let go astray - when for him whom God lets go astray thou canst never find any way? They would love to see you deny the truth even as they have denied it, so that you should be like them. Do not, therefore, take them for your allies until they forsake the domain of evil for the sake of God; and if they revert to [open] enmity, seize them and slay them wherever you may find them. And do not take any of them for your ally or giver of succor, unless it be such [of them] as have ties with people to whom you yourselves are bound by a covenant, or such as come unto you because their hearts shrink from [the thought of] making war either on you or on their own folk - although, if God had willed to make them stronger than you, they would certainly have made war on you. Thus, if they let you be, and do not make war on you, and offer you peace, God does not allow you to harm them. You will find [that there are] others who would like to be safe from you as well as safe from their own folk, [but who,] whenever they are faced anew with temptation to evil, plunge into it headlong. Hence, if they do not let you be, and do not offer you peace, and do not stay their hands, seize them and slay them whenever you come upon them: for it is against these that We have clearly empowered you [to make war].*²⁰⁵

In these post-Hijra āyāt, treachery in relation to treaties is deemed blameworthy but adherence to the terms out of commitment and fulfillment is deemed praiseworthy, while the aspect of neutrality is endorsed. Treachery nullifies a treaty, which triggers the penalty of war but not without a warning.

²⁰³ Q 9:4 (Asad). It refers to the Hudaybiyya treaty before the revelation of *sura Bara'a/Tawba* (Q 9). Al-Ṭabarī, *Tafsīr*, vol. 11, 340-42. The Islamic State is to abide by the treaty until its expiry date unless in the case of treachery from the other party.

²⁰⁴ Q 8:58-60 (Asad). The first āya (no. 58) is said to have been revealed concerning Qurayṣa; al-Ṭabarī, *Tafsīr*, vol. 11, 239; al-Suyūṭī, *Lubāb al-nuqūl*, 129.

²⁰⁵ Q 4:88-91 (Asad). Exegetes differ concerning whom the first āya (no. 88) was revealed. According to al-Ṭabarī, it refers most likely to a group of Muslims originally from Makka who later apostasized; in his *Tafsīr*, vol. 7, 286.; Al-Wāhidī, *asbāb al-nuzūl*, 167-69;

The reason for the resumption or start of the war has to be announced to the other party, lest it is an act of treachery itself. If the Islamic State fears treachery, it must publicize its concerns and threaten war, as happened in the case of the Qurayṣa conflict.²⁰⁶

The terms of the treaties that the Prophet had signed with pagan Arabs and People of the Book in Arabia varied in accordance with political circumstances and military objectives. He made treaties with the Christians of Najrān and Christian Arab tribes, including Ukaydir b. Abdul Malik of Dūma and Ṣāliḥ Yuḥanna b. Ru'ba of Ayla,²⁰⁷ just as he did with the Jewish tribes of Madīna and its environs, which suffered different fates, as we have seen. He did not exclude pagan Arabs in making treaties, which is explored in the last chapter on the Islamic State's diplomacy. The broad range of treaties included neutrality or non-aggression pacts, committing both parties to refrain from giving aid and comfort to their respective enemies, to uphold peaceful relations, to pay *jizya* or tribute to the Muslim government in lieu of warfare, and forming strategic alliances. The salient features of the Prophet's method of treaty-making are summed up by Ibn Qayyim as follows:

Whenever the Prophet made peace with a people and some of them violated the treaty or agreement and the rest confirmed them in that, being pleased with their action, he warred against the entire group, since he considered all of them violators. That is what he did with Qurayṣa, al-Naḍir, Qaynuqā', and the Makkans. . . His guidance and *Sunna* was that when he made peace and had a treaty with a people and if another group allied with them, they were included in the same treaty, and if a group allied with him, they too were included in his treaty, and the ruling regarding those who made war against these disbelievers who were included in his treaty was the same as making war against him. For this reason, he fought the people of Makka. That is because when he had made an agreement with them to put off war for 10 years, Banū Bakr b. Wā'il sided with Quraysh, while Khuzā'a allied with him, but Banū Bakr b. Wā'il displayed enmity

²⁰⁶ See al-Ṭabarī, *Tafsīr*, vol. 11, 239.

²⁰⁷ Ibn Abd Barr, *al-Durar fī ihktiṣār al-maghāzī wal-siyar*, 256.

toward Khuzā'a, hatching a plot against them, killing some of their members, and secretly receiving weapons from Quraysh; thus, the Prophet viewed Quraysh as violators of the treaty because of their action and declared war against Banū Bakr b. Wā'il because of their transgression against his ally, the Khuzā'a."²⁰⁸

In sum, *Jihad* was not necessarily the *raison d'être* of the Islamic State; but as part of a broader defense policy, it served the basic function of defending it against external aggression. At the ideological level, in the context of an expansionist state, the goal of *jihad* sought to establish and protect safe havens for propagating Islam to the world and to eliminate or neutralize violent opposition to it²⁰⁹—not for the purpose of forcing conversion to Islam, which the Qur'an prohibited.²¹⁰ Through this process, many individuals and groups accepted Islam under the “shades of swords,” opting to do so either because they refused to continue fighting Muslim forces for fear of being killed or taken into captivity or because they disliked the subjugation associated with paying the *jizya* “out of hand.” Indeed, grudging conversion to Islam is different in nature to coerced conversion demanded at the point of a sword, which some Companions had done and had their over-zealous deeds promptly repudiated by the Prophet. The following statement of the Prophet puts into relief the inextricable concomitance of these two outputs—*jihad* and *da'wa*—of the Islamic State: “*I have been ordained to fight the people until they testify that there is no deity but Allah and believe in me and what I have brought. If they do that, then their lives and wealth are safe with me—except what is due by law; and their (final) account is with Allah.*”²¹¹

²⁰⁸ See Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 123, 125.

²⁰⁹ Cf Khattāb, *al-Rasūl al-qā'id*, 19.

²¹⁰ Q 2:257.

²¹¹ The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim, al-Bukhārī, and others; see al-Zayla'ī, *Naṣb al-rāya* (Jedda: Dār al-Qibla), vol. 3, 379-80.

Political Economy

Introduction

We now turn our attention to the political economy of the early Islamic State. By political economy is meant here the general reference to public decisions of a government that affect the overlapping spheres of politics and economics. From the Structural-Functionalist System (SFS) perspective, a state's revenue collection and expenditure methods are an integral part of its policy functions. The focus here is on the Islamic State's policies of extraction, distribution, and regulation of economic resources. As the Muslim body politic gradually became empowered by the growing acquisition of treasure from within and without, it responded to the inputs of domestic socio-economic pressures, outputting a set of decrees and edicts on spoils of war, taxes, and tributes. Apart from law, the Prophet's government also deployed 'soft power'—that is, spiritual and moral exhortations—to manage the socio-economic dynamics of the Islamic political system. Muḥammad's administration of public finance was intricate, differentiating categories of wealth and levying on some of them but not on others.

Part I:

a. Review of Early Islamic Economic Literature

The origins of Islamic economic thought can be traced back to the Qur'an and Ḥadīth, including government correspondences (e.g., the Prophet's letters to his governors and non-Muslim communities, outlining his economic policies). As a genre of

Islamic literature, these economic works surfaced in the *Taḍwīn* period under such titles as *kharāj*, *amwāl*, and the like. In his *al-Fihrist*, Ibn al-Nadīm (d. 438/1047) listed many of these works, which seem to have been part of a vast corpus.¹ Perhaps the best known *kharāj* treatise is Abū Yūsuf's (d.182/798) *Kitāb al-kharāj*, and the earliest and most authoritative of the *amwāl* works is Abū 'Ubayd's *Kitāb al-amwāl*. Abū Aḥmad b. Zanjawih (d. 251/865), the protégé of Abū 'Ubayd, also wrote a thesis entitled *Kitāb al-amwāl*, but it differed little in content and style from his mentor's. In the Ḥadīth literature, separate chapters on economic transactions of the Early Islamic Period can be found under the heading *al-buyū'* ("trade" or "economic transactions"), which is a major part of the Islamic legal discourse, as evidenced in the works of jurisprudence (*al-fiqh*). The genre of Islamic political literature has incorporated a section or sections on economic policy, as in al-Mawārdī (d. 450/1058)'s *al-Aḥkām al-sulṭaniyya* and Abū Ya'lā (d.458/1066)'s book of the same name, and similar works. In the twelfth century, al-Ghazzālī, in his *Iḥyā' 'ulūm al-dīn*, also made a significant contribution to Islamic economic thought. In the eighth/fourteenth century, Ibn Taymiyya expounded on public economic affairs in his *al-Siyāsa al-shar'iyya*, *Fatāwā*, and *Ḥisba*. His student Ibn Qayyim further discussed Muslim economic administration in his *al-Ṭuruq al-ḥukmiyya*. Also noteworthy are the works of Muslim historians, such as al-Maqrīzī's (d. 845/1441)—*Shudhūr al-'uqūd fī dhikr al-nuqūd* and *Ighātha al-umma bi kashf al-ghumma*, to name a couple—that can be read as Islamic economic history. Finally, variegated Muslim contributions to the economic field have continued down to the present,

¹ *The Fihrist of al-Nadīm*, ed., and trans. Bayard Dodge (NY: Columbia University Press, 1970), 297-99.

underscoring the fact that “public finance is a sophisticated and well developed field within Islamic scholarship.”² The main concern is this chapter, however, is with the various types of wealth (e.g. spoils, personal wealth, tribute) that the early Islamic State earmarked, regulated through coercive power and moral suasion, extracted in certain quantities and ways (i.e. *fay*, *ṣafī*, *khumus*, *zakāh*, *jizya*), and distributed to beneficiaries (the poor, orphans, wayfarers, debtors, fighters, etc).

b. Spoils of War

The first major economic resource acquired by the Islamic State was the spoils of war. The triumph of Muslims over their pagan enemies at Badr in 2/623 left booty strewn on the battlefield in the physical forms of prisoners of war and matériel. Generally, spoils are referred to in the Qur’an as *anfāl* (sing. *nafal*) and *ghanīma*, as in the following: “*They ask thee (O Muḥammad) of the spoils of war (anfāl). Say: ‘al-anfāl belong to Allah and the Messenger, so keep your duty to Allah, adjust the matter of your difference, and obey Allah and His Messenger, if ye are (true) believers’*”³ and “*know that what ye take by force (ghannamtum) [in war from the unbelievers].*”⁴ The *sabab al-nuzūl* given for this āya is that two groups of Companions argued over who had the greater right to the Badr spoils, so the Prophet ‘adjusted their difference over the matter,’ dividing it equally among them⁵; thus, *anfāl* indicated a notion of division of spoils among those that the Qur’an deemed deserving or rightful of it. *Ghanīma* and *anfāl* have a synonym in the word *fay*,

² Asad Zaman, *Islamic Economics: A Survey of the Literature* (MPRA Paper No. 11024, 2008): <http://mpa.ub.uni-muenchen.de/11024/>, 17.

³ Q 8:1 (Pickthall).

⁴ Q 8:41 (Pickthall).

⁵ See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 283; al-Wāhidī, *Asbāb al-nuzūl*, 231; al-Suyūṭī, *Lubāb al-nuqūl*, 113-14.

which occurs often in Ḥadīth, referring to spoils in general before its division; although *fay'*, as we shall see shortly, has a more restricted meaning in the Qur'an. The taking of prisoners at Badr was apparently done without revelatory sanction; afterward, Divine Sovereignty approved the Prophet's deliberate decision to ransom them: "*It is not fitting for an apostle that he should have prisoners of war (asrā) until he hath thoroughly subdued the land. Ye look for the temporal goods of this world but Allah looketh to the Hereafter. And Allah is Exalted in might, Wise. Had it not been for a previous ordainment from Allah, a severe penalty would have reached you for the (ransom) that ye took.*"⁶ Thus, the Qur'an instructed that two choices be offered to the Badr prisoners of war: (i) to accept Islam or (ii) to be ransomed.⁷ Another offer, which was extended to some but not all of them, was pardon. Those prisoners unable to pay the ransom were asked to trade their release with teaching the children of Anṣār to read and write⁸, thereby introducing the first literacy program in Muslim society. As for the war matériel itself, the Prophet divided it into fifths (more of which will be said later) and distributed it among his forces that fought the battle, keeping one-fifth for himself. It was on this occasion that he reportedly legalized spoils for Muslims,⁹ which had been unlawful for the People of the Book¹⁰ and

⁶ Q 8:67-68 ('Alī). When the Prophet consulted his Companions on the issue of *asrā*, they voiced at least three opinions: behead them, burn them alive in a ditch, or ransom them as prisoners of war. He chose the latter. See al-Wāhidī, *Asbāb al-nuzūl*, 238-40; al-Suyūṭī, *Lubāb al-nuqūl*, 121-22.

⁷ Q 8:70 (Pickthall): "*O Prophet, Say unto those captives who are in your hands: 'If Allah knoweth any good in your hearts He will give you better than that which hath been taken from you, and will forgive you.' Lo! Allah is Forgiving, Merciful.*" It is reported that al-Abbās b. Abdul Muṭṭalīb, the Prophet's uncle, ransomed himself and his brother 'Aqīl b. Abdul Muṭṭalīb for some gold and silver coins after which he converted to Islam. According to al-Dhahabī, "the *ḥadīth* is *ṣaḥīḥ* based on Muslim's criterion, but neither al-Bukhārī nor Muslim reported it"—except that Muslim did not rely on Ibn Ishāq who is an authority in its *isnād*; see al-Wāhidī, *Asbāb al-nuzūl*, 242; al-Ḥākim, *al-Mustadrāk (ḥadīth no.5477)*, vol. 3, 397-98.

⁸ See Ibn Hajar, *Fath al-bārī*, vol. 7, 418.

⁹ See al-Bukhārī (*ḥadīth* no. 335) in Ibn Hajar, *Fath al-bārī*, vol. 2, 13.

which was touched upon in earlier in the chapter on the Islamic State's relations with non-Muslims. The permissibility for the Muslim *Umma* to seize spoils was given divine sanction in the Qur'an: "*But (now) enjoy what ye took in war (ghannamtum), lawful (ḥalāl), and good (ṭayyib): but fear Allah, for Allah is Oft-forgiving, Most Merciful.*"¹¹

The Islamic State—the sovereignty of which is embodied in the Qur'anic political construct "*obey Allah and His Messenger*"—had a right to the spoils of war, which accrued to Muslims whenever they were victorious over their enemies. The operative logic here is that, since their triumph was possible only with God's help, spoils therefore belonged to the Almighty and His Messenger first and foremost and then to Muslim fighters: "*Even as thy Lord caused thee (Muḥammad) to go forth from thy home with the Truth, and lo! a party of the believers were averse (to it)"; "Ye (Muslims) slew them not, but Allah slew them. . . that He might test the believers by a fair test from Him. Lo! Allah is Hearer, Knower"; and "know that whatever ye take as spoils of war, lo! a fifth thereof is for Allah and the Messenger. . . ."*"¹² Thus, the Qur'anic semantics of war in defense of religion (theologically, pitting Islamic monotheism against polytheism) signaled to Believers that their struggle was just, necessary, and, in a sense sacred or "holy" in that it aided the Divine Cause, as long as their intention was pious and unmotivated by greed for

¹⁰ It is based on a *ḥadīth* that is *ṣaḥīḥ* and is reported by Aḥmad et al, , in which he stated: "*Spoils of war (ghanā'im) were not permitted for those before us, but Allah perceived our weakness and so made it good for us.*" See Ibn Hajar, *Fath al-bārī*, vol. 7, 380; al-Albānī, *Silsila āḥādīth al-ṣaḥīḥa*, vol. 6, 552-53.

¹¹ Q 8:69 (Pickthall).

¹² Q 8:5 ,17,41 (Pickthall); see Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 2, 309-20, on passages of *Sūra al-Anfāl* (Q 8) that speak to the Battle to Badr.

booty. The portion of spoils that rightfully belonged to the Islamic State was of three types: *al-fay'*, *al-ṣafī*, and *khums al-khums*.¹³

i. Al-Fay'

The first, *al-fay'*, is spoils that became the lot of the Islamic State without the intervention of warfare. The Qur'an refers to it as follows: "*What Allah has bestowed on (afā'a) His Messenger (and taken away) from them - for this ye made no expedition with either cavalry or camelry: but Allah gives power to His apostles over any He pleases: and Allah has power over all things.*"¹⁴ The wealth of al-Naḍir and the Jews of Fadak were obtained in this manner,¹⁵ as noted in the third chapter of this work. The Prophet banished al-Naḍir who had negotiated the terms of their surrender, choosing exile in place of death. They were allowed to leave with their women, children, and as much of their wealth as their camels could bear, including their musical instruments.¹⁶ The wealth that they left behind (e.g. weapons, lands, homes, food stocks) became *fay'*—the exclusive property of the Islamic State. The Jews of Fadak also capitulated to the Prophet without warfare, pledging to lay down their arms, offering him half of their lands and cultivated fields, and requesting that they keep their slaves. The Islamic State expropriated the lands and produce of Fadak and Khaybar in different ways, as Abū 'Ubayd has explained, "It turned out that the people of Khaybar, since it was taken by force, no longer had any claim to land and fruit, which became the property of Muslims and not Jews. But Fadak resulted from a treaty; thus, when (the Jews) finally accepted payment for their portion

¹³ Abū 'Ubayd, *Kitāb al-amwāl*, 75.

¹⁴ Q 59:6 ('Alī).

¹⁵ See al-Ṭabarī, *Tafsīr*, vol. 22, 512-15.

¹⁶ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 144.

of land and fruit (during ‘Umar’s caliphate when he bought their properties before expelling them), their lands came under Muslim ownership.”¹⁷

That *fay’* was partially the exclusive property of the Prophet—i.e. the Muslim government—did not necessarily translate into his personal wealth per se but was intended to benefit the poor and needy in society generally, demonstrating an embryonic Islamic social welfare policy: “*That which Allah giveth as spoil (afā’a) unto His Messenger from the people of the townships, it is for Allah and His Messenger and for the near of kin (al-qurbā) and the orphans (al-yatāmā) and the needy (al-masākīn) and the wayfarer (ibn sabīl), that it become not a commodity between the rich among you. . . .*”¹⁸ It is reported that the Prophet maintained his household for a year from the *fay’* of al-Naḍīr, using the remainder “to procure military equipment”¹⁹; in other words, defense spending. This peculiar Qur’anic construct of *fay’* appears to have lost relevance in the post-Muḥammad period of Islamic history; perhaps for good reason, since conquests under the early caliphs came about largely through fighting or *jihad* and not as a result of *fay’*—that is, spoils expropriated and received by the State without bloodshed but through negotiations or treaty.

ii. *Al-Ṣaḥī*

The second type of spoils that was the exclusive property of the Prophet, as head of state, was *al-Ṣaḥī*.²⁰ From the Arabic *ṣaḥā* or *istaṣḥā*, it means “to take the best,

¹⁷ Abū ‘Ubayd, *Kitāb al-amwāl*, 78.

¹⁸ Q 59:7 (Pickthall).

¹⁹ Abū ‘Ubayd, *Kitāb al-amwāl*, 76.

²⁰ Abū ‘Ubayd, *Kitāb al-amwāl*, 75.

pure, clean, part or portion of a thing”²¹; hence, the derivative *ṣaḥīḥ*, the “best portion of something chosen.” In the Islamic context, *ṣaḥīḥ* referred to a portion of the spoils that the Prophet took for himself before dividing it into fifths and distributing it among the aforementioned Qur’anic beneficiaries. It is reported that he used to take a male slave, female slave, or a horse as *ṣaḥīḥ*.²² His first *ṣaḥīḥ* chosen at Badr was a sword that he named *dhul-faḥār*, which was seized from the slain unbeliever al-‘Āṣ b. Munabbih and which later came into ‘Ali’s possession.²³ The Prophet’s *ṣaḥīḥ* from the Khaybar spoils was Ṣaḥīyya, the daughter of the Jewish leader Huyayy b. Akhṭab and the ex-wife of Kanāna b. al-Rabī‘ b. Abī al-Ḥuqayq,²⁴ whose assassination was sanctioned by the Islamic State, as discussed earlier. The Prophet married Ṣaḥīyya, thereby freeing her from concubinage. He also instructed some Arab tribes to set aside his *ṣaḥīḥ* portion of their spoils in military operations²⁵ that he approved, indicating that, even in the Muslim ruler’s absence from the battlefield, it was to be extracted and remitted to the Islamic State. From the SFS perspective, the purpose of *ṣaḥīḥ* appears more symbolic than economic, representing a status relic that distinguished the Prophet, in his capacity as supreme military commander, from his fighters.

iii. Al-Khumus

²¹ Lane, *Arabic-English Lexicon*, 1705.

²² The *ḥadīth* is *ḍa‘īf*, it is reported in *mursal* form, though its authorities are trustworthy. See Abū ‘Ubayd, *Kitāb al-amwāl*, 80; *Ḍa‘īf sunan abī dāwūd* (*ḥadīth* no. 2991 - *ḍa‘īf al-isnād*), ed. al-Albānī (Riyadh: Maktaba al-Ma‘ārif, 1998), 1st edition, 238; al-Shawkānī, *Nayl al-awṭār*, vol. 9, 430-32.

²³ The *ḥadīth* is *ḥasan*. See Aḥmad, *Musnad* (*ḥadīth* no. 2445 - 1/271), 229; al-Tirmidhī, *Sunan* (*ḥadīth* no. 1561 - *ḥasan al-isnād*), 369-70.

²⁴ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 472; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 285; Abū Dāwūd, *Sunan* (*ḥadīth* no. 2994- *ṣaḥīḥ*), vol. 2, 247.

²⁵ The *ḥadīth* is *ṣaḥīḥ*. See Abū ‘Ubayd, *Kitāb al-amwāl*, 80-82; Abū Dāwūd, *Sunan* (*ḥadīth* no. 2999- *ṣaḥīḥ*), vol. 2, 248; al-Nasā’ī, *Sunan al-kubrā* (*ḥadīth* no. 14/4448), vol. 3, 47-48; Ḥamīdullāh, *Majmū‘a al-wathā‘iq* (doc. 233), 321-22.

The third type of spoils that belonged exclusively to the Prophet was one fifth of the spoils (*khumus al-khumus*). The Badr spoils, the first booty of the Islamic State, was divided into fifths,²⁶ which the Qur'an sanctioned: "*And know that whatever ye take as spoils of war, lo! a fifth (khums) thereof is for Allah, and for the Messenger and for the kinsmen (who hath need) and orphans and the needy and the wayfarer; if ye believe in Allah and that which We revealed unto Our slave on the Day of Discrimination, the day when the two armies met. And Allah is Able to do all things. . .*"²⁷ Commenting on the āya, Ibn Abbās said, "Whenever the Messenger of Allah sent out a razzia (*sariyya*), he divided the spoils into fifths,"²⁸ allocating one fifth of it "for Allah, His Messenger, kinsmen (*dhil-qurbā*), orphans (*yatāmā*), the needy (*masākīn*), and the wayfarer (*ibn sabīl*)" and distributing it accordingly; the remaining four fifths, he gave two fifths to his cavalry, one fifth to his camelry, and one fifth to his foot-soldiers."²⁹ He sometimes donated "Allah's portion" for the upkeep of the Ka'ba or was, in other ways, discretionary with it. He reportedly said, "*The only part of spoils lawful for me is one fifth (i.e, khumus al-khumus); al-khumus is for you.*"³⁰ In other words, *khumus* constituted state revenue generally earmarked for government expenses, social welfare, and the military. He also reportedly ordered that everything of spoils be gathered together and accounted: "Every *khayṭ wa mikhyāṭ*

²⁶ See Ibn Hishām, *al-Sīra al-nabawīyya*, vol., 2, 315; Ibn Abdul Barr, *al-Durar fī ihktisār al-maghāzī wal-siyar*, 108.

²⁷ Q 8:41 (Pickthall); see also Ibn Hajar, *Fath al-bārī*, vol. 7, 374.

²⁸ See al-Ṭabarī, *Tafsīr*, vol. 11, 188; al-Ṭabarānī, *al-Mu'jam al-kabīr (ḥadīth no. 12660 - ḍa'īf)*, vol. 12, 124; al-Shawkānī, *Nayl al-awṭār*, vol. 9, 395-96. Al-Haythamī wrote, "In its *isnād* is Nahshal b. Sa'īd who is *matrūk*"; see *Baghiya al-rā'id*, vol. 5, 613.

²⁹ Abū 'Ubayd, *Kitāb al-amwāl*, 83.

³⁰ See Abū Dāwūd, *Sunan (ḥadīth no. 2755 - ṣaḥīḥ)*, vol. 2, 172; cf al-Nasā'ī, *Sunan (ḥadīth no. 4139 - ḥasan ṣaḥīḥ)*, 638.

(‘needle and thread’), *nothing more or less*,³¹ suggesting great accountability to the extent that even petty items were not to be overlooked—if read literally—but must also be added to the cumulative spoils. In comparison, spoils of war that accrued to the Children of Israel were usually gathered and burnt, as the Bible suggests “*And thou shalt gather all the spoil of it into the midst of the street thereof, and shalt burn with fire the city, and all the spoil thereof every whit, for the Lord thy God: and it shall be an heap for ever; it shall not be built again.*”³²

Khumus became economic policy of the Islamic State after acquisition of the spoils at Badr.³³ But exempted from *khumus* was anything that a Muslim warrior may have seized from a slain enemy combatant before the collection of spoils in the aftermath of the battle or war; such exempted articles or war materials were called *salab*, belonged to the victor, and were not included as part of the general spoils.³⁴ Although the Prophet extolled the virtue of the *mujāhidūn* who fought *fī sabīl Allāh* (for “the pleasure of Allah”) to make His word prevail, he did not dissuade the pursuit of spoils for worldly benefit: “(God) *has made my provision under the shade of my spear.*”³⁵ In sum, the Islamic convention was that after the “war had laid down its burdens,” spoils were collected by the government, divided into *khumus*, and distributed to the military and the needy—but not before the Prophet had extracted his portions of *ṣaḥī* and

³¹ Reported by Aḥmad, *Musnad* (*ḥadīth* no. 23157), 1688-89; al-Albānī, *Silsila āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 1972), vol. 4, 620-21.

³² See *Deut.*xiii. 16-18 {15-16}.

³³ Ibn Hajar, *Fath al-bārī*, vol. 7, 417.

³⁴ See al-Bukhārī (*ḥadīth* no. 3142) in Ibn Hajar, *Fath al-bārī*, vol. 7, 423.

³⁵ The *ḥadīth* is *ṣaḥīḥ* based on the *isnād* of al-Awzā‘ī⇒Hassān b. ‘Aṭīyya⇒Abī Munīb al-Ḥarshī, according to al-Dāraquṭnī. For various reports of it, see Ibn Abī Shayba, *al-Muṣannaf* (*ḥadīth* no.19629), vol. 7, 29; Aḥmad, *Musnad* (*ḥadīth* no. 5115), 410; al-Dāraquṭnī, *al-‘Ilal* (no. 1754), vol. 9, 272; al-Ṣan‘ānī, *Subul al-salām* (Riyadh: Maktaba al-Ma‘ārif, 2006), 1st edition, vol. 4, 239.

khumus al-khumus from it. In this way, spoils of war became a major source of revenue for the Islamic State.

Part II:

c. *Zakāh* – Taxing Muslim Wealth

The Prophet was not so keen on extracting from the wealth of non-Muslims, which was acquired through spoils, treaties, and payments of *jizya* (discussed in the next section), that he neglected extracting from the wealth of Muslims. Benthall thought that the Qur’anic principle of *al-infāq fī sabīl Allāh* (“spending in Allah’s Path”)³⁶ may be indebted to Hebraic ethics and laws of tithing, although it is possible that it stemmed entirely from independent Arabian sources. He added, “The Qur’an does not downgrade money in the style of many passages in the New Testament. It is crammed with injunctions about the right spending of money. Over one hundred verses of the Qur’an deal with these matters (e.g. 2.195, 70.23-25). Islam is the only one of the three so-called Abrahamic religions that explicitly urges the believer not only to be generous in almsgiving but also to persuade others to be charitable (Q 107).”³⁷ Indeed, it is reported that the Prophet was never asked for anything except that he gave it. Once a man asked him for something, and the Prophet gave him plenty of sheep, which had been obtained as *Zakāh*. When the man returned to his tribe, he said to them: “Accept Islam, for Muḥammad gives generously like one who has no fear of poverty!”³⁸ Charity

³⁶ Q 2:195.

³⁷ Jonathan Benthall, “Financial Worship: The Quranic Injunction to Almsgiving,” *The Journal of the Royal Anthropological Institute*, vol. 5, No. 1 (Mar., 1999) 35.

³⁸ See Aḥmad, *Musnad* (*ḥadīth* no. 120743), 853. It is also reported by al-Ḥākim et al; see al-Albānī, *Silsila āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 2109), vol. 5, 143-44.

is accentuated in Islam's axial texts and has spawned an extensive literature on Muslim social solidarity.

The Islam State's levy on Muslims' wealth was both informal and formal. Informally, Muslims were encouraged to part with their wealth through the pious doctrine of *al-infāq fī sabīl Allāh*. Its worldview envisaged every existing thing as belonging to God, the Creator.³⁹ Wealth is entrusted to the believer by God—a trust that bears socio-economic responsibilities. When the believers fulfill them, spending wealth in divinely ordained ways, they are honored before Him; but when they shirk its duties, feeling self-sufficient in their wealth, they are wretched before Him. These ethical injunctions on 'spending in the path of Allah' were aimed at certain objectives, affirming God's Sovereignty as above so below, administering to the needy in society, and purifying believers' hearts from niggardliness and coveting wealth for its own sake, which is a type of *shirk* or polytheism, setting up a rival with God.

Formally, the State collected revenue from Muslims principally through *Zakāh*—an annual tax on certain kinds of Muslims' wealth. *Zakāh* has the lexical meanings of "purification" and "growth."⁴⁰ Its technical usage is related to its etymology in that when the faithful pays *Zakāh*, he or she is 'cleansed' from miserliness and greed and, at the same time, is 'increased' in divine grace, which foster the politics, ethics, and morals of caring for the poor⁴¹; or, from an economic point of view, spending (and not hoarding) stimulates 'growth' in the economy through creating demand and keeping

³⁹ Nanji, "Ethics and Taxation: The Perspective of the Islamic Tradition," *The Journal of Religious Ethics*, Vol. 13, No. 1 (Spring, 1985), 163.

⁴⁰ See *Lisān al-'arab*, vol. 3, 1849; al-Ṣan'ānī, *Subul al-salām*, vol. 2, 343.

⁴¹ Walīullah, *Hujjatullāh al-bāligha* (Beirut: Dār al-Jayl, 2005), 1st edition, vol.2, 61.

wealth in circulation, which must be equitable, less it makes, as the Qur'an says, "a circuit among the rich only."⁴² This equitable redistribution does not, however, seek "to penalize material endeavor or enterprise, but rather to combine it with a social conscience," as Nanji observed.⁴³ *Zakāh* is variously conceived of as an "income tax," "proportional payment," or "degressive" tax⁴⁴, and the like; however, none of these modern, if not anachronistic, economic terms adequately describe *Zakāh* in the context of the early Islamic State. Rather, *Zakāh*, for the purpose of this work, is defined here simply as a government tax on some types of wealth possessed by Muslims after a year has passed, specifically on money and certain staple food items and animals.

There is no consensus on the exact date when *Zakāh* was instituted as policy.

Scholarly opinions waver between 1/622—9/631.⁴⁵ In my estimate, it is most likely that

⁴² Q 59:7.

⁴³ Nanji, *Ethics and Taxation*, 165.

⁴⁴ Nanji, *Ethics and Taxation*, 165.

⁴⁵ Scholars differ on when *zakāh* was made mandatory. Ibn Hajar outlined their views as follows. "The majority held that it occurred after the Hijra, whereas some believed that it was in 2/623 before (the fast of) Ramaḍān was made mandatory. Imam al-Nawawī supported the latter view in his *al-sīra min al-rawḍa*. Ibn al-Athīr, in his *ta'rikh*, gave the date as 9/631. It is an open question, since the *āḥādīth* narrated by Ḍamām b. Tha'laba, the delegation of Abdul Qays, and others mentioned *zakāh*, as did Abū Sufyān's conversation with Heraclius in the beginning of 7/629, in which he said, '(Muḥammad) orders us to pay *zakāh*.' These reports, however, are subject to interpretation, as shall be seen toward the end of this discussion. Some confirmed Ibn al-Athīr's position with the story of Tha'laba b. Ḥātib al-Maṭūla in which it is said, 'when the *āya* of *zakāh* was revealed, the Prophet sent out revenue collectors, saying, "This is *jizya* or its sister.'" But *Jizya* was made mandatory in 9/; thus, the same would be for *zakāh*. This *ḥadīth*, however, is *da'if*; therefore, it cannot be used as proof. Ibn Hibbān claimed, in his *ṣaḥīḥ*, that *zakāh* was mandatory before the Hijra, citing as proof the *ḥadīth* of Umm Salma that he himself reported, which mentioned that Ja'far b. Abī Ṭālib, informing al-Najāshī (the Abyssinian king) about the Prophet of Islam, said: 'He orders us to pray, pay the *zakāh*, and to fast.' This adduction, however, is unsettled, since the five-time daily ritual prayer and Ramaḍān fast had not yet been made mandatory. It is probable that Ja'far did not make the reference when he first arrived in Abyssinia but later when he was informed that the Prophet ordered these things, which was when he reported it to king; that is, 'he orders us' meant 'he ordered the *umma*,' but it is far-fetched. It is more likely that Umm Salma's *ḥadīth* in this connection—even if its *isnād* is objected to by some—meant 'he orders us to pray, pay the *zakāh*, and fast' in general, which does not necessitate that it referred to the Pillars of Islam. Allah knows best! What indicates that *zakāh* became mandatory in 9/631 is

Zakāh was made mandatory in the Post-Hijra period ca. 5–7/626–28. The first year *anno hegira* seems too early, since the Muhājirūn had just arrived in Madīna—poor and dispossessed—and were almost entirely dependent on the generosity of the Anṣār for provisions. That the Prophet would have burdened the new Muslim community with the payment of *Zakāh* does not seem prudent politics, and no authentic evidence exists of it. Instead he engineered the pact of brotherhood (*ukhuwwa*) by which the Anṣār became Muhājirūn’s keepers legally, serving the cause of social solidarity among Muslims at this initial stage of the Islamic State’s political evolution. As for 9/629, it seems rather late and contradicts the number of *āḥādīth* that indicate earlier dates. For all intents and purposes, the appropriate occasion for *Zakāh* would most likely have been at the time when the Muslim *Umma* (comprised of the Muhājirūn and Anṣār) was becoming enriched from spoils and trade and when the Prophet’s governmental powers were enhanced, following the Battle of Badr and skirmishes with Jewish groups

the *ḥadīth* of Anas, which was mentioned previously in (al-Bukhārī’s) chapter on knowledge, concerning Ḍamām b. Tha’laba who said, ‘I abjure in the name of Allah! Allah orders you to take this *ṣadaqa* (i.e., *zakāh*) from the rich and give it to the poor.’ His arrival there was in 5/626; as for the dispatch of revenue collectors in 9/ to gather *ṣadaqāt* (pl. of *ṣadaqa*)—it suggests that the obligation of *zakāh* was before it. Scholarly agreement that the Ramaḍān fast occurred after the Hijra is proof that *zakāh* was stipulated around the same time, because the *āya* relating to its obligation is Madanite [post-Hijra] by all accounts. Aḥmad, Ibn Khuzayma, al-Nasā’ī, Ibn Māja, and al-Ḥākim confirmed the *ḥadīth* of Qays b. S’ad b. ‘Ubāda (the *isnād* of which is *ṣaḥīḥ*) who said, ‘The Messenger of Allah ordered us to pay the *ṣadaqa al-fitr* (i.e. charity given towards the end of the Ramaḍān fast) before the revelation of *zakāh*. After *zakāh* was made mandatory, he neither ordered us nor prohibited us (from *ṣadaqa al-fitr*), so we used to do it.’ The narrators are all men of sound *ḥadīth*, and one of them Abū ‘Amār—who was considered trustworthy (*thiqa*) by Aḥmad and Ibn Mu‘īn—narrated from Qays b. Sa’d, whose name is ‘Arīb b. Hamīd and was from Kūfā, indicating that the obligation of *ṣadaqa al-fitr* was stipulated before *zakāh*, which necessitates that it occurred after stipulation of the Ramaḍān fast, which was after the Hijra, and is desirable. The ‘History of Islam’ (*ta’rīkh al-islām*) mentions that *zakāh* became mandatory in 1/622. Al-Bayhaqī reported in his *al-dalā’il* the aforementioned *ḥadīth* of Umm Salma from Ibn Ishāq’s who narrated it, in his *al-maghāzī*, from Yūnus b. Bakīr, which mentioned *zakāh*. Ibn Khuzayma also reported the *ḥadīth* of Ibn Ishāq but from the path of Salma b. al-Faḍl about whom things were said. Allah knows best. Ibn Hajar, *Fath al-bārī*, vol. 4, 209–10; Ibn Abdul Barr, *al-Durur fī ikhtisār al-maghāzī wal siyar*, 101.

in Madīna, and policies of the Islamic State could be enforced, which became apparent around 5 or 6/626 or 627 and which, as we have seen, have support in the *sīra* and Ḥadīth.⁴⁶

The injunctions on *Zakāh* are found in the Qur'an⁴⁷, Ḥadīth⁴⁸, including Muḥammad's instructions to Muslim missionaries, letters to governors and tribal leaders in Madīna's environs and other parts of Arabia, including pledges of allegiance received from individuals and tribes.⁴⁹ The Qur'an's ordinances on *Zakāh* are general in content, which is elaborated in Ḥadīth. Although Muslim jurists agreed that *Zakāh* was an important source of state revenue, they differed on the types of wealth that fell under its purview. "Many scholars arbitrarily expanded the obligation of *Zakāh* on types of wealth that Allah did not make obligatory," al-Shawkānī commented. "Indeed, the Prophet clearly stipulated that some types of wealth are exempted from *Zakāh*, such as his saying, "A person does not pay *Zakāh* on his slave or his horse."⁵⁰ According to al-Qinawwī, "The Companions possessed various forms of wealth, such as jewels, merchandise, and vegetables, but they were never ordered to pay *Zakāh* on them. If *Zakāh* been obligatory on them, then the Prophet would have explained what was revealed concerning that."⁵¹ The Sunnite legal tradition is unanimous that gold and

⁴⁶ See Watt, *Muhammad: Prophet and Statesman*, 214.

⁴⁷ Q 2:83. The verbal noun *zakāh* is mentioned 28 times in the Qur'an.

⁴⁸ See Ibn Hajar, *Bulūgh al-marām*, 97-102.

⁴⁹ Ibn Hajar, *Fath al-bārī*, vol. 4, 201.

⁵⁰ See al-Shawkānī, *Nayl al-awṭār*, vol. 5, 278-81. As for the *ḥadīth* ("A person does not pay **Zakāh** on his slave or his horse"), it is *ṣaḥīḥ* and is reported by "the Group (*Jamā'a*)," that is, al-Bukhārī, Muslim, Aḥmad, Abū Dāwūd, al-Tirmidhī, al-Nasā'ī, and Ibn Māja; see al-Albānī, *Silsila āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 2189), vol.5, 220.

⁵¹ See Ṣiddīq Khān al-Qinawwī, *Rawḍa al-niddiya*, ed. al-Albānī (Riyadh: Dār Ibn Qayyim, 2003), 1st edition, vol. 1, 505-07.

silver coins (i.e., money), livestock (camel, cattle, and sheep), and grains and fruit (specifically wheat, barley, raisins, and dates) were subjected to *Zakāh*, which amount to nine commodities. But consensus eluded it concerning *Zakāh* on merchandise inventory, honey, gold and silver jewelry, precious stones, minerals, vegetables, and the like. This dispute dates back to the Early Islamic Period and has continued among the various schools of Islamic Law.

d. Types of Wealth Subjected to *Zakāh* **(i) Money**

Arabia's economy was primarily monetary, although some bartering, such as pawnage (*rahn*), was conducted during the Prophet's time; for example, when he died, it is reported that his shield was still pawned with a Jew in Madīna in lieu of some wheat that he had taken for his family.⁵² The *dinar* (a gold coin) and *dirham* (a silver coin) were the monetary units in vogue at the time, originating in the mintages of the Byzantine and Persian Empires respectively⁵³ and having where a wide circulation throughout the Near East. The peoples of Arabia did not know of any other currency besides the *dinar* (pl., *danānīr*) and *dirham* (pl., *darāhim*), which were originally named after their weights.⁵⁴ The general consensus is that their relative values in the Pre-

⁵² Reported by Aḥmad, *Musnad* (12386), 872; al-Bukhārī (*ḥadīth* no. 2508) in Ibn Hajar, *Fath al-bārī*, vol. 6, 325; al-Nasā'ī, *Sunan* (*ḥadīth* no. 4610 - *ṣaḥīḥ*), 703; Ibn Māja, *Sunan* (*ḥadīth* no. 2437 - *ṣaḥīḥ*), 416; al-Albānī, *Irwā' al-ghalīl* (*ḥadīth* no. 1393 - *ṣaḥīḥ*), vol. 5, 230-32.

⁵³ See al-Maqrīzī, *Shudhūr al-'uqūd fī dhikr al-nuqūd* (Qum, Iran: al-Maktaba al-Haydariyya, 1967), 5th edition, 3-4.

⁵⁴ The *dirham*, according to *Lisān al-'arab*, is Arabized from the Persian, as is *dinar*; through long usage in Arabic, they become fully declinable nouns, losing the diptote. The English "dirham" is traced through Latin to the Greek *drachma* ("to grasp"), a silver coin of ancient Greece, the original value of which was equivalent to a handful of arrows. According to *Encyclopaedia of Islam*, "The Arabs were familiar with the word *dinar* and with the Roman and Byzantine gold coin (*solidus*, *denarius aureus* or νόμισμα χρυσοῦν) before Islam (*Kur'ān*, ed. Flügel, iii, 68; and cf. J. Stepková in *Numismatický Sborník*, iii, 1956, 65). Miles, G.C., "Dīnār," *EF*².

Islamic and Early Islamic periods had remained constant.⁵⁵ A survey of the early Islamic economic literature provides glimpses of money usage during the Early Islamic Period, the history of Islamic mintage, and the bi-metallic orientation of monetary theory when it first appeared in the Muslim world.

Abū ‘Ubayd, in his *Kitāb al-amwāl*, recounted the history of the dirham and mintage in the Muslim world, as he heard it from an unnamed authority. According to his narrative, the dirham, the money of people for a long time, was of two kinds: *al-sūd al-wāfiya*⁵⁶ and *al-ṭabariyya al-‘utuq*.⁵⁷ The same were in circulation when Islam came. Later, during the Umayyad reign, Muslim leaders wished to strike dirhams and considered the outcomes, proposing that the coins should endure through time. It was well known at the time that the *Zakāh* on every 200 dirhams (or 5 *awāqin*; sing. *awqiyya* = 40 dirhams) was 5 dirhams, so they decided to make *al-sūd al-wāfiya* (the heavier dirham) the standard measurement for *Zakāh* calculation; thereafter, it became widespread and was the only type of dirham that they knew. The understanding was that the *Zakāh* (of 5 dirhams) was due only when (the) *al-sūd al-wāfiya* (type) reached 200. In effect, it was a depreciation of *Zakāh*; therefore, they wished to make *al-ṭabariyya al-‘utuq* the standard measurement for *Zakāh* instead when it reaches 200 dirhams. That,

⁵⁵ Ibn Hajar, *Fath al-bārī*, vol. 4, 278.

⁵⁶ According to al-Maqrīzī, *al-sūd* (or *al-sawdā’*) *al-wāfiya*, also known as *al-baghliyya*, refers to the heavy Persian dirham, having the weight of a *mithqāl* of gold. He gave the following weight measurements used in the Pre-Islamic period in Makka: *al-nawāh* = 5 *dārāhim*; *al-nish* = 20 *dārāhim*; *al-naṣṣ* = ½ *awqiya* (or 20 *dārāhim*); *awqiya* = 40 *dārāhim*; *al-raṭl* = 12 *awāqin*. See al-Maqrīzī, *Shudhūr al-‘uqūd fī dhikr al-nuqūd*, 5.

⁵⁷ The dirham known as *al-ṭabariyya al-‘utaq* was light and of 8 *dawānīq* [=16 carats]. See al-Maqrīzī, *Shudhūr al-‘uqūd fī dhikr al-nuqūd*, 5-6. It is said that this dirham was named after the Jew, Ra’s al-Baghl who, under the instruction of the Caliph ‘Umar b. al-Khaṭṭāb, first minted it, which had a weight of 4 *dawānīq* or some say the opposite, that is, the *baghli* dirham was 8 *dawānīq* and the *ṭabari* dirham 4 *dawānīq*. Most historical reports, however, date the first Islamic mintage to the reign of Abdul Mālik b. Marwān (d. 86/705).

however, was thought to be excessive on the owner of wealth; therefore, they wished to find a measure in-between the *al-wāfiya* and *al-ṭabariyya* types of dirham without harming people and conforming to the Prophet's (annual) timing of *Zakāh*. Before that (i.e. Muslim mintage), they used to pay *Zakāh* with two dirham pieces: the big piece (*al-wāfiya*) and the other small piece (*al-ṭabariyya*). When they attempted to mint the Islamic Dirham, they found that *al-wāfiya* weighed 8 *dawānīq*⁵⁸ [=3.2 grams] and *al-ṭabariyya* 4 *dawānīq* [=1.8 g]! So they merged the excess of the larger one with the smaller one, making a uniform dirham having the new standard weight of 6 *dawānīq* [=2.4 g] each. When they considered the *mathāqīl* (sing. *mithqāl*) of gold, they discovered that one *mithqāl* was always of a specific weight, and they knew the weight of 10 Islamic dirhams, one of which weighed 6 *dawānīq*, so they considered them equal. Thus, they agreed on three things: (i) the weight of 10 dirhams was equivalent to 7 *mathāqīl* [or conversely, 1 *mithqāl* = 1 3/7 dirhams]; (ii) 7 *mathāqīl* represented the median of larger and smaller dirhams; and (iii) the measurement conformed to the Prophet's *Sunna* on *Zakāh* and was free from depreciation and appreciation. Abū 'Ubayd concluded that "The completed Islamic Dirham did not deviate from (having the weight of) 6 *dawānīq*; whenever it fluctuated, it was called either a 'deficient' dirham or an 'excessive' dirham. Concerning *Zakāh*—thanks to Allah and His bounties—people are on the original foundation, conforming to the *Sunna* and Islamic Guidance without any deviation and confusion."⁵⁹

⁵⁸ 1 *dāniq*=2 carats; 1 gram = 5 carats.

⁵⁹ Abū 'Ubayd, *Kitāb al-amwāl*, 625-26.

In response to Abū ‘Ubayd and others, al-Qāḍī ‘Iyāḍ (d. 544/1149), in his commentary on *Ṣaḥīḥ muslim*, debunked the claim that weights of the monetary units were unknown in the Early Islamic Period:

It is false that measures of *awqiya* and *darāhim* were unknown during the time of the Prophet who stipulated *Zakāh* on the basis of its numbers and by which occur sales and marriages (i.e., dowry), as found in authentic *āḥādīth*. The statement that *darāhim* were only known when Abdul Malik b. Marwān gathered the learned and made the weight of 10 *darāhim* equal to 7 *mathāqīl* and one dirham to 6 *dawānīq* is doubtful; rather, what is meant is that Islamic mintage was non-existent at the time (of the Prophet), since all coins—small and large, un-minted, un-inscribed pieces of silver, Yemenite, or Moroccan⁶⁰—were of Persian and Byzantine origins. Therefore, they considered switching to Islamic mintage and inscription, so as to establish a singular uniform weight that would not vary and would be free from the measure of *al-mawāzīn*, by merging the larger dirham with the smaller one and minting them in accordance with the measure of *kayl* instead.⁶¹ The weight in which they transacted at the time might have been *kayl* with respect to all of them; hence it was called *kayl*, even if it was a single unit or a group’⁶²

‘Iyāḍ based his reconciliation on *kayl*, which is speculative and unsupported by historical evidence. By the fifteenth century, Ibn Khaldūn (d. 808/1405) recorded “unanimous agreement” on the Islamic dinar and dirham: “Know that the established consensus of opinion (*ijmā’*), since the beginning of Islam and eras of the Companions and their Followers, is that the legitimate dirham is measured by 7 *mathāqīl* of gold for every 10 *darāhim*, and one *awqiya* of *darāhim* was equal to 40 *darāhim*, which was 7/10 of a dinar. The weight of a *mithqāl* of gold was 72 seeds of wheat, and the dirham was 7/10

⁶⁰ The Moroccan dirham had a weight of 3 *dawānīq* (1.2 g) and the Yemenite, 1 *dāniq* (= .04 g). See Lane, *Arabic-English Lexicon*, 876; Ibn Khaldūn, *Muqaddima*, 323.

⁶¹ The difference between *mīzān* (pl., *mawāzīn*) and *mikyāl* (of which *kayl* is a derivative) is that the first refers to a scale instrument that measured weights in general and the second that by which food is measured, using the hand, such as *ṣā’*, *mudd*, *yad*, and the like.

⁶² Al-Qāḍī ‘Iyāḍ, *Ikmāl al-mu’allim bi fawā’id muslim*, ed. Yahya Isma’il (Cairo: Dār al-Wafā’: 1998), 1st edition, vol. 3, 464.

of it, that is, 55 seeds.”⁶³ His combination of the two views as regards affixation of the coins’ weights is as follows:

The truth is that the weights of the coins were known (during the Early Islamic period) because of (Prophetic) rulings connecting them with certain rights. They were not inscribed [with Islamic insignias] on the outside, however, and their measures and weights were made known by Islamic Law (*ḥukm shar’ī*). When Islam expanded and became mighty, the new situation called for physically identifying them in both measure and weight by decree under law, in order to solve problems of estimation. This union occurred during the time of Abdul Malik (b. Marwān) who attended to both their measures and material on the outside, which became well known. He minted them and inscribed his name on them with the mintage date inscribed immediately after the Testimony of the Faith (*al-shahādatayn*; i.e. the First Pillar of Islam).⁶⁴ Straightaway the conventional money of the pre-Islamic period was discarded and replaced by the Islamic mintage, which spread widely.”⁶⁵

According to al-Maqrīzī (d.845/1441), his research confirmed that the measure of a *mithqāl* did not vary since it was first deposited in *jāhiliyya* up to Islam. . . When Allah sent His prophet Muḥammad, he supported the Makkans’ measurement, saying, “*The mīzān is the mīzān of Makka*,”⁶⁶ or in another narration, it is the *mīzān* of the people of Madīna. He stipulated *Zakāh* on it, indicating that for every 5 *awāqin* of pure silver, the

⁶³ Al-Maqrīzī gave slightly different numbers of seeds: “The person who produced its weight in antiquity began with the *mithqāl*, making it 60 seeds. The weight of one seed was that of 100 leavened mustard seeds and known as a *ṣanja*. He added another 100 mustard seeds to make a second *ṣanja* and then a third until they reached five. One *ṣanja* was 1/3 of a *mithqāl* and the weakest weight, so he built on it, making it 1/2 *mithqāl* until the full weight of a *mithqāl* was arrived at with 6000 seeds and became the instrument of measuring its weight.” See Ibn Khaldūn, *Muqaddima*, 324; al-Maqrīzī, *Ighātha al-umma bi kashf al-ghumma* (Cairo: Dār al-Kutub wal-Wathā’iq al-Qawmiyya, 2002), 3rd edition, 50-51.

⁶⁴ “With ‘Abd al-Malik’s reform, however, the weight was reduced to 4.25 grams. The accuracy of this latter figure is attested not only by the weights of well-preserved dīnārs but by the evidence of Egyptian glass dīnār and dīnār fraction weights dating from the end of the first to the end of the second century A.H.” See Miles, G.C. “Dīnār,” *EI2*, eds. Bearman, Bianquis, Bosworth, van Donzel, and Heinrichs (Brill, 2010).

⁶⁵ Ibn Khaldūn, *Muqaddima*, 325.

⁶⁶ The *ḥadīth* is *ṣaḥīḥ*. It is reported by Abū Dāwūd with the wording “*The wazn (i.e. mīzān) is the wazn of the people of Makka and the mīkyāl is the mīkyāl of Madīna*”; in a variant of it, “*the wazn of Madīna and mīkyāl of Makka*”; see Abū Dāwūd, *Sunan (ḥadīth no. 3340)*, vol. 2, 337; al-Albānī, *Irwā’ al-ghalīl (ḥadīth no. 1342)*, vol. 5, 191-93.

Zakāh is 5 dirhams, which is one *nawāh*. He also stipulated that the *Zakāh* is ½ dinar on every 20 dinars.⁶⁷

In sum, the aforementioned Muslim historical reports are, in part, inconsistent, conjectural, and shakily inclined toward *kayl* or bi-metallic monetary theories in explaining the economic rationale behind the Prophet's stipulations on *Zakāh*, especially as it pertains to money. A critique of these monetary theories is beyond the scope of this dissertation. Suffice it to note here that what is useful from those reports, insofar as the institution of *Zakāh* under the Prophet's rule, are the following:

- (i) The silver coins in circulation in the Early Islamic Period were of different weights.
- (ii) The weight of the gold coin was basically unchanged before and after Islam (although Ibn Khaldūn and al-Maqrīzī gave different seed weights for it, as explained in my footnotes in this section).
- (iii) The weight of 10 dirhams was equivalent to 1 *mithqāl* of gold.
- (iv) The Prophet, during his tenure as ruler of the Islamic State, never minted any coins, focusing on their countability and cumulative characteristics (e.g., the *Zakāh* on 200 dirhams is 5 dirhams and on 20 dinars, ½ dinar) rather than their relative weights or material of their mintage. The Prophet seems to have treated dinars and dirhams primarily as money, which is fundamentally *a medium of exchange*, without regard to its metallic composition or weight measure; but since

⁶⁷ See al-Maqrīzī, *Ighātha al-umma bi kashf al-ghumma*, 50-51.

the exchange value of 200 dirhams was equivalent to 20 dinars, he kept the ratio of *Zakāh* on them (5:200 and $\frac{1}{20}$:20) the same respectively, namely, 2.5 per cent.

It was ‘Umar b. al-Khaṭṭāb, the second caliph, who might have been the first to reconcile the relative weights of dirhams by government decree, assigning the dirham a standard weight of 2.4 g (= 6 *dawānīq*). When later the Umayyads introduced Islamic coinage proper, as Ibn Khaldūn explained, they maintained the relative weights of the gold and silver coins and their mutual ratios, as they had been in the Early Islamic Period, and standardized the dirham, making it a uniform silver coin to replace the Persian and other dirhams of varying weights; furthermore, they substituted the Byzantine and Persian inscriptions and figures on the coins with Arabic and Islamic insignias. Regardless of the mintage source, relative weights, metallic material, and inscriptions, the dinar and dirham were the only monetary units in usage during the Prophet’s time, having a ratio of 1:10 (i.e. 1 dinar to 10 dirhams) and constituting one of the fixed forms of wealth from which the Islamic State extracted *Zakāh*. The backward projection of a bi-metallic, *kayl*, or *mawāzin* monetary theory to rationalize the Prophet’s *Zakāh* policy is anachronistic; rather, the Islamic State, as the Ḥadīth reports suggest, was fundamentally concerned with the exchange value of money.

No *Zakāh* was due on money hoarded or saved in the Islamic economy until it had reached a specific, accumulated amount or *niṣāb*, that is, the maximum limit of exemption or specified income bracket. The stipulation of the *niṣāb* of money is found in letters that the Prophet—and later ‘Umar—reportedly wrote to various provinces of

the Islamic State, to wit, “Nothing is to be taken from gold (**dhahab**) until it reaches 20 dinars; when it reaches 20 dinars, (the **Zakāh** on it) is half of a dinar. And nothing is to be taken from silver until it reaches 200 dirhams; when it reaches 200 dirhams, (the **Zakāh** on it) is 5 dirhams.”⁶⁸

It is also reported that the Prophet said, “There is no **Zakāh** on 190 dirhams; but when they reach 200 (the **Zakāh**) is 5 dirhams.”⁶⁹ As for **Zakāh** on dinars, “there is nothing on dinars less than 20; but on 20 dinars, (the **Zakāh**) is half of a dinar. What exceeds that is to be calculated.”⁷⁰

Some have held that the *niṣāb* of gold coins is actually 40 dinars. This debate stemmed from the apparently conflicting *āḥādīth* on the issue. It is reported that when the Prophet dispatched Mu‘ādh b. Jabal to Yemen, he ordered him to take a dinar (of **Zakāh**) from every 40 dinars and 5 dirhams on every 200 dirhams.⁷¹ In any case, the percentage of **Zakāh** paid on dinars was the same.

Apart from *niṣāb*, another condition of **Zakāh** was the annual cycle, which had to be fully completed before **Zakāh** could be extracted from the accumulated money savings in the believer’s possession. This per annum basis of **Zakāh** is referred to as *ḥawl*, as it is reported that the Prophet said, “Whosoever benefits from wealth, no **Zakāh** is

⁶⁸ See Abū ‘Ubayd, *Kitāb amwāl*, 509; Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 168, 172.

⁶⁹ The *ḥadīth* is *ṣaḥīḥ*; see Abū Dāwūd, *Sunan (ḥadīth no. 1574)*, vol. 1, 436.

⁷⁰ The *ḥadīth* is *mawqūf*, according to al-Albānī: “It was reported by Ibn Abī Shayba, Abū Dāwūd, Abū ‘Ubayd, and al-Bayhaqī from the path (*ṭarīq*) of Ibn Ishāq⇒‘Āṣim b. Damra⇒‘Alī. Abū Dāwūd’s report included al-Ḥārith al-A’war who is connected to ‘Āṣim b. Damra who said toward the end of it: ‘I do not know if it was ‘Alī who said that it is to be calculated or attributed it to the Prophet.’ Al-Ḥāfiẓ (Ibn Hajar) said, in his *al-talkhīṣ*, ‘it is narrated in *marfū‘* form, from al-Ḥārith⇒‘Alī⇒the Prophet as well as in *mawqūf* form, from ‘Āṣim b. Damra⇒‘Alī, as narrated also by Shu’ba, Sufyān, and Ma’mar⇒Abī Ishāq⇒‘Āṣim. Each trustworthy authority narrated it as such from ‘Āṣim.’ Al-Tirmidhī reported it from a *ḥadīth* of Abī ‘Awāna⇒Ibn Ishāq⇒‘Āṣim⇒‘Alī⇒the Prophet but has, instead of the *niṣāb* of gold, the *niṣāb* of silver; it is also reported that way by Ibn Abī Shayba in *marfū‘* from other pathways (*ṭuruq*)”; see al-Albānī, *Irwā’ al-ghalīl*, vol. 3, 291.

⁷¹ The *ḥadīth* is reported by al-Dāraqutnī; according to al-Albānī, “the narrators of the *sanad* are trustworthy, except Abdullah b. Shabīb who is *wāḥin* (“feeble”), as discussed in *al-Mizān*. But I have no doubt that the *ḥadīth* is *ṣaḥīḥ*”; see al-Albānī, *Irwā’ al-ghalīl (ḥadīth no. 813)*, vol. 3, 292.

due on it until a year has passed (**yaḥūlu alayhi al-ḥawl**).”⁷² This ḥawl seems to be particularly associated with money and not all forms of wealth subject to *Zakāh* (as we shall see shortly): “If you have 200 dirhams and the **ḥawl** has passed, (the **Zakāh** on) it is 5 dirhams. But there is nothing on you concerning gold until you have 20 dinars; in that case and if the **ḥawl** has passed, then (the **Zakāh** on) it is ½ dinar.”⁷³ The ḥawl stipulation did not mean that people were prevented from paying *Zakāh* in advance, which some Companions used to do⁷⁴; rather, it was not legally due before one year had elapsed. The *Zakāh* on money that a Muslim subject had accumulated in one year was not a great tax, since the payment of 5 dirhams per 200 dirhams (i.e., *rub‘ al-‘ushr*, “1/4 of 1/10”⁷⁵ for silver coins and ½ dinar per 20 *dinars* for gold coins) amounted to a mere 2.5 per cent of the entire saved amount. The economic wisdom of 2.5 per cent on annual savings of money, after satisfying the conditions of *niṣāb* and *ḥawl*, was carefully calibrated so as not be too small, in which case it would be ineffectual economically in meeting the social welfare objectives of the Islamic State, and not too big, in which case it could trigger perversity toward its payment for fear that it is burdensome, as hinted in the Qur’an: “If He should ask it (your worldly wealth) of you and importune you, ye would hoard it. . . .”⁷⁶

(ii) Livestock

⁷² Abū ‘Ubayd, *Kitāb amwāl*, 513-14.

⁷³ The *ḥadīth* is *ṣaḥīḥ*; see Abū Dāwūd, *Sunan* (no.1573), vol. 1, 436.

⁷⁴ The *ḥadīth* is *ḥasan* and is reported by ‘the Five’ (*al-khamsa*) except al-Nasā’i: Abū Dāwūd, *Sunan* (no. 1624), vol. 1, 450; al-Tirmidhī, *Sunan* (no. 678), 170; Ibn Māja, *Sunan* (no. 1795), 311-12; and Aḥmad, *Musnad* (no. 822), 107.

⁷⁵ Abū ‘Ubayd, *Kitāb al-amwāl*, 510.

⁷⁶ Q 47:37 (Pickthall).

Animals in general were exempted by the Prophet from *Zakāh*—except for freely grazing *na‘am* or *an‘ām*⁷⁷, which collectively refers to camels, cattle, and sheep or goats.⁷⁸ The classical sources for the *Zakāh* policy on livestock are Ḥadīth and political documents of the Early Islamic Period.⁷⁹ Like money, *niṣāb* was applied to *an‘ām* but in varying amounts. Abū Bakr dispatched Anas to Baḥrayn with a letter of instruction, which stated, “*In the Name of Allah, the Beneficent, the Merciful. This is the duty of ṣadaqa (i.e. Zakāh) that Allah ordered the Prophet to make obligatory upon Muslims. Any Muslim who requests (Zakāh) on this basis, give it to him; but anyone who exceeds it (i.e. is not entitled to it), do not give him. . . .*” The letter goes on to expound on the *Zakāh* of livestock.⁸⁰ Abū Dāwud reported that the Prophet had this *Zakāh* letter written but never sent it out to his revenue collectors; when he died, it was Abū Bakr who issued it. After Abū Bakr’s death, ‘Umar upheld the letter’s instructions and when he died, the letter or a copy of it was found attached to his will (*waṣīya*), detailing the *Zakāh* on livestock.⁸¹ The following table on the *Zakāh* on camels is based on Abū Bakr’s letter.

⁷⁷ “*You are exempted from Zakāh on your slaves and your horses, but give Zakāh on your money, harvest, and freely grazing animals (māshiya).*” The ḥadīth is *ṣaḥīḥ li ghayrih* and is reported by al-Dārquṭnī, *Sunan* (no.1924), vol. 2, 483-84; Aḥmad, *Musnad* (no. 984), 119.

⁷⁸ Al-Qinawwajī, *Rawḍa al-nidiyya*, vol. 1, 464.

⁷⁹ There are two principal documents on the *Zakāh* of livestock. The first is Abū Bakr’s letter (discussed in the text) transmitted in the ḥadīth of Anas and is reported by Aḥmad, *Musnad* (no. 72), 43; al-Nasā’ī, *Sunan* (2447 - *ṣaḥīḥ*), 380-81; Abū Dāwūd, *Sunan* (no. 1567 - *ṣaḥīḥ*), vol. 1, 429-31; and al-Bukhārī (nos. 14543-55), vol. 4, 287-94. The second is ‘Umar’s letter on the same subject, which is mentioned in the footnote that follows the next.

⁸⁰ The ḥadīth is *ṣaḥīḥ* and is reported by al-Bukhārī, Ibn Māja, Ibn al-Jārūd, and al-Bayhaqī; see al-Albānī, *Irwā’ al-ghalīl*, vol. 3, 265-67.

⁸¹ As the account goes, which is also *ṣaḥīḥ*, when ‘Umar b. Abdul ‘Azīz (d. ca. 101/720) was appointed as caliph, he enquired in Madīna about the Prophet’s letter on *sadaqāt* and a similar letter that ‘Umar b. al-Khaṭṭāb had written. He found the first letter with the family of ‘Amrū b. Ḥazm’s and the second letter with ‘Umar’s family, which were similar to each other. He had them copied and ordered his officials to abide by them. The contents of both letters differ a bit. Abū Bakr’s letter is blank on the *niṣāb* of 6-24 camels unlike ‘Umar’s letter; indeed, the latter is more detailed on *niṣāb* and considers it up to 310 camels. Ḥadīth scholars, however, deem the text of Abū Bakr’s letter as the more authentic one, which makes allowances

1. *Zakāh on Camels*

<i>Niṣāb</i> (no. of camels)	<i>Zakāh</i>
0-4	0
5-9	1 sheep/goat
10-14	2 sheep/goats
15-19	3 sheep/goats
20-24	4 sheep/goats
25-35	1 <i>bint makhāḍ</i> (a she-camel starting its 2nd year) ⁸²
36-45	1 <i>bint labūn</i> (<i>bl</i>) (a she-camel in its 3rd year)
46-60	1 <i>hiqqa</i> (<i>h</i>) (a she-camel in its 4th year)
61-75	1 <i>jadha'a</i> (a she-camel in its 5th year)
76-90	2 <i>bl</i>
91-120 ⁸³	2 <i>h</i>
121-29	3 <i>bl</i>
130-39	1 <i>h</i> and 2 <i>bl</i>
140-49	2 <i>h</i> and 1 <i>bl</i>
150-59	3 <i>h</i>
160-69	3 <i>bl</i>

for substituting or combining kind or cash if one type of *zakāh* animal or its exact age is not available, such as a *hiqqa* coupled with two sheep/goats or 20 dirhams in lieu of a *jadh'a* if it is unavailable; or a *jadh'a* for a *hiqqa* with the *zakāh* payer receiving from the payee 20 dirhams or 2 sheep/goats to offset its cost; or a *bint labūn* coupled with 2 sheep/goats or 20 dirhams for a *hiqqa*; or a *hiqqa* for a *bint labūn* with the payer receiving from the payee 20 dirhams or 2 sheep/goats; or a *bint makhāḍ* coupled with 2 sheep/goats or 20 dirhams for a *bint labūn*; or a *ibn labūn* for a *bint makhāḍ*. See Abū 'Ubayd, *Kitāb al-amwāl* (no. 935), 456-57; Abū Dawūd, *Sunan* (no.1570), vol. 1, 432-33; al-Tirmidhī, *Sunan* (no. 621), 157-58; Ibn Māja, *Sunan* (no. 1798 - *ṣaḥīḥ*), 312, *et al*; see also al-Albānī, *Irwā' al-ghalīl*, vol. 3, 290.

⁸² Or *ibn makhāḍ* or *labūn* (a he-camel in its second year), as reported by Ibn Māja, *Sunan* (no.1799 - *ḥasan*), 312-13; this *ḥadīth* is *ṣaḥīḥ*, according to al-Albānī, "its *isnād* is not faulty (*lā ba'sa bihi*) because of supporting evidences. . . ." See al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 5, 225.

⁸³ In Ibn Māja's report 91-120 (*niṣāb*)—2 *h* (*zakāh*), and for every 40 and every 50 camels, the *zakāh* is 1 *bl*.

170-79	3 <i>bl</i> + 1 <i>ḥ</i>
180-89	2 <i>bl</i> + 2 <i>ḥ</i>
190-99	3 <i>ḥ</i> and 1 <i>bl</i>
200-09	4 <i>ḥ</i> or 5 <i>bl</i>

The Prophet allowed substitution in payment of one kind over another only if the originally stipulated item was unavailable; as an example, if a person did not have a *bint makhād* to give as *Zakāh* payment, then he or she could offer instead an *ibn makhād* or 20 dirhams. But why not monetize all *Zakāh* payments for livestock? In other words, why did the Prophet not permit the use of money as the common denominator in the first place? Why did he insist on the complexity of finding certain types of animals to give as *Zakāh* rather than reduce payments in dirham or dinar, only allowing currency payment if the stipulated animals are not found? Most jurists, preoccupied with the letter of Islamic Law, have ignored such questions. From the SFS perspective, we may ascribe the discernment of particular types of livestock as *Zakāh* on various quantities of camels to symbolic aspects of the Islamic political system's policy functions. Notwithstanding the extractive and distributive functions the *Zakāh* policy, some aspects of it were clearly symbolically related to the Islamic State's *idéologique*. The few jurists who realized this fact were al-Shāfi'ī and al-Ghazzālī, couching their findings in Islamic religious constructs like "devotion" and "servitude." Here is al-Ghazzālī's explanation on why he thought that *Zakāh* should be paid first in kind and not cash:

The third purpose of the Law (*shar'*) is composite, embracing the former two, namely the benefit of mankind and the trial of man by means of [the yoke of] bondage. Consequently, therein are combined acts of pure devotion like the throwing of pebbles,

and human benefits like restoration of [violated] rights. The latter is, in itself, rational. But if it is ordained by the Law, it becomes imperative that the two purposes be combined. Never, however, should the subtler of the two purposes, namely devotion and servitude, be overlooked on account of the more apparent, [namely, human benefit and advantage]. More likely, the subtler of the two purposes is the more important. Of this last kind, [i.e., the third], is the *Zakāh*. No one awoke to this fact, except al-Shafi'i. The part of [the *Zakāh* which is spent for] the poverty-stricken serves the purpose of satisfying the need. This is quite clear and readily understood. On the other hand the requirements of devotion are fulfilled through carrying out the details which are connected with the *Zakāh*. In this regard the *Zakāh* has become an inseparable companion of prayer and the pilgrimage, it being one of the [five] pillars of Islam. No doubt man has to exert some effort in distinguishing the various kinds of his possessions and setting aside a portion of each and finally distributing what he had set aside around eight different groups of [beneficiaries] as will be discussed later. To make concessions on this point will not mitigate the benefits due to the poverty-stricken but will certainly militate against devotion. That devotion intended in the *Zakāh* is evidence by the specific treatment of the different kinds of the *Zakāh* by the law. These specifications we have discussed under points of dispute in books of jurisprudence. One of the clearest of these specifications is where the law specifically ordains that the *Zakāh* for every five camels is one ewe, thereby substituting the ewe for the camel but permitting the substitution of gold and silver. Were this to be explained on the result of the scarcity of gold and silver money among the Bedouins, the explanation would be rendered inadequate as soon as it is recalled that the Apostle has stipulated that the sum of 20 dirhams or two ewes should be given in compensation when the age of the camel given as *Zakāh* is younger than what it should be. Why then did the Apostle not mention in connection with the compensation required the amount of shortage in the value, and why did he value it at twenty dirhams or two ewes if garments or vessels of whatever kind were all of the same value as substitutes? These as well as other similar specifications indicate that the *Zakāh* has not been left void of devotional significance, but unlike the pilgrimage which is purely devotional, embraces both [the rational benefits and the devotional acts]. But whereas feeble minds fail to comprehend complicated things, errors have arisen in the field.⁸⁴

For this reason, the symbolism associated with the Islamic State's extraction policy as regards the wealth of Muslim subjects makes purely economic and legalistic reductionist attempts to describe it difficult. Indeed, like many public functions of the Muslim polity, the *Zakāh* institution was multi-dimensional, integrating human, material, symbolic, and ideological resources in Muḥammad's projection of political power.

2. *Zakāh* on Sheep/Goats

⁸⁴ Al-Ghazzālī, *The Mysteries of Almsgiving*, trans. Nabih A. Faris (Lahore: Sh. Muhammad Ashraf, 1980), 21-22; al-Ghazzālī, *Iḥyā' 'ulūm al-dīn*, vol.1, 2nd edition (Beirut: Dār al-Kutub al-Ilmiyya, 1992), 252-52.

The *Zakāh* on freely grazing sheep/goats, as delineated in Abū Bakr’s letter, is as follows.

<i>Niṣāb</i> (no. of sheep/goats)	<i>Zakāh</i>
0-39	0
40-120	1 sheep/goat
121-200	2 sheep/goats
201-399	3 sheep/goats
400-499	4 sheep/goats
500-599	5 sheep/goats
Thereafter, the <i>Zakāh</i> increases by 1 per every additional 100 and is taken from young, female sheep/goats, having no defects	

3. *Zakāh* on Cattle

As for the *Zakāh* on freely grazing cattle (*baqar*), it is not due until the *niṣāb* reaches 30 heads:

<i>Niṣāb</i> (no. of cattle)	<i>Zakāh</i>
30-39	1 <i>tabī</i> or <i>tabī’a</i> (“a male or female calf in its first year”)
40-59	1 <i>musinna</i> (“a teething calf”) ⁸⁵
60-69	2 <i>t</i>
70-79	1 <i>m</i> + 1 <i>t</i>

⁸⁵ It is based on a *ḥadīth* with the following *isnād*: Abī Wā’il⇒Masrūq⇒Mu’ādh b. Jabal who narrated that when the Prophet sent him to Yemen, he ordered him to take “a *tabī* or *tabī’a* from every 30 cattle. . .,” which is reported by Abū ‘Ubayd, *Kitāb al-amwāl* (nos. 994-97), 477; it was also reported by Abū Dāwūd, al-Nasā’ī, al-Dāramī, Ibn Māja, Ibn Jārūd, Ibn Abī Shayba, Ibn Hibbān, al-Dāraquṭnī, al-Ḥākim, al-Bayhaqī, and al-Tirmidhī who stated that it is *hasan ṣaḥīḥ*, whereas al-Ḥākim considered it *ṣaḥīḥ* in accordance with the criteria of al-Bukhārī and Muslim; and al-Dhahabī agreed with him. According to al-Albānī, “It is as they (the latter) have said”; see al-Albānī, *Irwā’ al-ghalīl*, vol. 3, 269.

80-89	2 m
90-99	3 t
100-09	1 m + 2 t
110-19	2 m + 1 t
120-29	3 m + 4 t

Some narrations suggest that the *Zakāh* on cattle is like the *Zakāh* on camels, but Abū ‘Ubayd reconciled them, stating “what the people practiced is contrary to that; rather, the custom concerning *Zakāh* on cattle is based on what was mentioned previously regarding freely grazing cattle.”⁸⁶ That is, the *Zakāh* on camels is not the same as that on cattle. Furthermore, it does not appear that the Prophet applied the condition of *ḥawl* to livestock, as he did on money.

iii. Staple Foods

The Prophet reportedly stipulated *Zakāh* on four types of staple food items: (i) wheat (*sha‘īr*), (ii) barley (*ḥinṭa*), (iii) raisins (*zabīb*), and (iv) dates (*tamr*). This instruction was contained in his letters sent to Mūsā and Mu‘ādh in Yemen.⁸⁷ Some reports add a fifth food item, namely “corn” (*dharra*), but it is based on a weak *ḥadīth*⁸⁸, as are “un-husked wheat” (*sult*), “olives” (*zaytūn*), a type of bean called *quṭniyya*, and

⁸⁶ Abū ‘Ubayd, *Kitāb al-amwāl*, 478.

⁸⁷ The *ḥadīth* is *ṣaḥīḥ li-ghayrihi* and is reported by Abū ‘Ubayd, *Kitāb al-amwāl*, 571; it is also reported by al-Hākim in his *al-Mustadrāk*, al-Bayhaqī in his *al-Sunan al-kubrā*, and al-Ṭabarānī in his *al-Mu‘jam al-kabīr*; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥadīth* no.879), vol. 2, 540.

⁸⁸ The *ḥadīth* is *ḍa‘īf jiddan* (“very weak”) and is reported by Ibn Māja, *Sunan* (no. 1815), 316.

grains (*al-qaṭānī*) in general.⁸⁹ *Zakāh* on the four aforementioned staple foods—wheat, barley, raisins, and dates—is clear-cut and is based on authentic *ḥadīth*, whereas *Zakāh* on lands irrigated naturally or by human action or the *niṣāb* of harvest, amounting to 5 *awsuq*, is ambiguous, since the reports on which it is based, albeit authentic, are apparently contradictory. These reports are as follows:

- (i) “On (crops) that rivers and (rain) irrigate, (the **Zakāh**) is one tenth (**‘ushr**), and on that which are irrigated by a domesticated animal (**sāniyya**⁹⁰), one fifth (**niṣfu ‘ushr**)”;
- (ii) Another version reads, “On (crops) that are irrigated by (rains), springs, or draw it from its roots (**‘athariyan**), (the **Zakāh**) is one tenth, and what is irrigated by human action (**naḍḥ**), one fifth”⁹¹;
- (iii) “No **sadaqa** is due on anything (harvested) less than five **awsuq** (sing. **wasq**).”⁹²

A *wasq* is a dry measure of “60 *ṣā’*”⁹³ or “*makhtūm*”⁹⁴—a measure that is agreed upon.⁹⁵

Consequently, legal opinions differed on the types of crop harvest subjected to *Zakāh*,

⁸⁹ Abū ‘Ubayd reported that Ibn ‘Abbās narrated, “*al-sadaqa* is only on barley, wheat, dates, raisins, unhusked wheat (*sult*), and olives (*zaytuun*),” which makes it *mawqūf* report and not a *ḥadīth* attributed to the Prophet; see Abū ‘Ubayd, *Kitāb al-amwāl*, 573; al-Albānī, *Irwā’ al-ghalīl* (no. 801), vol. 3, 276-79.

⁹⁰ Literally *al-sāniyya* denotes a camel that carries water from a well to irrigate fields; it is also called *nāḍiḥ*; see Lane, *Arabic-English Lexicon*, 2807.

⁹¹ The *ḥadīth* is *ṣaḥīḥ* and is reported with various *ṭuruq* by al-Bukhārī, Muslim, et al. Abū Dāwūd’s report reads “rivers and springs”; see al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 799), vol. 3, 273-75; Abū Dāwūd, *Sunan* (*ḥadīth* no. 1597), vol. 1, 444.

⁹² The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī, Muslim, Mālik, Abū Na‘īm, Abū Dāwūd, al-Nasā‘ī, al-Tirmidhī, al-Dāramī, Ibn Māja, Abū ‘Ubayd, al-Ṭaḥāwī, Ibn Abī Shayba, Ibn al-Jārūd, al-Dāraquṭnī, al-Bayhaqī, al-Ṭayālīsī, and Aḥmad; see al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 800), vol. 3, 273-75.

⁹³ The *ḥadīth* is *ḍa‘īf jiddan* and is reported by Aḥmad; see *al-Faṭḥ al-rabbānī* (*ḥadīth* no. 54), vol. 9, 6; Ibn Māja, *Sunan* (*ḥadīth* no. 1833), 319; al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 803), vol. 3, 280.

⁹⁴ The *ḥadīth* is *ḍa‘īf*; see al-Albānī, *Ḍa‘īf abī dāwūd* (no. 1559), 120.

the *niṣāb*, and the amount of *Zakāh* among Companions and later generations, including the schools of Islamic jurisprudence.⁹⁶ One of the most sensible statements on these apparently conflicting proof-texts is posited by al-Qinawwī (d.1889), reconciling them on the basis of *uṣūl al-fiqh*:

The *āḥādīth* that stipulate the *Zakāh* of 1/10th or 1/5th necessitate evenness between small and large quantities, while the *āḥādīth* that does not stipulate *Zakāh* on anything less than 5 *awsuq* clarify the obligation by a specific amount. The first (set of *āḥādīth*) refer to a general ruling for both small and large amounts of certain produce from the land, whereas the (second set of *āḥādīth*) refer to a specific ruling for some types of produce and not others and is unequivocal in negating the *Zakāh* obligation on less than 5 *awsuq*, as is enunciated (*mantūq*), setting it at 5 (*awsuq*) and above, which is understood (*mafḥūm*), including the knowledge that the latter *āḥādīth* are “sound” (*ṣaḥīḥ*). Thus to omit them, having recourse to the general ruling, falls outside the just norm, since their ruling is specific. No one has the privilege to neglect them, thereby burdening people with a duty that is full of doubt, which is similar to the obsession that some people have with ritual purification. The Prophet has clearly said, “*There is no Zakāh on anything less than 5 awsuq, 5 awāqin, or 5 dhawud,*”⁹⁷ which is authenticated; therefore, one who stipulates *Zakāh* on less than 5 *awsuq* is obliged to do the same on what is less than 5 *awāqin*, 5 *dhawud*, 40 sheep, and 30 heads of cattle, holding fast to the general threshold of the *Zakāh* obligation on wealth, since no difference exists between

⁹⁵ A measure of food items, a *saʿ* was equal to 4 *amdād* (plural of *mudd*) or 5 1/3 *arṭāl* (pints) (= grams). See Lane, *Arabic-English Lexicon*, 1746.

⁹⁶ According to al-Shawkānī, “Ibn ‘Abbās, Zayd b. ‘Alī, al-Nakha‘ī, and Abū Ḥanīfa adhered to the general sense of the proof-texts, opining that *zakāh* is obligatory in small or large quantities without regard to any *niṣāb*. Their position on the *ḥadīth* of 5 *awsuq* is that it is not strong enough to specify the generality, since it is “popular” (*mashūr*), that is, it is transmitted by three or more authorities in every level of the *ḥadīth*’s chain with a known ruling, reflecting the Hanafite position that the generality of a legal ruling is decisive and cannot be specified by mere speculation. That does not concern us here. As a matter of fact, both the general and the specific are speculative, since they do not constitute certainty; nevertheless, the specific is preponderant in meaning and chain of authorities, thus taking precedence over the general, following it, or is compared to the correct position that the general is the basis for the specific, and as such its construction is required if the history is unknown. This position is said to represent a consensus of opinion (*ijmāʿ*), but apparently it is a disputed matter. Ibn al-Mundhir claimed *ijmāʿ* that *zakāh* is not obligatory on that which is less than 5 *awsuq* of produce from the land—except that Abū Ḥanīfa said that it is obligatory on everything intended as cultivation of growth on the land, excluding firewood, herbs, hashish, and barren trees. ‘Iyāḍ cited Abū Dāwūd that everything that falls under *kayl*, in which *niṣāb* is considered, and what does not fall under *kayl*, has *zakāh* in its small or large quantities. His is one type of reconciliation. Ibn al-‘Arabī said that the strongest legal school on it, which is most favorable to the poor, is Abū Ḥanīfa’s position, which adheres to the text’s generality. A third school of legal thought is that which the author *al-baḥr* attributed to al-Bāqir and al-Ṣādiq, which considers *niṣāb* only on barley, dates, raisins, and wheat, since that was the custom and should therefore be taken. This latter position limits the generality to a few of what it includes without evidence.” See al-Shawkānī, *Nayl al-awṭār*, vol. 5, 291-92.

⁹⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by Ibn Māja, *Sunan* (no. 1799 - *ḥasan*), 312-13; al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 5, 224-25.

this and that concerning 1/10th of the land produce; furthermore, dubious *kayl* measures cannot be taken as a preponderance over the others (that are not). . . .⁹⁸

By that argument, *Zakāh* would be due on four types of staple foods only—barley, dates, raisins, and wheat that meet the *niṣāb* of 5 *awsuq* and over, which is the preponderant ruling, thereby specifying the generality of 1/10th on the produce of land naturally irrigated as well as the 1/5th on that irrigated by human agency. Thus, it would mean that the Prophet subjected nine and only nine forms of wealth to *Zakāh*⁹⁹, as hereunder:

Money:

- (i) Gold coins (dinars),
- (ii) Silver coins (dirhams)

Staple Foods:

- (iii) Wheat,
- (iv) Barley,
- (v) Raisins
- (vi) Dates

Livestock:

- (vii) Camels,
- (viii) Cattle,
- (ix) Sheep/goats

As far as *Zakāh* on other forms of conventional wealth during the Early Islamic Period, including merchandise inventory (*amwāl al-tijāra*), honey (*ʿasal*), gold and silver jewelry (*ḥullī*), buried treasure (*rakaz*), mineral mines (*maʿādin*), riding and working

⁹⁸ Ṣiddīq K. al-Qinawwajī, *al-Rawḍa al-niddiya* (Beirut: Dār al-Khayl, 1986), vol. 1, 197.

⁹⁹ It is supported by the following report that Ibn Sīrīn and al-Ḥasan said, “*al-ṣadaqa (=zakāh)* is in nine things—gold and silver (coins), camel, cattle, and sheep/goats, and barley, wheat, dates, and raisins.” Abū ʿUbayd, *Kitāb al-amwāl*, 572.

animals like horses (*khayl*), donkeys (*humur*), and camels (*raqīq*), cultivated lands (*zar‘ wa thimār*), vegetables (*khudrawāt*), and the patrimony of orphans (*amwāl al-yatāmā*) is concerned, they are disputed categories because of a lack of consensus on the authenticity of *āḥādīth* that associate these commodities with *Zakāh*; it is a lengthy discourse that is found in the works of Islamic jurisprudence¹⁰⁰ but need not concern us here. The *niṣāb* and *ḥawl* calculations on certain forms of wealth indicate that the Prophet’s *Zakāh* policy was generally intended to leave wealth holders with enough provisions for a year, as is evident in his statement: “*There is no Zakāh on anything less than 5 awsuq, 5 awāqin, or 5 dhawud*” and his approval of his revenue collector Sahl b. Abī Hathma who informed him that he gathered the *Zakāh* of dates from a family, leaving enough with them to last until the next autumn and to give in charity to the poor.”¹⁰¹ According to Waliullāh’s analysis, “the amount of wheat and dates is 5 *awsuq* because it is enough for a household for a year. That is because the smallest household consists of a husband and wife with a third member, such as a servant or a child, and the like. The typical diet of a person is a *raṭl*¹⁰² or *mudd*¹⁰³ of food; thus, if every one of them eats that amount, it suffices them for an entire year and what is left over is for their representatives or is extra.”¹⁰⁴ In effect, *niṣāb* and *ḥawl* together represented the then poverty-level of the Muslim societies or the statistical average of a Muslim

¹⁰⁰ Al-Shawkānī’s *Nayl al-awtar* and Ṣiddiq Khān’s *al-Rawda al-niddiya* are two major critical references on the subject.

¹⁰¹ See al-Dāraquṭnī, *Sunan* (*ḥadīth* no. 27/2029), vol. 2, 321.

¹⁰² A *raṭl* is a dry measure of 2566 gm (= approx. 5.5 lbs, 10oz).

¹⁰³ A *mudd* is a dry measure.

¹⁰⁴ See Waliullāh, *Hujjatul-allāh al-bāligha*, vol. 2, 66.

family's subsistence for a year, which brings us to the question of the beneficiaries of *Zakāh*.

e. Beneficiaries of *Zakāh*

The Qur'an itself categorized the beneficiaries of *Zakāh* into eight groups: "*The alms (ṣadaqāt [i.e. Zakāh]) are only for the poor (fuqarā') and the needy (masākīn), and those who collect them (āmilīn 'alayhā), and those whose hearts are to be reconciled (al-mu'allafa qulūbuhim), and to free the captives (riqāb) and the debtors (ghārimūn), and for the cause of Allah (fi sabīl Allah), and (for) the wayfarers (ibn sabīl); a duty imposed by Allah. Allah is Knower, Wise.*"¹⁰⁵ All these categories existed during the time of the Prophet, but some of them, such as *al-mu'allafa qulūbuhim* and *riqāb*, progressively disappeared in the Muslim world. These eight beneficiaries are flat categories in the Qur'an, but we find nuanced descriptions of a few of them in Ḥadīth, suggesting that both the poor and rich can benefit from the *Zakāh* policy, which extracts and redistributes wealth spirally in the system. Scholars have sought to identify the beneficiaries by recourse to their dictionary meanings or subjective cultural preferences based on political geography or mores. As al-Shawkānī noted, "The learned people of *tafsīr*, *ḥadīth*, and *fiqh* have discoursed at length on these eight categories and their signification. What ought to be considered is their descriptions in accordance with *Sharia* or Arabic; by which, whoever is confirmed as a *faqīr* (pl. *fuqarā'*), for example, belongs to that particular group, and the same is with the rest of them. If the *Sharia* does not provide a description, then recourse must be made to its lexical references and interpreted accordingly. Then, if

¹⁰⁵ Q 9:60 (Pickthall).

scholars' definitions are in agreement with Arabic semantics or the *Sharia*, they are to be considered; if not, then no.”¹⁰⁶ By these legal and linguistic criteria, the poor person (*faqīr*; plural, *fuqarā'*) is best understood in relation to a rich person, as the Prophet reportedly said, “(The rich person is) *one who has 50 dirhams or their value in gold (coins)*” in response to the question “What is richness?” or “What makes one rich?”¹⁰⁷ He also reportedly described *masākīn* (sing. *miskīn*) thus: “*The **miskīn** is not one who goes around people and is chased away by a date or two or a morsel or two but is one who does not have enough to suffice him, is not proud of it, and receives charity but does not ask for it.*”¹⁰⁸ In the Qur'an, the *miskīn* is an “*indigent (down) in the dust*”¹⁰⁹ or one who barely makes ends meet: “*As for that boat, it belonged to some (**masākīn**) who toiled upon the sea and I [i.e. Khidr whom Moses met in the story] desired to damage it because (I knew that) behind them was a king who is wont to seize every boat by brute force.*”¹¹⁰ *Miskīn* and *faqīr* are not synonymous but reflect different degrees of poverty; the latter refers to a more impoverished condition than the former. The *āmilīn* *‘alayhā* (“revenue collectors”) were entitled to a portion of the *Zakāh* that they collected for the Islamic State regardless of their socio-economic status, since their entitlement was based solely on the Prophet's appointment of them, as sanctioned in the Qur'an. The *al-mu'allafa qulūbuhim* (“those whose hearts are to be reconciled”) designated newcomers or converts to the Faith or those who still wavered

¹⁰⁶ Al-Shawkānī, *al-Darārī al-maḍiyya* (Beirut: Dār al-Kitāb al-‘Arabī, 2004), 1st edition, 118-19.

¹⁰⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by Abū Dāwūd, *Sunan* (*ḥadīth* no.1626), vol. 1, 451; al-Nasā'ī, *Sunan* (*ḥadīth* no. 2592), 404-05; al-Tirmidhī, *Sunan* (no. 650), 164; Ibn Māja, *Sunan* (no. 1840), 320; Ahmad, *Musnad* (5/248, 6/114, 6/200); see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (no. 499), vol. 1, 899.

¹⁰⁸ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (no. 1479) in Ibn Hajar, *Fath al-bārī*, vol. 4, 324; Muslim (no. 1039) in al-Nawawī, *al-Minhāj*, 656.

¹⁰⁹ Q 90:16 (‘Alī).

¹¹⁰ Q18:79 (Asad).

between the cultural persuasions of paganism and Islam; their recipient status was left to the Prophet's discretion. He would give them *Zakāh* and other wealth from the state, pursuing a type of 'construction of incentives' objective. For example, he once divided some wealth brought to him, giving to one group but not to another. When informed that the other group was displeased and angry, he reportedly said to them: "By Allah! *Those whom I didn't give anything are more beloved to me. I only gave to these because of impatience and hastiness, which I perceived in their hearts, but I left the others to the contentment (of Faith) in their hearts.*"¹¹¹ Some of *al-mu'allafa qulūbuhim* are mentioned by name in the *sīra*, such as Abū Sufyān b. Ḥarb, Ṣafwan b. Umayya, 'Īnā b. Ḥusn, al-'Aqra' Abbās b. Mardās, each of whom received 100 camels from the Prophet on one occasion.¹¹² The *riqāb* ("captives") were slaves—Muslims and non-Muslims—whose emancipation could be purchased with the proceeds of *Zakāh*.¹¹³ The *ghārimūn* ("debtors") are those who are indebted regardless of their socio-economic or moral standing in the community, since its general meaning is given in the Qur'an without

¹¹¹ The *ḥadīth* is *ṣaḥīḥ*; see al-Bukhārī (*ḥadīth* no. 923) in Ibn Hajar, *Fath al-bārī*, vol. 3, 199.

¹¹² The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim (no. 1060) in al-Nawawī, *al-Minhāj*, 667.

¹¹³ Scholars differ on the category of *riqāb*. Some opined that *riqāb* were Muslim captives held by their enemies and that *zakāh* can be used to pay for their ransom, while others thought that *riqāb* were non-Muslim captives held by Makkans and Madanites. Statements of the Companions, however, suggest that *riqāb* referred to slaves in general, Muslim or non-Muslim, as Ibn 'Abbās said, which is reported by Aḥmad and al-Bukhārī, "There is nothing wrong in freeing a slave with the *zakāh* from one's wealth." But are *riqāb* freed with *zakāh* through *mukātaba*, a type of manumission contract, whereby a slave purchases his freedom from his or her owner piecemeal over time agreed upon, or not? 'Alī b. Abī Ṭālīb, Sa'īd b. Jubayr, al-Layth, al-Thawrī, al-'Ita, the Ḥanafites, Shāfites, and the majority of Sunnite jurist held that *riqāb* are slaves (*mukātab*) whose release (*kitāba*) can be procured with *zakāh*. On the other hand, Ibn 'Abbās, al-Ḥasan al-Baṣrī, Mālik, Aḥmad b. Ḥanbal, Abū Thawr, Abū 'Ubayd, al-Bukhārī, Ibn al-Mundhir, *et al* held that *riqāb* are slaves bought outright for the purpose of freeing them; their reasoning is that if *mukātab* was intended, *riqāb* would be included in the (Qur'anic) beneficiary of debtors (*ghārimūn*), which would make them the same; whereas, buying a slave in order to free him or her is of greater good and easier than merely assisting the slave to purchase his or her release piecemeal, by which emancipation is not obtained as long as a dirham is still owed. Al-Zuhri reconciled both views, stating that the *āya* (Q 9:60) could mean both types of manumission based on its generality. See al-Shawkānī, *Nayl al-awfār*, vol. 5, 348-50.

restrictions or specific qualifications. They are also confirmed as recipients in the Prophet's statement: "**Ṣadaqa** (i.e., **Zakāh**) is not permissible for the rich (**ghani**), except for five of them—the revenue collector, the person who buys it with his wealth,¹¹⁴ the debtor (**ghārim**), the warrior, and the rich person who receives it from a poor person as a gift."¹¹⁵ The *fi sabīl Allāh* category—the only inanimate beneficiary—covers all efforts spent "in the cause or path of Allah's path" without restriction of any kind because of the generality of its meaning in the Qur'an; it includes such Islamic ideological constructs as "*jihād fi sabīl Allāh*" (Q 2:218), "spending of wealth *fi sabīl Allāh*", (Q 2:195), "migrating *fi sabīl Allāh*" (Q 4:89), and the Prophet's saying "**Hajj** is part of **fi sabīl Allāh**,"¹¹⁶ and the like. Etymologically, *fi sabīl* denotes "in the path"; hence, *fi sabīl Allāh* means "in the path of Allah," "for Allah's Pleasure," or what Islam deems is as such, which is a general connotation. As for the *ibn sabīl* ("wayfarer"), according to the conventions of the Arabic language, it designates the traveler who sojourns from one town to the next until he reaches his or her final destination. Like some of the other beneficiaries, *ibn sabīl* is not characterized in a particular way; thus, anyone in the Muslim society—poor or rich, blessed or wretched, male or female, old and young, sick and healthy, righteous or sinner—was a potential beneficiary of *Zakāh* provided that he or she fitted the lexical or legal profile of the Qur'anic term, despite how these categories have been appropriated in the various Muslim schools of law.

¹¹⁴ That is, someone besides the *Zakāh* payer can purchase an item of *Zakāh*, just as the *Zakāh* recipient can sell it, after its ritual extraction and allocation are completed, thereby giving it the status of a regular, legal commodity that can be traded; for example, a person buys a sheep from someone who received it as *Zakāh*.

¹¹⁵ The *ḥadīth* is *ṣaḥīḥ*; see Aḥmad (no. 11559), *Musnad*, 816; Abū Dāwūd, *Sunan* (nos. 1635-36), vol. 1, 455; Ibn Māja, *Sunan* (no. 1841), 320-21.

¹¹⁶ The *ḥadīth* is *ṣaḥīḥ*, except for the last part, according to al-Albānī; see Abū Dāwūd, *Sunan* (no.1989), vol. 1, 556-57.

In sum, the eight Qur'anic beneficiaries during the Prophet's time overwhelmingly constituted the common weal of the Muslim polity and was earmarked for *Zakāh*, thereby circulating wealth throughout the stratified society. In his administering of the institution of *Zakāh*, the Prophet exempted himself and family members from its proceeds: "Verily, *ṣadaqa* is not for Muḥammad's family. It is of the 'impurities' (*awsākh*) of people."¹¹⁷ This exemption is largely symbolic from the SFS perspective. In his attempt to decipher it, Waliullah posited that since *ṣadaqa/Zakāh* purifies one from vice, which is seen as a blot, the position of giving instead of receiving more befits those who are cleansed and free from it. Secondly, if the Prophet had received it, permitting it for him and the beneficiaries, it would have led others besides them to lay claim to it based on it being *Sunna*, that is, a recommended practice for the *Umma* as a whole. Hence, he limited its receipt to a select few, stating that its benefits are specifically for them and that it is to be taken from the rich and given to the poor, as a mercy, favor, and motivation to do well and guard against evil.¹¹⁸ The political outcome was that it elevated the Prophet's status and that of his tribal relatives (including his household, Banū Hāshim, and Banū al-Muṭṭalib¹¹⁹) to a superior position above alms-taking, dignifying them from the accusations of appropriating the wealth of the state, establishing social distance between them and the rest of society,

¹¹⁷ The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim, Abū Dāwūd, al-Nasā'ī, Abū 'Ubayd, al-Ṭaḥāwī, al-Bayhaqī, and Aḥmad; see al-Albānī, *Irwā' al-ghalīl*, vol. 3, 386. According to al-Zamakhsharī, *awsākh* in this lexical context is said to have been used figuratively; see his *Asās al-balāgha* (Beirut: Dār al-Kutub al-'Ilmiyya, 1998), 1st edition, vol. 2, 332.

¹¹⁸ See Waliullah, *Hujjatullāh al-bāligha*, vol. 2, 70.

¹¹⁹ For a detailed discussion on the affiliates of the clans of Hāshim and al-Muṭṭalib and the debate on who qualifies as the Prophet's family, see al-Shawkānī, *Nayl al-awṭār*, vol. 5, 359-64.

and honoring their benefactor status, as summed up in his words, “*the hand that gives is better than the hand that receives.*”¹²⁰

Nanji stated that “The performance of the duty of *Zakāh* acted as a visible symbol of individual commitment and loyalty to the religious and economic values of the growing Muslim community.”¹²¹ Benthall, on the other hand, recognized that the Islamic claim, to wit, all wealth belongs to God is also found in Judaism and Christianity, but he also discovered that “as a matter of degree and emphasis it is a fair claim that ‘among sacred books, the Qur’an seems to be the only one in the world which sets out precisely [in Q 9.60] the basic principles of the budget and expenses of the state’ (Ḥamīdullāh 1959: ii. 617).”¹²² When this statal institution broke down or was marginalized in the post-Early Islamic Period, jurists had to contend with a fresh set of questions concerning the policy of *Zakāh*: is it an individual or governmental duty, should it be given to oppressive rulers or not,¹²³ including changing definitions of the beneficiaries and new categories of wealth. We turn now to the third major source of wealth for the State, namely, *jizya*.

Part III: f. *Jizya*

If *Zakāh* was designed for Muslim subjects, *Jizya* was designed for non-Muslim subjects of the Islamic State, that is, People of the Book (i.e. Jews and Christians), including Zoroastrians, and pagans. In 8/629, the Prophet unveiled the *Jizya* policy, a

¹²⁰ The *ḥadīth* is *ḥasan* and is reported by Aḥmad; see al-Albānī, *Silsila aḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 2473), vol. 5, 612.

¹²¹ Nanji, *Ethics and Taxation*, 164.

¹²² Benthall, *Financial Worship*, 36.

¹²³ Abū ‘Ubayd, *Kitāb al-amwāl*, 675.

type of poll-tax, following its revelation in the ninth *sūra* of the Qur'an.¹²⁴ The *āya* of *Jizya*, according to Mujāhid ((d. 103/721), an early exegete on the Qur'an, was revealed during the Prophet's last military expedition to Tābuk¹²⁵: "*Fight those who believe not in Allah or the Last Day, or hold that forbidden which hath been forbidden by Allah and His Messenger, or acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the jizya with willing submission ('an yadin), and feel themselves subdued (ṣāghirūn).*"¹²⁶ The word *jizya*, according to the *Encyclopedia Islamica*, might be derived from an original Aramaic word and "probably corresponds with the root of 'compensation' (from the Arabic *jazā*) for non-adoption of Islam and, in any case, as collective tribute. . . ."¹²⁷ A fireside quarrel exists among scholars—Muslim and non-Muslim alike—concerning the exact connotations of three key words in the previous Qur'anic reference, namely, *jizya*, *'an yadin*, and *ṣāghirūn*.¹²⁸ A sampling of translations

¹²⁴ Ibn Qayyim, *Zā'd al-ma'ād*, vol. 3, 151.

¹²⁵ Abū 'Ubayd, *Kitāb al-amwāl*, 91.

¹²⁶ Q 9:29 ('Alī).

¹²⁷ Cahen et al, "Djizya," *EF*².

¹²⁸ Defining *jizya* as "the tribute imposed on the disbelievers's heads out of humiliation and subjugation," Ibn Qayyim recounted the various classical viewpoints on these words: "Al-Qāḍī (al-Māwardī), in his *al-ahkām al-sultāniyya* explained that *jizya* is derived either from *jazā* ('to compensate'); hence, *jizya* is taken from the subjugated as a compensation for their disbelief or because of our compassionate protection of them. Ibn Qudāma, in his *al-mughnī*, wrote that it means "to avail," as in '*a soul shall not give anything as a satisfaction for another soul*' (Q2:45); in this sense, *jizya* is like *fidya* ("ransom" or "reward"). Our master (Ibn Taymiyya) said that the first viewpoint is stronger, which goes back to it being a "penalty" (*uquba*) or "payment" (*ujra*). *An yadin* is in the accusative case, so it can mean 'give (*jizya*) in humiliation and in subjugation,' which is correct. One group claimed that *an yadin* means 'hand to hand,' that is, in payment and not debt; another group thought that it means 'from the hand of the giver to the hand of the taker,' by neither sending someone nor appointing someone to pay it; a third said that by it is meant, 'one's conferment of their approval.' The first group, which is the majority view, is right. The most deviant interpretation is that *an yadin* is based on their ability to pay it, hence it is not taken from those who cannot afford it. That ruling is correct but that such is the meaning of the *āya* is false! Not a single Companion, Follower, or earlier scholar ever explained it that way; rather, it stemmed from the interpretation of later scholars. (As for) *ṣāghirūn*, it is another accusative clause. The first state is Muslims taking *jizya* from them with might and receiving it from their hands; the second state is their payment of *jizya* in a subjugated, humiliated state"; see Ibn Qayyim, *Ahkām ahludh-dhimma*, vol. 1, 22-23.

illustrates the linguistic difficulty: “until they pay the tax in acknowledgment of subjection” (M. Ali); “until they pay the tribute readily, being brought low” (Pickthall); “. . .out of hand and have been humbled” (Arberry); “. . .and are utterly subdued” (Dawood); “till they [agree to] pay the exemption tax with a willing hand. . .[in war]” (Asad); “until they pay the **jizya** with willing submission, and feel themselves subdued” (Y. Ali). Concerning the interpretation of these terms, Ramadan wrote the following:

The revelation of the injunction in question [Q 9:29] came at a time when the Roman Empire had mobilized its forces with the purpose of attacking Arabia and subjugating the newly-established Islamic State. The main subject of the whole chapter wherein this injunction [of *jizya*] was revealed was the expedition which the Prophet led in response to the Roman Empire’s move. . . .
‘*An yadin* are two Arab[ic] words (the second of which literally means ‘hand’) denoting ‘out of a position of power’ or ‘being in power to’ or ‘being completely able to.’ The same expression is used in the Qur’an in its plural form with reference to the ‘possessor of power. . . .’¹²⁹ There can be no doubt about the fact that ‘*an yadin* in the Arabic text is connected with the paying of *jizya* by the People of the Book. Thus, it can only mean ‘until they pay the *jizya*, being completely able to afford it.’
. . .There is yet another difficulty of language which gave rise to a far-reaching controversy. The Arabic word *ṣāghirūn* with which the injunction ends is a derivation from the verb *ṣāghara*, which means ‘to submit’ or ‘to be subjected to.’ The forcefulness of this word, however, has imparted the sense of humiliation to many interpretations. . . .But if we only quote the same word as used in the Qur’an when referring to the magicians of Pharaoh at the moment of their submission to Moses [Q7:119], this sense of humiliation must be ruled out: for their submission was a dignified act of faith, humble though they were. . . .[It] was the only suitable language in the face of the Roman Empire’s challenging mobilization. Otherwise, objectively speaking the word conveys no more than the subjection of the People of the Book to the Islamic State. Both the paying of the tax (*jizya*) within their means and their status as subjects of the Islamic State, with humiliation ruled out. . . .’¹³⁰

Applying the same hermeneutic criteria—etymological (*lughawī*) and legal (*shar’ī*)—which were discussed earlier in connection with *Zakāh* beneficiaries, throws light on the meanings of these Qur’anic words. Firstly, no report has come down to us in which it is stated that the Prophet clearly defined *Jizya*, apart from designating it as a tribute; therefore, recourse must be made to its referential, social, or affective

¹²⁹ Q 38:17.

¹³⁰ See Ramadan, *Islamic Law: Its Scope and Equity*, 129-32.

meanings in the lexical Arabic context of the Qur'an. Thus, we find that the lexeme *jizya* is polysemic, meaning "compensation," "rent," or "recompense," implying a tribute or tax. Secondly, the construct phrase *'an yadin* is also polysemic; here, Ramadan suggested that it must mean "being completely able to afford it," which is a semantic stretch, since the *āya* itself contextualizes the power dynamic of a divine ordinance directing believers to fight the People of the Book on account of certain egregious sins. The connotation that they are to pay *jizya* literally "out of hand" is more plausible in the linguistic context. That they are to give the tribute "being completely able to afford it," as Ramadan opined, is not evident from the *āya* itself; rather, that understanding stems from the Prophet's edicts governing it, as we shall see shortly. Thirdly, Ramadan's interpretation of *ṣāghirūn* as "submission" without humiliation is doubtful, since the word is actually found in five places in the Qur'an, all of which indicate a sense of humiliation following some type of major defeat.¹³¹ Fourthly, Ramadan's argument that the Byzantine mobilization against the Islamic State is a causative factor behind the "forcefulness" of *ṣāghirūn* is problematic, since the word is frequently used in extra-Qur'anic literature, such as statements of the Prophet¹³² and his letters to governors and tribal leaders (like Dhū Ru'ayn, Ma'āfir, Hamdān, and Asd 'Ummān,¹³³

¹³¹ *Ṣāghirūn* is mentioned in several places in the Qur'an: Q 7:13, 119; 9:29; 12:32; 27:37.

¹³² It is reported by Aḥmad that the Prophet used *jizya* as a means of enticing pagan Makkans to accept Islam. The story is told that when his uncle Abū Ṭālib asked him what he wanted from his people, Muḥammad reportedly said, "I want only one word from them, which they shall accept as a religion and, as a result, the non-Arabs will pay them *jizya*." He asked, "And what is that word?" Muḥammad replied, "It is 'there is no god but Allah...' Based on this *ḥadīth*, the Islamic sense of *jizya* as tribute associated with conquest is pre-Hijra. Al-Tirmidhī graded it "*ḥasan ṣaḥīḥ*," but according to al-Albānī, the *ḥadīth* is *ḍa'if*; see Aḥmad (nos. 2008, 3419), 198; al-Tirmidhī (no. 3232 - *ḍa'if al-isnād*), 730.

¹³³ Abū 'Ubayd, *Kitāb al-amwāl*, 101, 105; Ḥamīdullāh, *Majmū'a al-wathā'iq*, 116-22.

suggesting that it is an ideological construct; therefore, pragmatic considerations gives preponderance to the sense of subjugation or humiliation.

Debunking the narrative that the Prophet imposed *Jizya* on Jews, Christians, and Zoroastrians but that he did not do so on pagans and Arab non-Muslims is long overdue. Rather, the evidence is clear that the Islamic State's *Jizya* policy was extended to unbelievers in general, irrespective of their ethnic or non-Islamic religious background, as Ibn Qayyim convincingly expounded in his works.¹³⁴ Evidence from the MHT indicate that the Prophet had taken *Jizya* from Ukaydir Dūma, an Arab leader of Ghassān,¹³⁵ from Hajar whose people were Arab Zoroastrians, as were the people of Baḥrayn,¹³⁶ the Christians of Najrān who belonged to the Banū al-Ḥārith b. Ka'b¹³⁷; and from the Arab Jews and Christians of Yemen,¹³⁸ Ayla, Adhruḥ, and Dūma al-Jandal. That he did not take *Jizya* from pagan Arabs has less to do with an imagined exemption based on ethnicity and more to do with the social reality that, by the time of the promulgation of the *Jizya* decree, almost all of the Arab tribes had already entered the fold of Islam. In his *Aḥkām ahli-dhimma*, one of the most comprehensive and authoritative treatises on the status of People of the Book under Islamic Law, Ibn Qayyim, cogently argued that "One unbeliever is not included (under the *jizya* policy) to the exclusion of another. . . . As a matter of fact, the majority of people whom the Prophet's soldiers fought were pagan Arabs. To say that the Qur'an specifies the People

¹³⁴ Among the Imams of Islamic jurisprudence (*fiqh*), al-Shafi'ī and Aḥmad held that *jizya* is taken only from Jews, Christians, and Zoroastrians, but Abū Ḥanīfa extended it to non-Arab pagans; see Ibn Qayyim, *Zā'd al-ma'ād*, vol. 3, 153-54.

¹³⁵ The *ḥadīth* is *ḥasan*; see Abū Dāwūd, *Sunan* (no. 3037), vol. 2, 259.

¹³⁶ Abū 'Ubayd, *Kitāb al-amwāl*, 105, 107.

¹³⁷ The *ḥadīth* is *ḍa'īf al-isnād*; see al-Albānī, *Ḍa'īf sunan Abī Dāwūd* (no. 3041), 243.

¹³⁸ Abū 'Ubayd, *Kitāb al-amwāl*, 100.

of Book (for the payment of *jizya*) is also incorrect, since Allah commanded (Muslims) to fight them ‘until they pay the *jizya*,’ and the Prophet issued the same order concerning pagans; thus, *jizya* was taken from the first group by authority of the Qur’an and the second by the Sunna,”¹³⁹ as in the *ḥadīth*: “If you meet your enemy among the polytheists (**mushrikūn**)¹⁴⁰ [in another narration: ‘People of the Book’] call them to three things—invite them to Islam; if they accept, then desist (from fighting them). If they refuse, then ask them to pay **jizya**; if they accept, then desist. And if they refuse, then fight them, seeking Allah’s help”¹⁴¹

Thus, it is apparent that the Prophet intended *Jizya* equally for People of the Book, Zoroastrains, and pagans (both Arabs and non-Arabs), articulating it in separate policy statements, as the *āḥādīth* indicate.

At the same time, not everyone who belonged to a non-Muslim group was required by the Prophet to pay *Jizya*: exempted were women, children, and those could not afford it due to extenuating circumstances or inability. He ordered Mu‘ādh b. Jabal, whom he appointed as a viceroy in Yemen, to take (as *Jizya*) a dinar or its value in clothing (*ma‘āfir*) from “every able-bodied man” (*muḥtalim*).”¹⁴² In practice, Mu‘ādh used to also collect *Jizya* in the form of weapons (as he did from Najrān) and whatever

¹³⁹ Ibn Qayyim, *Ahludh-dhimma*, vol. 1, 6.

¹⁴⁰ Al-Albānī opined that *mushrikūn* “encompasses all unbelievers whether they have something resembling a scripture or not like idolaters”; see al-Albānī, *Irwā’ al-ghalīl*, vol. 5, 86. This opinion is doubtful. It shown in the chapter on the Islamic State’s relations with non-Muslims that only *ahlul-kitāb* (Jews and Christians) and pagans (*mushrikīn*) separate categories but intersected on the aspect of unbelief, as indicated in the Qur’an: “Those who disbelieve among the People of the Scripture (**ahlul-kitāb**) and the idolaters (**mushrikīn**) could not have left off (erring) till the clear proof came unto them” (Q 98:1 {Pickthall}); see also Ibn Qayyim, *Aḥkām ahludh-dhimma*, vol. 1, 10.

¹⁴¹ The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim, al-Shāfi‘ī, Abū Dāwūd, al-Nasā’ī in his *al-Sunan al-kubrā*, al-Tirmidhī, al-Dāramī, Abū ‘Ubayd, Ibn Māja, al-Ṭaḥāwī, Ibn Jārūd, and Aḥmad; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (no. 1411), vol. 3, 400-01.

¹⁴² Based on the criteria of Muslim and al-Bukhārī, the *ḥadīth* is *ṣaḥīḥ* and is reported by Abū Ubayd, Aḥmad, Abū Dāwūd, al-Tirmidhī, Ibn Māja, al-Nasā’ī, Ibn Ḥibbān, al-Ḥākim, and al-Bayhaqī; see al-Albānī, *Irwā’ al-ghalīl*, vol. 5, 96.

cash or kind that his governors sent to him. Thus, it is apparent that the Prophet did not attach to *Jizya* the same conditions of *Zakāh*, such as a fixed percentage on annual savings, *niṣāb*, or specific forms of wealth (which has given rise to much juristic speculation¹⁴³); nevertheless, *Jizya* was collected on an annual basis in line with the Islamic State's extraction policy. Abū 'Ubayd wrote, "Do you not see that the Prophet decreed for the people of Yemen, (the *Jizya* of) one dinar on each able-bodied person? . . . Its value at the time was equal to ten or twelve dirhams, which varied from what 'Umar (b. al-Khaṭṭāb) later levied on Syria and Iraq, indicating plainly that it was based on ease and the ability to pay it, as Mujāhid reported."¹⁴⁴

An important discourse in the works of *al-fiqh* concerns the causative factor of *Jizya*. Is it a punitive measure (*'uqūba*)? If so, then it represents the subjugation and humiliation of the unbelievers. Or is it compensation (*jazā'*)? If so, then it is a recompense for desisting to fight or a residential rent paid by non-Muslims in Muslim lands. Each interpretation has ramifications for the Islamic bureaucracy and political administration. Ibn Qayyim has made a strong rational case for the first position.¹⁴⁵ I support his argument that *Jizya* was most likely a punitive measure that the Islamic State imposed on its non-Muslim subjects. Based on the Islamic political system's *idéologique*, the polity is ruled over by God; therefore, it behooves the Muslim government, coercively if necessary, to bring those who openly disbelieve in God and

¹⁴³ Ibn Qayyim, *Aḥkām ahludh-dhimma*, vol.1, 26.

¹⁴⁴ It is reported that Mujāhid was once asked, "What is the affair of the people of Syria? They have (to pay) four dinars, while the people of Yemen pay one dinar?" He replied: "It was made so because of ease." Abū 'Ubayd, *Kitāb al-amwāl*, 116.

¹⁴⁵ Ibn Qayyim, *Aḥkām ahlil-dhimma*, vol.1, 15-18.

the Hereafter, reject the Divine Law, or repudiate the Religion of Truth to accountability, calling them to Islam or imposing on them a tribute to be rendered to the Islamic State under the condition of surrender, thereby symbolically manifesting the Divine Sovereignty that alone has the absolute power to liberate and subjugate. When earthly kings dominate the land, they subdue everything in their pathway, uprooting the powerful in disgrace (*adhilla*) and humiliating them (*ṣāghirūn*)¹⁴⁶ imitatively of God, the Supreme King: “*Those who resist Allah and His Messenger will be among those most humiliated (adhilla).*”¹⁴⁷ From the Qur’anic paradigm of rule by Divine Legislative Sovereignty, the *Jizya* policy appears to be a punitive measure designed more for political than economic ends. That is because “*Islam is elevated (ya’lū) and nothing is elevated over it (yu’lā).*”¹⁴⁸ Thus, the Prophet exploited *Jizya* in propagating the Islamic Call, earning revenue for the Islamic State, on the one hand, and offering non-Muslims the incentive to regain their dignity from the humiliation of subjugation by opting to become Muslims voluntarily, on the other. For no sooner had a Jew or Christian accepted Islam in the Early Islamic Period than he would promptly request from Muslim authorities exemption from paying the *Jizya*.

Part IV:

g. Other Economic Formulae

¹⁴⁶ Q 27:37 (‘Alī): “(Solomon said to the courier:) ‘Go back to them, and be sure we shall come to them with such hosts as they will never be able to meet: We shall expel them from there in disgrace (*adhilla*), and they will feel humbled indeed (*ṣāghirūn*).’”

¹⁴⁷ Q 58:20.

¹⁴⁸ The *ḥadīth* is *ḥasan* and is reported by al-Dāraquṭnī, *Sunan* (*ḥadīth* no. 3620), vol. 4, 371; see also al-Albānī, *Irwā’ al-ghalīl* (*ḥadīth* no. 303) vol. 5, 106-10.

At least three other significant economic formulae need to be mentioned here, albeit briefly, which altogether complete the macro-economic framework of the Islamic political system. These are (i) the ban on interest/usury (*ribā*), (ii) inheritance (*farā'id*), and (iii) speculative trade (*gharar*). Concerning *ribā*, no other sin or transgression is as severely condemned in the Qur'an: "O ye who believe! Fear Allah, and give up what remains of your demand for usury, if ye are indeed believers. If ye do it not, take notice of war from Allah and His Messenger. But if ye turn back, ye shall have your capital sums. Deal not unjustly, and ye shall not be dealt with unjustly."¹⁴⁹ By this decree, Muḥammad is probably the first ruler in political history to make *ribā* a crime punishable by death.¹⁵⁰ Muslim jurists have discerned two types of *ribā* in Ḥadīth: (i) *ribā al-faḍl* (i.e., profit obtained in the case of a delayed payment in excess of the loan amount) and (ii) *ribā al-nisā'i* (i.e., profit obtained by a superior value of a thing received over that of the thing given). Leading by example, the Prophet cancelled his *ribā* transaction with his uncle 'Abbās¹⁵¹ and proscribed it in his treaty with the Christians of Najrān¹⁵², thereby extending its prohibition to all subjects—Muslim and non-Muslim alike. He also frequently used moral suasion to deter its practice, such as his statement, "May Allah curse the consumer of *ribā*, the *ribā* transaction itself, the recorder of it, and the witnesses who engage in it."¹⁵³ But he had banned it shortly before he died, leaving us scant evidence—but much speculation—about the politics of its criminalization, the impact on money loans, and

¹⁴⁹ Q2:278-79 ('Alī).

¹⁵⁰ Al-Ṭabarī, *Tafsīr*, vol. 5, 52-53.

¹⁵¹ The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim *et al*; see al-Albānī, *Irwā' al-ghalīl*, vol. 4, 206.

¹⁵² Ḥamīdullāh, *Majmū'a al-wathā'iq*, 176.

¹⁵³ The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Bukhārī (no. 2087) in Ibn Hajar, *Fath al-bārī*, vol. 5, 543; Muslim (no.1597) in al-Nawawī, *al-Minhāj*, 1013-14; Abū Dāwūd, *Sunan* (no. 3333), vol. 2, 335; al-Tirmidhī, *Sunan* (no.1206), 287; Ibn Māja, *Sunan* (no. 2277), 390.

so forth. “*Ribā* is one of the most problematic subjects for the learned,” wrote Ibn Kathīr in his exegesis. “‘Umar b. al-Khaṭṭāb said, ‘I wished the Prophet had left three injunctions for our reference, regarding the grandfather (i.e., his exact inheritance portion), *kalāla* (i.e. the deceased Muslim who did not leave behind any immediate heir),¹⁵⁴ and matters of *ribā*;’”¹⁵⁵ that is, ambiguous issues involving it. For this reason, Muslim jurists differ on *ribā al-nisā’i*, whether to limit it to certain commodities or extend to others by juristic analogy. Concerning inheritance, the Prophet revamped the *Jāhili* system of inheritance, introducing new laws that radically altered the socio-economic status of women in Arabia. The Qur’an not only makes them legal inheritors but also permanently allocated them specific portions in accordance with their societal roles as grandmothers, mothers, daughters, sisters, and wives,¹⁵⁶ albeit beneath an overarching patriarchal framework. The Islamic State closed the sordid chapter on the *Jāhili* era when Arab sons used to inherit their father’s wives as chattel, as it did on female infanticide (*wa’dā*). As for *gharar*,¹⁵⁷ which involves any trade in which a buyer

¹⁵⁴ Opinions are divided on the meaning of *kalāla*. One authoritative rendition of it is a person who does not have a son or father (to inherit from him or her), as Jābir (d.) narrated that he was sick and the Prophet visited him. He said, “O Messenger of Allah! Who shall get my inheritance? I am a *kalāla*.” It occasioned the revelation of Q 4:176 (“*They seek your judgment concerning kalāla*. . .”). See al-Wāḥidī, *Asbāb al-nuzūl*, 187-88; al-Suyūṭī, *Lubāb al-nuqūl*, 90; Aḥmad (ḥadīth no. 249) in al-Banā, *Faṭḥ al-rabbānī*, vol. 18; Abū Dāwūd, *Sunan* (no. 2886 - *ṣaḥīḥ*), vol. 2, 215; al-Tirmidhi, *Sunan* (no. 2097 - *ṣaḥīḥ*), 473; Ibn Māǧā, *Sunan* (no. 2728 - *ṣaḥīḥ*), 463; al-Nasā’ī, *al-Sunan al-kubrā* (nos. 6324-25 - *sahih*), vol. 4, 69-70; and al-Bayhaqī, *al-Sunan al-kubrā* (no. 12200), vol. 6, 348-49; al-Bukhārī (no. 194) in Ibn Hajar, *Faṭḥ al-bārī*, vol. 1, 515; Muslim (no. 1616), in al-Nawawī, *al-Minhāj*, 1025; Abū Ya’lā, *Musnad* (no. 2018), 15; al-Tayālīsī, *Ghawth al-makhdūd* (no. 958), vol. 3, 223.

¹⁵⁵ Ibn Kathīr, *Tafsīr al-qur’ān al-‘azīm* (Beirut: Dār Ibn Hazm, 2000), 1st edition, 335.

¹⁵⁶ See Q 4:11, 12, 176.

¹⁵⁷ “The prohibition of *gharar* is one of the great maxims of trade under Islam, which includes many transactions, such as the sale of fugitive slave (*ābiq*), the non-existent, the unknown, what is impossible to obtain, what is not yet in the seller’s possession, the sale of fish still in the water, the sale of the unborn, and the like. These sales are fraudulent (*baatil*) because they are *gharar* without necessity. *Gharar* means ‘danger,’ (*ghuruur*), and deception (*khaḍ’a*). As for *mulāmisa*, *munābidha*, the sale of *ḥabl al-ḥabla*, *hisā*, ‘*asīb al-fuhl*, and so forth, found in proof-texts, are included under the prohibition of *gharar*.. .” Al-

pays for a commodity that the seller does not actually possess or it does not belong to him or her at present, such as the sale of fish not yet caught or fruits not yet ripened, it was outlawed without exception. Economically, the prohibition of *gharar* discouraged speculative transactions in the market, which were not deemed a responsible, productive, and proper use of divinely bestowed wealth. Theologically, its ban put curbs on forward thinking about the Unseen realm (*al-ghayb*) and high-risk probabilities that undermined Islamic Monotheism—the idea that God alone knows the morrow, the future, and that which is hidden from human knowledge and is yet to occur.

In sum, the functions of the Islamic economic system can be encapsulated in a few Qur’anic passages:

- (i) “(Their) *trade is by mutual consent*.”¹⁵⁸
- (ii) “*So that it (wealth) will not make circuit among the rich only*.”¹⁵⁹
- (iii) “*Do not devour your wealth among yourselves in falsehood (bāṭil)...*”¹⁶⁰
- (iv) “*They ask thee what they shall spend (in charity). Say, ‘whatever you spend for good (khayr) must go to parents, near kindred, orphans, the poor, and wayfarers. . .’*”¹⁶¹

Shawkānī, *al-Adilla al-radiyya li matn al-durur al-bahiya fi masaa’il fiqhiyya* (Sanaa: Dār Al-Hijra, 1991), 1st edition, 205.

¹⁵⁸ Q 4:29.

¹⁵⁹ Q 59:7.

¹⁶⁰ Q 2:188.

¹⁶¹ Q 2:215 (Pickthall).

Consequently, at the time of the Prophet's death in 632, there fully existed a well-organized “framework of inter-related concepts, principles, and practices that governed the collection and distribution of tax revenues and other contributions.”¹⁶²

h. In Retrospect

Based on evidence in the MHT, it is hard to imagine that the early Islamic State could have produced a purely Economic Man or a purely Spiritual Man; rather, it molded a Believer grounded in societal duties and responsibilities, including observance of divine ordinances. Yes, the Prophet encouraged his *Umma* to participate in market life, but he also warned them of overindulgence. The Qur'an captures this balanced approach to spirituality and materiality: “*When the call to prayer is sounded on the day of congregation, hasten to the remembrance of God, and leave all worldly commerce. . . . And when the prayer is ended, disperse freely on earth and seek to obtain [something] of God's bounty. . . .*”¹⁶³ It is said that when the early Muslim community imbibed the proprieties of that call over time, giving each sphere of activity its due, the Qur'an commended them: “(They are) *people whom neither commerce nor striving after gain can divert from the remembrance of God, and from constancy in prayer, and from charity. . . .*”¹⁶⁴ The policy functions of the Islamic State did not disrupt *Jāhili* local and foreign trade patterns in Arabia. Arab trade caravans continued to visit foreign markets in the same, if not greater, numbers and vice versa, increasing the volume and complexity of trade. This interstate trade was limited and was conducted by land and sea. The main foreign

¹⁶² Nanji, *Ethics and Taxation*, 166.

¹⁶³ Q 62:9-10 ().

¹⁶⁴ Q 24:37 (Asad). Cf Ibn Hajar, *Fath al-bārī*, vol. 5, 514.

markets were Buṣrā and Damascus (Syria), Gaza and Jerusalem (Palestine), Alexandria (Egypt), Abyssinia, India, and islands in the Indian Ocean, while the important domestic markets were Makka, Ṭā'if, 'Ukāẓ, Madīna, Khaybar, Hajar, Ḥaḍramawt, Dubā', Dūma al-Jandal, al-Mashqar, Bar, and Yemen. Becoming Muslims did not stop converted Arabs and non-Arabs from being bee-keepers, carpenters, farmers, herders, jewelers, laborers, merchants, money-changers, perfume makers, tailors, and the like. Among the major Arabian exports were leather, myrrh, gum, perfume, flour, ambergris, pearls, and precious metals, while imports included spices, frankincense, weapons (e.g. swords, shields, spears, etc), oil, food, cloth, needles, thread, ropes, and utensils. Roy wrote that before Islam,

on the south (of Arabia) is the ocean on which navigated vessels carrying the trade of India. Thanks to her geographical position, Arabia was intersected by the routes of Caravan trade and maritime commerce, interchanged among India, Persia, Assyria, Syria, Palestine, Egypt and Abyssinia. In earlier days, the trade-routes connecting Africa and Asia lay through the south and north of the Peninsula, avoiding the unknown interior of the sandy wilderness. But the exorbitant taxation of Byzantine despotism, supplemented by the endless extortion of its local officials, drove the traders to hazard the encounter of the fierce, but hospitable Beduin in the heart of his home. In the beginning, the Arab collected his tribute according to his peculiar code of law and morality.”¹⁶⁵

In short, Arabian commercial life under the Islamic State maintained its primary pre-Islamic functions, serving domestic economic demands and acting as a conduit for goods into Syria coming from southern Arabia.¹⁶⁶ According to Ḥamīdullāh, “The Prophet himself took the initiative of giving impetus to trade and commerce even at the expense of state income, abolishing all inter-provincial customs duties within the

¹⁶⁵ M. N. Roy, *The Historical Role of Islam* (Bombay: Vora and Co., Publishers Ltd., 1938), 31.

¹⁶⁶ For more details on this section regarding trade in Arabia at the time of Islam, see al-Bukhārī's chapter on *buyū'*; Ibn Hajar, *Fath al-bārī*, vol. 5, 499; al-'Umarī, *Ab'ād idāriya wa iqtisādiya wa ijtimā'iya wa taqniya fil-sīra al-nabawiyya* (Riyadh: published by the author himself, 2005), 1st edition, 89-152.

realm, and the many treaties concluded by him with tribes submitting to his authority expressly stipulate that.”¹⁶⁷ Unimpeded, the political economy of the Islamic State flourished. When the Muslim government intervened in the economy it did so to introduce new fiscal policies or replace others (as we have seen); prohibit certain types of commercial activity (e.g. the alcohol trade, gambling, sale of weapons during civil strife, etc); and regulate economic behavior through law and ethical regimes. An example of the latter is his admonishment: “*Do not inflate prices among yourselves. . . Do not undercut each other in trade. . . Muslims are inviolable to one another: their blood, their property, and their honor.*”¹⁶⁸ He institutionalized the Qur’anic injunction of “enjoining good and forbidding evil” by appointing a market inspector—Sa’īd b. Sa’īd b. al-‘Āṣ—in Madīna whose function was quasi-magisterial, supervising Islamic conduct, business transactions, and enforcing punishment for certain violations.¹⁶⁹ Later, during ‘Umar’s caliphate, the Islamic State imposed various percentages of ‘tithe’ (*ushr*; pl., *ushūr*) and tariff on external trade involving Muslims and non-Muslims, out of economic necessity and not based on an express text of the Qur’an or *ḥadīth* of the Prophet.¹⁷⁰ The land tax (*kharāj*) also appears not to have been introduced during the Prophet’s time.

Was Muḥammad as successful in the economic field, as he was in the political, military, and religious fields? Evidently, his economics did not rank as his other triumphs. Nevertheless, his economic success may be partially gauged by the effectiveness of his Islamic project in Yemen, which was initiated the year before he

¹⁶⁷ Ḥamīdullāh, *Muslim Conduct of State*, 135.

¹⁶⁸ The *ḥadīth* is *ṣaḥīḥ* and is reported by Muslim (no. 2563) in al-Nawawī, *al-Minhāj*, 1537.

¹⁶⁹ Al-Maqrīzī, *Imtā’ al-asmā’*, vol. 9, 394.

¹⁷⁰ Abū Ubayd, *Kitāb al-amwāl*, 640.

died. In 9/630, he sent Mu'ādh b. Jabāl¹⁷¹ and Abū Mūsā to the two major provinces of Yemen with instructions on how to propagate Islam to its mainly Jewish and Christian populations.¹⁷² The mission proved successful, for the majority of Yemenites, who were predominantly Jews and Christians, converted to Islam. As ordered by the Prophet, Mu'ādh executed the *Zakāh* policy, “taking from the rich and giving to the poor.”¹⁷³ He was reaffirmed in this overseer position by 'Umar b. al-Khaṭṭāb, remitting one third of the *Zakāh* to Madīna in the first year. The second caliph questioned him on that: “I did not send you merely as a collector of *Zakāh* and *jizya*,” expecting him to distribute the government revenue among the Yemenite poor and not deprive them by sending it outside the country. Mu'ādh replied, “Had I found someone here in need of it, I would not have sent it to you.” The next year, Mu'ādh remitted half of the *Zakāh* to Madīna; and the third year, he remitted the entire amount, offering the same excuse to 'Umar each time.¹⁷⁴ This snapshot of material prosperity in the Early Islamic Period may be attributed to the following factors.

- (i) Faithful implementation of the Prophet's *Zakāh* policy.
- (ii) Deep indoctrination of the Islamic ideology in society, which spurned riches as the common denominator of social status, nurturing a vibrant other-worldly attitude anchored in spirituality and mitigating the hoarding of wealth beyond the needs of the individual or family unit; in

¹⁷¹ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 3, 539.

¹⁷² The *al-maghāzī* scholars are unanimous that it was in Rabī'ul-Ākhir, 9/630. See Ibn Hajar, *Fath al-bārī*, vol. 9, 477.

¹⁷³ Reported by al-Bukhārī (*ḥadīth* no. 1458) in Ibn Hajar, *Fath al-bārī*, vol. 4, 296. This *ḥadīth* is *muttaqun 'alayhi* (“agreed upon”). See also al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 6, 630.

¹⁷⁴ Abū 'Ubayd, *Kitāb al-amwāl*, 706; al-Sayyīd Sābiq, *Fiqh al-Sunna*, vol. I (Cairo: al-Fath lil-I'lām al-Arabī, n.d.), 289.

effect, it forced wealth into circulation, which stimulated demand and increased economic activity, and engendered strong social solidarity.

- (iii) Theological depreciation of wealth, depriving it of any right to be worshipped and subordinating it to the Divine Legislative Sovereignty: “O you who believe! Expend the good things of what you have earned and of what We have brought forth for you from the earth.”¹⁷⁵ The economic consequence was that a new social context was established in which people easily parted with their wealth out of faith, worship, and obedience to Islamic political authority, thereby promoting welfare of the Muslim body politic.

In light of the foregoing, if ‘capitalism,’ as Watt opined, was already established in Makka during the pre-Hijra Period, it went unnoticed. When Muḥammad conquered his home city in 8/629, he seemed more preoccupied with the ideological drive to spread Islam throughout the world than with the economic priority of ‘making money.’ In the Prolog, the works of Grimmes, Lammens, Watt, Crone *et al* were discussed, which offered materialist explanations (especially the economic factor) for the rise of Islam, and their weaknesses and strengths evaluated. To this list we may add Wellhausen’s (d. 1918) *Reste Arabischen Heidentums*, which emphasized Makka’s growing importance as Arabia’s economic center at the time of Islam; Torrey’s (d. 1956) *The Commercial-Theological Terms of the Koran*, which focused on Makka’s material prosperity, as

¹⁷⁵ Q 2:267.

reflected in certain passages of the Qur'an; Margoliouth¹⁷⁶ (d.1940) who likened Makkan aristocracy to a "joint-stock company." An alternative thesis, social in nature, was proposed by Becker¹⁷⁷ (d.1933), however, who argued that hunger and avarice—in other words, social factors and not religion—were the impelling forces that motivated the last great Semitic expansion under Islam caused by an imagined economic decline in 7th century Arabia. Central to this array of secular explanations is the argument that Makka's economic prosperity (or lack thereof) led to a near collapse of the tribal structure of society, thus preparing the ground for a new social movement—Islam—that brought about an unprecedented Arab political union and territorial expansion. The contradictory and speculative nature of these works has been pointed out earlier, not to mention their nomothetic explanations based primarily on the economic factor, rendering them inadequate theories on the early Islamic State. Watt did acknowledge, eventually, that mere socio-economic factors could not have determined Islam's rapid rise and expansion, as pointed out earlier. In his critique of Crone's "Arabia without Spices," Heck dismissed the "overarching economic *raison d'être*" of Makka, which are posited in these western narratives, as precipitating Islam, because "an ever-present danger of engaging in negative evidence argumentation using limited trade data is that it can build toward conclusions that did not, in reality, obtain."¹⁷⁸ His reconciliatory and "somewhat revisionist interpretation" supported the early Makkan trade claims found in the MHT, which "are not incomprehensible nor are they even particularly

¹⁷⁶ D. S. Margoliouth, *Mohammed and The Rise of Islam*, 3rd edition (London, 1905), 24.

¹⁷⁷ C. H. Becker, *The Cambridge Medieval History*, vol. II (ed. H. M. Gwatkin and J. Whitney), Cambridge, 1913, 330-32.

¹⁷⁸ Heck, *Arabia Without Spices*, 548.

contradictory when examined under the scope of modern economic theory.”¹⁷⁹ This chapter sought to illustrate the Prophet’s organization and administration of the Islamic State’s public finance and understand the Islamic economic system on its own terms.

¹⁷⁹ Heck, *Arabia Without Spices*, 576.

Diplomacy Introduction

We examine here the foreign relations of the early Islamic State. From the Structural-Functionalist-System (SFS) perspective, the outputs of a political system vis-à-vis its external or foreign environments are represented by diplomacy—the affairs and dealings among states. “The advantage of the system environment [SFS] approach is that it directs our attention to the interdependence of what happens within and between nations, and it provides us with a vocabulary to describe, compare, and explain these interacting events,” as Almond *et al* outlined. “If we are to make sound judgments in politics, we need to be able to place political systems in their domestic and international environments, recognizing how these environments both set limits on and provide opportunities for political choices. This approach keeps us from reaching quick and biased political judgments.”¹ The Islamic State’s foreign relations are reflected in the visitation of delegates and conferences, cultural exchanges, diplomatic immunity, negotiations, official correspondences, trade, treaties, *Jihad*, and the treatment of prisoners of wars. Most of these issues have been treated in the previous chapters of this work. The remaining subjects of diplomatic correspondences, treaty negotiations, and delegations will be discussed here. Before the Prophet passed away in 10/632, almost the greater Arabian Peninsula was subdued under Islamic rule, which was greatly facilitated by the conversion of Arab tribes to Islam *en masse*. Indeed,

¹ Almond *et al*, *Comparative Politics Today*, 36.

a variety of factors enhanced the extension of his political authority: (i) voluntary submission (e.g. the Muhājirūn, Anṣār, *et al*); (ii) fear of *Jihad* retaliation against them, which forced some tribes to outwardly accepted Islam (e.g., the Hypocrites); and (iii) willing obedience to Muḥammad's political authority while rejecting his spiritual authority as God's Messenger (e.g. the Jewish, Christian, and Zoroastrian communities; as a result, they were subjected to *Jizya*, which was formalized in treaties). The last two years of Muḥammad's prophetic career witnessed a flurry of diplomatic activity. The status of Islamic State's diplomacy may be characterized as a mix of neutral or peaceful relations with other states (e.g. Abyssinia, Bahrain, Najrān, Egypt, etc), *de jure* war (with the Persian and Byzantine Empires), and, lastly, *de facto* war (with pagan Arabs and the Jews of Khaybar, for example).

A number of works have focused on the early Islamic State's foreign relations and Islamic 'international' law (Ḥamīdullāh,² Khadduri,³ *et al*⁴), which are available in Western languages, primarily English. There is a more extensive treatment of these subjects in Arabic, dating back as early as the ninth century, especially in the genres of Islamic jurisprudence (which identified Islamic 'international' law as *siyar*⁵) and

² See Ḥamīdullāh's *Muslim Conduct of State* (Hyderabad, 1941), "The Qur'anic Conception of State" (*Quranic World*, Hyderabad, 1936), "Place of Islam in the History of Modern International Law" (*Journal of Hyderabad Academy*, vol.2, 1940), *Diplomatic Relations of Islam with Iran in the time of the Prophet* (in Proceedings of the 2nd Session of Idāra Ma'ārif Islamia, Lahore); "Islamic Notion of Conflict of Laws" (in Proceedings of All-India Law Conference, 1994, Hyderabad).

³ See Majid Khadduri, trans. *Islamic Law of Nations: Shaybani's Siyar* (Baltimore: John Hopkins Press, 2001); *War and Peace in Islam* (Baltimore: John Hopkins Press, 1955; reprinted by The Law Book Exchange, 2006).

⁴ See Glenn L. Roberts, *Islamic Human Rights and International Law* (FL: Dissertation.com, 2007).

⁵ *Siyar*, plural of *sīra*, mean military expeditions or memorable actions thereof"; in particular, actions of the Prophet associated with military exploits; see Lane, *Arabic-English Lexicon*, 1484; Ibn Hajar, *Fath al-bārī*, vol. 7, 39. During the ninth century, it was in vogue among Muslim jurists as a technical term for Islamic public law, as reflected in the works of al-Shaybānī (d. 189/805). Al-Awzā'ī, the leading jurist in Syria at

political literature,⁶ of which pertinent references shall be made in this chapter. In sum, these genres of Islamic literature illustrate that the notion of public law, which is broad in scope, is a long-standing legal tradition in Islam and an integral part of the *Sharia*. The objective of this chapter, however, is narrower, situating the discourse on Islamic diplomacy within the context of the *sīra*, examining its dynamics from the SFS perspective, and understanding its functions based on its native *idéologique*.

Part I

a. Diplomatic Correspondence

That the Prophet was keenly aware of the regional political environment is evident from his knowledge of the political situations and leaders outside Madīna and the high volume of diplomatic correspondence between his government and others that lay to the north, south, east, and west of the Ḥijāz. For instance, when the Lakhmids of al-Hīra rebelled against Persian political control in the Battle of Dhū Qār (ca. 2/624), the Prophet reportedly commented: “This is the first time that Arabs have split from Persians (*al-‘ajam*⁷) and have been victorious over them because of me”⁸; that

the time, came across a copy of *Siyar al-ṣaghīr* and inquired about its authorship. He was told that the author was al-Shaybānī. He said, “They (Iraqis) should not write on this subject. They have no knowledge of *siyar*.” The critique moved al-Shaybānī to write his second and larger *al-siyar al-kabīr*. See al-Sarkhasī, *Sharḥ kitāb al-siyar al-kabīr* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1997), 1st edition, vol. 1, 26; al-Ḥāj Khalīfa, *Kashf al-zunūn* (Beirut: Dār Ihya al-Turath al-‘Arabī, 1941), vol. 2, 37. The smaller work *Siyar al-ṣaghīr* was translated by Majid Khadurri and published as *Islamic Law of Nations: Shaybani’s Siyar* (Baltimore: John Hopkins Press, 2001). Another English translation of it was done by Mahmood A. Ghazi (Islamabad: Islamic Research Institute, 1998).

⁶ Al-Mārwardī, *al-Aḥkam Al-sulṭāniyya* (Kuwait: Dār Ibn Qutayba, 1989), 1st edition, 201-30; Abū Ya‘lā, *al-Aḥkam al-sulṭāniyya* (Beirut: Dār al-Kutub ‘Ilmiyya, 2000), 187-208; Ibn Taymiyya, *al-Siyāsa al-sharī‘ia* (Jedda: Dār ‘Alīm Al-Fawa’id), 153-63. This footnote merely points out some key references on *siyar* in Islamic political literature and is not meant to be an exhaustive bibliography.

⁷ *Al-‘ajam* (sing. *‘ajamī*), literally “non-Arabs” in general, is often used to designate Persians or “barbarians” in particular. See *Lisān al-‘Arab*, vol. 4, 2825; Lane, *Arabic-English Lexicon*, 1967.

⁸ The *ḥadīth* is *ḍa‘īf* because its *isnād* is unknown; therefore, in accordance with Ḥadīth methodology, it cannot be reliably attributed to the Prophet, thereby making it “weak.” It is reported without *isnād* in al-Ṭabarī, *Ta’rīkh*, vol. 2, 193, 207; Ibn Khaldūn, *Ta’rīkh*, 415; al-Mas‘ūdī, *Murūj al-dhahab*, vol. 1, 282.

is, his advent. When Chosroes II (d. 4/628)⁹ died, the Prophet reportedly asked his Companions: “Who has succeeded him?” They informed him that the successor was the deceased Sassanid Emperor’s daughter (Buran or Purandokht, d. ca. 10/631), upon which he commented, “*A people who has made a woman their ruler shall never prosper.*”¹⁰ The Qur’an itself remembers the battle between Persian and Byzantines forces at Jerusalem (ca. 613), in which Persia triumphed and seized the True Cross of Christianity, displaying favoritism toward Rome: “*The Romans have been defeated in the nearest land; and they, after their defeat, will be victorious within a few years. To Allah belongs the command in the former case and in the latter; and on that day, believers will rejoice in Allah’s help, He gives victory to whomsoever He wishes, for He is the Mighty, the Merciful.*”¹¹ That is because, largely based on theological affinity, the pagan Arabs favored the Persians, whereas their Muslim counterparts favored the Byzantines, leading to a wager (before the Qur’anic prohibition of gambling) between them over which of the two great empires would win the next round of battles.¹² In ca. 622, the Emperor Heraclius assembled his forces in Asia Minor and launched a successful offensive against Persia and a few years later retrieved the True Cross, restoring it to Jerusalem in pomp and ceremony.

⁹ Al-Ṭabarī, *Ta’rīkh*, vol. 2, 218-32.

¹⁰ Aḥmad, *Musnad* (*ḥadīth* no. 20673; see also nos. 20748, 20751), 1495; al-Bukhārī (*ḥadīth* no. 4425) in Ibn Hajar, *Fath al-barī*, vol. 9, 580; al-Tirmidhī, *Sunan* (*ḥadīth* no. 2262 – *ṣaḥīḥ*), 512-13; al-Nasā’ī, *Sunan* (*ḥadīth* no. 5388 – *ṣaḥīḥ*), 809; Ibn Hibbān (*ḥadīth* no. 4499 – *ṣaḥīḥ*) in al-Albānī, *al-Ta’līqāt al-ḥissān ‘alā ṣaḥīḥ ibn ḥibbān*, vol. 6, 485; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 7871), vol. 4, 430.

¹¹ Q 30:2-6 (cf Pickthall). It is a Makkan *sūra*.

¹² Ibn Abī Ḥātim, *Tafsīr*, vol. 9, 3086-87; al-Suyūṭī, *al-Durr*, vol. 11, 573-85; al-Ṭabarī, *Tafsīr*, vol. 18, 446-60.

During his reign as ruler of the Islamic State, according to the MHT, the Prophet established diplomatic contacts with Arab tribes outside of Madīna (in Makka, Ṭā'if, Juhayna, Jurash, Dūmā'ul-Jandal, and Ṭīy'), Abyssinia, Egypt, the Byzantine Empire and its protectorates (Ma'ān, Ghassanids, Lakhm, al-Dāriyūn, and Ballā), and the Persian Empire and its protectorates (Bahrain, al-Yamāma, Oman, Najrān, Nabī al-Mudrak, Ra'āsh, Yemen, Ḥaḍramawt, Bakr b. Wā'il, and Tamīm. Much has been written about the Prophet's secretaries, dating back to the third/ninth century.¹³ It is reported that 'Umar b. al-Khaṭṭāb, the second caliph, kept a chest full of government documents, including copies of the Prophet's treaties and letters. The bulk of it was destroyed by fire on the day of Jamājam, 82/701; the rest perished with the passage of time and the Tatar invasion.¹⁴ Although most of these original documents are lost, a great deal of their contents has been embedded in the genres of Islamic literature, such as Ḥadīth, *sīra*, *maghāzī*, *ta'rīkh*, and *adab*. The Prophet's letters as well as those of the early caliphs address a wide range of subjects, including treaties, renewal of treaties, invitations to Islam, appointment of government officials, stipulation of their duties, exposition on Islamic teachings, land distribution (*iqṭā'*), covenants of protection, and legal exemption of some duties for certain categories of people, and the like.¹⁵ The collection and study of the Prophet's letters has engaged Muslim scholarship for a long time, perhaps dating back to the first/seventh century. Ibn Ishāq recorded that Yazīd b. Abī Ḥabīb al-Miṣrī (d. 128/746) narrated that he had found a book, which mentioned the

¹³ Ibn Ṭūlūn, *I'lām al-sā'ilīn*, 23-27.

¹⁴ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 24.

¹⁵ al-Zarqānī, *Sharḥ al-mawāhib*, vol. 4, 533-75.

Prophet's instruction and dispatch of Muslim envoys to various countries and to Arab and non-Arab kings, and that he had sent it to al-Zuhrī who acknowledged its reliability and accuracy.¹⁶ It is also related that 'Ikrima (d. ca. 107/726) narrated that he found the Prophet's letter to the king of Bahrain among documents belonging to Ibn 'Abbās after he had died and that he copied it: "*The Messenger of Allah sent al-'Alā' b. al-Ḥaḍramī with a letter that he had written to al-Mundhir b. al-Sāwā, inviting him to Islam. Al-Mundhir wrote back to him, stating 'O Messenger of Allah, I have read your letter to the people of Bahrain. Some of them, who liked Islam and are fascinated by it, entered into it. Others dislike it. In my land, there are Jews and Christians, so tell me what is new about this affair.'*"¹⁷ The text of this letter is examined in the excursus at the end of this work. Perhaps the earliest and largest compendium of the Prophet's letters is that found in Ibn Sa'd's *Ṭabaqāt*. This type of literary collection is also known by other names in Islamic literature, including *majmū'a* and *jamhara*, such as Ṣafwat's *Jamhara*¹⁸ and Ḥamīdullāh's *Majmū'a*. The latter presented the following brief survey of this genre:

I believe that the first book that specialized in this (genre) is the *Majmū'a* of 'Amr b. Ḥazm, which was reproduced by Ja'far al-Dayyublī, the Indian immigrant of the third century AH. In spite of the many number of times that it has exchanged hands, this *majmū'a* is worth mentioning, since it clarifies many ambiguities of the reports found in Ibn Sa'd's *Ṭabaqāt*, pertaining to the Prophet's letters. There is also the book that appeared in al-Zuhrī's time, which Yazīd b. Abī Ḥabīb al-Miṣrī (d. 128/746) had sent to him because of his learned status among the people; he knew about it and did not repudiate it. But it has not come down to us or similar works by al-Haytham b. 'Adī and al-Madā'inī. The latter's book is mentioned by Ibn Hajar in his *al-Iṣāba* (2/205, 264, 864; 3/1018). Scholars of the east and west have been interested in these documents. Before the publication of Ibn Sa'd's *Ṭabaqāt* in its complete form, the Orientalist Wellhausen had published in German two chapters with commentary on the Prophet's letters and the deputations associated with them. Just as the period in which the Prophet wrote to

¹⁶ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 254; al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 394. This report is *mursal*.

¹⁷ Al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 33-36.

¹⁸ Aḥmad Ṣafwat, *Jamhara rasā'il al-'arab fī 'uṣūr al-'arabiyya al-zāhira*, 4 vols (Beirut: al-Maktaba al-'Ilmiyya).

the Muhājirūn, Anṣār, and Jews of Madīna has been a special study, we also find in European books on Islamic history the translation of these documents or mention of them, as in Ashbar Nakar's biography of the Prophet in German, Caetanni's *Annali del Islam* in Italian, and others. Caetanni showed keen interest in the Prophet's letters to the kings. There is also a number of other books in Western languages in which one finds mention of them in the bibliographies. Two books that had put together the Prophet's documents, arranging them alphabetically or chronologically have also appeared in Hindustani. They are excellent, although they omitted much of what is needed. I have published a French translation of my *Majmū'a* (entitled *Documents sur la diplomatie musulmane a l'époque du prophète et des khalifes orthodoxes*) in which I discoursed at length on their historical value and what is possible to infer in understanding the politics of the period.¹⁹

The political documents of the Early Islamic Period have been studied by Muslim historians, jurists, poets, literary critics, and men of letters, extrapolating legal rulings, linguistic proofs and principles, and literary styles. Al-Qalqashandī (d. 1418), in his *Ṣubḥ al-a'shā* (which itself is a collection of the Prophet's letters), provided this literary analysis of them, an excerpt of which is as follows:

The Prophet used to open his letters with the phrase 'from Muḥammad, the Messenger of Allah, to such a one (*fulān*),' with *amma ba'd* ("as to what follows"), or with 'this is a letter,' or the command "accept Islam!" Mostly, he used to put the addressee's name at the beginning of the letters or be content with referring to his popular title. If the addressee was a king (*malak*), he would mention his title after his name like 'ruler of such a people,' 'the king of such a people, or 'the *ṣāhib* of this or that kingdom.' He also used to speak about himself in his letters with the personal pronouns 'I' or 'mine'; 'it has reached me,' 'the envoy came to me,' and the like; or in the plural form 'it has reached us,' 'we have been informed,' and the like. As for the addressee, he would use the singular pronoun 'for you,' 'to you,' 'you said this and you did that,' as well as the dual form and plural forms. In the middle of his letters was usually found the greeting of 'peace.' If the addressee was a Muslim, he used to write 'peace be unto you' or 'peace be unto the one who believes in Allah and His Messenger; if the person was a non-Muslim, 'peace be on him who follows the Guidance' or sometimes he dropped the peace greeting entirely. Also in the middle of the letters, after the peace greeting, he used to follow it with *tamhīd* ('the praise of Allah'), stating 'I say to you that I praise Allah besides whom there is no other deity worthy of worship' or omit it; or sometimes he mentioned the *tashshahud* (i.e., the declaration that God is One) and sometimes he did not. He used to introduce his subject with *amma ba'd* but not all the time and end his letters with 'peace,' saying to a Muslim 'peace be unto you and Allah's mercy and blessings' or stop short at only 'peace'; if the addressee was non-Muslim, however, he would say the same or omit the peace at the end of the letter. It appears that he used to begin his letters with "From Muḥammad, the Messenger of Allah to such a one,"

¹⁹ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 25-26.

placing it toward the middle or to the right and the phrase 'to such a one' to the left. . .
²⁰.

As we saw earlier, Ḥamīdullāh mentioned a few western works on the Prophet's letters. An appendage to his listing is given here. Stubbe (d. 1676), in his 17th century apologia to Islam, wrote,

. . .there is extant a Compact or League between Mahomet [Muḥammad] and the Christians, published in France by Gabriel Sionita, and reprinted by Johanes Fabricius, A Dantzicker, which is by him affirmed to be authentic, and is mentioned by Selden, tho' Grotius takes it to be but a Figment of the Christians, that they might gain favour with the Moslemin. I shall not recite it, because I think it to be supposititious, but you may see it in English, published by Mr. Ricaut in his *Relation of the Turkish Government* (1. 2., c. 2). The sum of it is that the Christians submitting to him and paying their Tributes duly shall live and enjoy the liberty or their Religion, without any molestation, and that there shall be a perpetual Amity between the Moslemin and them.²¹

A century later, the English historian Edward Gibbon (d. 1794), describing the Prophet's return to Madīna from Tābuk after leading Muslim forces to counter a potential Byzantine incursion into the Ḥijāz, wrote that the Prophet "received the submission of the tribes and cities, from the Euphrates to Aila, at the head of the Red Sea. To his Christian subjects, Mahomet [Muḥammad] readily granted the security of their persons, the freedom of their trade, the property of their goods, and the toleration of their worship." He then cited several European sources on these written agreements between the Prophet and his Christian subjects²²:

The *Diploma securitatis Ailensibus* is attested by Ahmed Ben Joseph, and the author Libri Splendorum, (*Gagnier, Not. ad Abulfeda dam*, 125;) but Abulfeda himself, as well as Elmacin, (*Hist. Saracen*. 11,) though he owns Mahomet's [Muḥammad's] regard for the Christians, (p 13,) only mentions peace and tribute. In the year 1630, Sionita published at Paris the text and version of Mahomet's patent in favor of the Christians; which was admitted and reprobated by the opposite taste of Salmasius and Grotius, (*Bayle, Mahomet, Rem*.

²⁰ Al-Qalqashandī, *Ṣuḥb al-a'shā*, vol. 6, 365-76.

²¹ Henry Stubbe, *An Account of the Rise and Progress of Mahometism with the Life of Mahomet* (London: Luzac and Co., 1911), 183-84; reprinted by the Islamic Society with an introduction to the life and work of Stubbe.

²² Edward Gibbon, *Decline and Fall of the Roman Empire* (NY: Fred De Fau and Company, 1907), vol. 9 (ch. L; fn no. 160), 80.

Aa.). Hottinger doubts of its authenticity, (Hist. Orient. 237;) Renaudot urges the consent of the Mohametans, (Hist. Patriarch. Alex. 169;) but Mosheim (Hist. Eccles. 244) shows the futility of their opinion and inclines to believe it spurious. Yet Abulpharagius quotes the impostor's treaty with the Nestorian patriarch, (Asseman. Bibliot. Orient. tom. ii. 418;) but Abulpharagius was primate of the Jacobites.

In sum, the majority of the Prophet's letters and documents are embedded in genres of Islamic literature but a few originals are claimed to have survived and are discussed in the Excursus that follows this chapter.

Part II

b. The Treaty of al-Ḥudaybiyya²³

The al-Ḥudaybiyya incident,²⁴ more than any other, unveils the Prophet's masterly statesmanship, diplomacy, treatment of emissaries, negotiating skills,

²³ Ḥudaybiyya, a diminutive of *ḥadbā'*, a tree species, referred to a medium sized village situated north-west of Makka and a day's journey away and nine days away from Madīna. It was the site of a well known watering hole but when the Prophet and his company arrived there, they found it dried up. Parts of Ḥudaybiyya extended into the sacred precincts of Makka. See al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 39; al-Baghdādī, *Mu'jam al-buldān*, vol. 2, 229-30; Ibn Hajar, *Fath al-bārī*, vol. 6, 626. The treatment of the Ḥudaybiyya Incident here relies (but not exclusively) on al-Bukhārī's account of it as found in *Fath al-bārī*, vol. 9, 255-84.

²⁴ Primary sources on the Ḥudaybiyya Incident are the Qur'an, Ḥadīth, and the early *sīra* works of Ibn Ishāq, Ibn Hishām, al-Wāqidī, Ibn Sa'd, and al-Ṭabarī. Their reports are, on the whole, differing on minor details like the exact name of a place here or there or an individual, the number of Companions present, a certain person's status as a Muslim or non-Muslim, the overall length of the narrative (al-Wāqidī's is the longest), whether the sacrificial animals were camels alone or camels and cattle, and the like, which do not diminish the sequence of major events and the roles of main political actors. The *isnād* in al-Bukhārī is as follows: Abdullah b. Muḥammad (d. 229/844) ⇒ Abdur Razzāq (d.211/827) ⇒ Ma'mar (d.154/771) ⇒ al-Zuhrī (d. 125/742) ⇒ 'Urwa b. al-Zubayr (d. 190/805) ⇒ al-Miswar b. Makrama (d. 160/776) and Marwān [b. al-Ḥakam] (d. 161/777) who supported each other's narration that "the Messenger of Allah set out—at the time of Ḥudaybiyya—(then follows the lengthy narrative)." Al-Bukhārī also cited it in other places in his *ṣaḥīḥ* but not always in its entirety, as *ḥadīth* nos.2711-12 in his *kitāb al-shurūṭ* ("Book of Stipulations"); a complete listing of the *ḥadīth*'s distribution is found in *Fath al-bārī*, vol. 6, 625. Ibn Hajar explained that although Marwān's *isnād* makes it *mursal*, since he was not one of the Prophet's Companion (the same is the case with al-Miswar who did not witness Ḥudaybiyya); except that they both heard it from a group of Companions who did witness it—'Umar, 'Uthmān, 'Alī, al-Mughīra, Umm Salma, and Sahl b. Hanīf. He added, "The (Ḥudaybiyya) incident was also narrated in *mursal* form by Abū al-Aswad from 'Urwa, in his *maghāzī*, without the inclusion of Marwān or al-Miswar but through the path of Abū al-Aswad and by Ibn 'Ā'idh, in his *al-Maghāzī*, with its full length, and al-Ḥākim in his *al-Iklīl*." *Āḥādīth* on Ḥudaybiyya are also reported by Aḥmad, in his *Musnad* (with the *isnād*—Abdur Razzāq⇒Ma'mar⇒al-Zuhrī⇒'Urwa b. al-Zubayr⇒al-Miswar b. Makrama⇒Marwān), which is *ṣaḥīḥ* according to al-Albānī, *Irwā al-ghalīl* (*ḥadīth* no. 20), vol. 1, 54-59; cf Andreas Gorke, "The Historical Tradition About al-Hudaybiya: A Study of 'Urma B. Al-Zubayr's Account," in *The Biography of Muhammad: The Issue of the*

adherence to the terms of a treaty, rejection of treachery, speaking to people according to their levels of intelligence, tendency to constantly consult with his Companions on state affairs, insistence that war is a final resort, perseverance in the face of military odds, military tactics, reconnaissance, readiness to sacrifice, willingness to die for his cause, visionary leadership—these characteristics of his political behavior and manipulation of power symbols and political resources are all evident at al-Ḥudaybiyya.

Muslim scholars have agreed on the historicity of the al-Ḥudaybiyya Incident and have written extensively on it.²⁵ On Dhul-Qa'da 2, 6/628,²⁶ the Prophet set out, together with about 1500 Companions²⁷ including his wife Umm Salma, to perform the minor pilgrimage ('umra) in Makka.²⁸ A number of Bedouin tribes in the vicinity of

Sources, ed. H. Motzki (Boston: Brill, 200), 240-71. Working outside of the Ḥadīth sciences, Gorke attempted a philological reconstruction of 'Urwa's report of the Ḥudaybiyya Incident, concluding that "the portrayal of al-Ḥudaybiyya conveyed to us by the earliest extant sources is the result of a long process of transmission and redaction." His conclusion is not definite, since it is riddled with "most probably," "possibly," and the like, reflecting his skepticism on its historicity. His bibliography is useful for those interested in western scholarship on the subject.

²⁵ Al-Nawawī, *al-Majmū'* (Jedda: Maktaba al-Irshād, n.d.), 2nd edition, vol. 21, 375-400; Ibn Hajar, *Talkhīṣ al-hubayr* (Makka: Mu'assa Qurtubiya, 1995) (*ḥadīth* no. 2332), 1st edition, vol. 4, 237; al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 434.

²⁶ The sources agree that it occurred in the month of Dhu'l Qa'da, 6/627, except for one report by 'Urwa stating that it was in Shawwāl, which Ibn Kathīr said was "very strange" coming from him. See Ibn Ishāq, *al-Sīra al-nabawīyya*, vol. 2, 454; Ibn Hishām, *al-Sīra al-nabawīyya*, vol. 3, 255; al-Wāqidi, *al-Maghāzī*, vol. 2, 573; Ibn Sa'd, *al-Tabaqāt al-kubrā*, vol. 2, 585; *Faṭḥ al-bārī*, vol. 9, 256; Ibn Kathīr, *al-Bidāya wal-nihāya*, 594.

²⁷ Conflicting numbers are given in the MHT, ranging from 700-1700. The most authentic (*ṣaḥīḥ*) report of the figure is that reported by al-Bukhārī and Muslim, to wit, Qatāda narrated that he said to Sa'īd b. al-Musayb: "I was informed that Jābir b. Abdullah said that their number was 1400. But he said to me that Jābir had personally informed him that 1500 of them gave the oath of allegiance to the Prophet on the day of Ḥudaybiyya." See *Faṭḥ al-bārī*, vol. 9, 256-57; Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 287-88.

²⁸ Following al-Wāqidi, many accounts of Ḥudaybiyya assumed that the Prophet's intention to perform 'umra was inspired by a dream in which he saw that he and his Companions were entering Makka with their heads shaven or hair cut short; however, according to the reports by al-Faryābī, 'Abd b. Ḥamīd, and al-Bayhaqī, the vision occurred after signing the Ḥudaybiyya Treaty and slaughter of the sacrificial animals, which is referred to in the Qur'an: "Truly did Allah fulfill the vision for His Messenger: ye shall enter the Sacred Mosque, if Allah wills, with minds secure, heads shaved, hair cut short, and without fear. . . ." (Q 48:27 {'Alī}). See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 170.

Madīna were invited to accompany them, but they refused²⁹ and were later castigated as Hypocrites in the Qur'an.³⁰ Suspicious of the intent of the Muslim procession, Quraysh forces prevented it from entering the city, leading to a stand-off that culminated in a peace treaty between the two antagonists. Leaving behind Numayla b. Abdullah al-Laythī in charge in Madīna,³¹ the Prophet and his entourage departed, carrying with them riding weapons but not weaponry for war, so as not to be mistaken as a warring party. Nevertheless, he sent ahead Busr b. Sufyān al-Ka'bī al-Khuzā'ī al-Ka'bī ahead to reconnoiter the movements of Quraysh in Makka. They alighted at Dhul-Hulayfa, the *mīqāt* or ritualistic entry point for pilgrims coming from or through Madīna, intending both 'Umra (the minor pilgrimage to Makka) and *Hajj* (the major pilgrimage) rites. There they donned the ritual garments of pilgrimage and gathered the sacrificial animals—some 70 camels. When they were near 'Usfān about 80 *kayl* from Makka, at a place called Ghadīr al-Ashtāt, the Prophet was informed by his spy³² that Quraysh had learnt of his movement, interpreted it as hostile, and put their forces on

²⁹ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 454-69; al-Tabarī, *Ta'rīkh*, vol. 2, 620-44.

³⁰ "The desert Arabs who lagged behind will say to thee: "We were engaged in (looking after) our flocks and herds, and our families. . . ." (Q 48:11-17 {‘Alī}).

³¹ The sources differ on whom the Prophet appointed in charge of Madīna in his absence: Numayla b. Abdullah al-Laythī (Ibn Hishām, al-Suhaylī) or Abdullah b. Maktūm (al-Wāqidī, Ibn Sa'd), and both Maktūm and his son (al-Balādhurī), the both of them, that is, Umm Maktūm and his son. See also al-Shāmī, *Subul al-hudā*, vol. 5, 56.

³² It was believed that the Prophet's spy was al-Nājiyya but Ibn Hajar corrected it as Busr, stating that al-Nājiyya was the spy sent with the sacrificial animals. See *Fath al-bārī*, vol. 9, 279. Scholars debated whether Busr was a Muslim or not at the time. Al-Khitābī, in his *Ma'ālīm al-Sunna*, said that he was a non-Muslim, as did Ibn Qayyim in his *Zād al-ma'ād*. Ibn Hajar disagreed, arguing that he was a Muslim but had dissimulated his faith at the time in order to mingle among the Quraysh undetected and return to the Prophet with intelligence. His conversion to Islam was recent, making him a suitable spy, since the Makkans would not have known about it. The reason for this debate is that the issue has legal implications in Islamic jurisprudence; for if Busr was a non-Muslim, it would be permissible to rely on an unbeliever's report—if there is corroborating evidence—and to employ non-Muslims whenever necessary.

war alert. Khālīd b. al-Walīd was in position at al-Ghamīm³³ with about 200 horsemen, while the rest of them assembled at Dhī Ṭuwā³⁴, thereby blocking off the main routes into Makka to the Muslim procession. It was at 'Usfan where the Fear Prayer (*ṣalāh al-khawf*) was first performed. They consulted on their next move, deciding to continue the procession into Makka and, if necessary, fight those who sought to prevent them. The Prophet sent some of his men toward Khālīd's encampment, while he himself led the rest of them along an alternative, rocky route with the help of a guide. At al-Thaniya, a mountain pass overlooking al-Ḥudaybiyya, his camel Qaṣwa broke her stride, refusing to go further. While his Companions upbraided the animal, the Prophet interpreted it as a divine portent—the 'Restrainer of Elephants' (*ḥāsib al-fīl*) was restraining her, just as He had restrained Abraha's elephant army from advancing on Makka to destroy the Ka'ba. In effect, stopping there averted bloodshed, because their entry into Makka would most likely have led to a violent confrontation with Quraysh. The Muslims camped at the farthest part of al-Ḥudaybiyya situated about 9 ml/14.5 km north-west of Makka. Thence a tense standoff ensued between Muslims and pagans.

Quraysh attempted a couple of covert military operations against the Muslim camp. On one occasion, during the night, they sent a force of about 40-50 men who descended on the Muslim camp.³⁵ But they were ambushed, foiling the planned attack.

³³ It is Kurā al-Ghamīm in al-Ṭabarī's *Ta'rīkh*, locating it between Makka and Madīna. Ibn Hajar thought that it was apparent from the *ḥadīth* that al-Ghamīm was close to Ḥudaybiyya. See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 3, 176.

³⁴ Dhī Ṭuwā (Ibn Hishām and Ibn Ishāq) or Balda, west of Makka (al-Wāqidī and Ibn Sa'd).

³⁵ Ibn Kathīr, *al-Bidāya wal-nihāya*, 595.

The Prophet did not take them as prisoners or kill but released them all—a decision that the Qur'an attributed to divine protection:

And it is He Who has restrained their hands from you and your hands from them in the midst of Makka, after that He gave you the victory over them. And Allah sees well all that ye do. They are the ones who denied Revelation and hindered you from the Sacred Mosque and the sacrificial animals, detained from reaching their place of sacrifice. Had there not been believing men and believing women whom ye did not know that ye were trampling down and on whose account a crime would have accrued to you without (your) knowledge, ((Allah) would have allowed you to force your way, but He held back your hands) that He may admit to His Mercy whom He will. If they had been apart, We should certainly have punished the Unbelievers among them with a grievous Punishment. While the Unbelievers got up in their hearts heat and cant - the heat and cant of ignorance,- Allah sent down His Tranquillity to his Messenger and to the Believers, and made them stick close to the command of self-restraint; and well were they entitled to it and worthy of it. And Allah has full knowledge of all things.³⁶

Switching to a diplomatic stance, Quraysh sent a total of five emissaries—'Urwa, Ḥulays, Mikraz b. Ḥaḥṣ, and Suhayl b. 'Amr—to the Muslim camp in order to ascertain the objective of their march to Makka and ostensibly to gather intelligence. For his part, the Prophet sent two emissaries to Quraysh—Khirāsh b. Umayya al-Khuzā'ī and 'Uthmān b. 'Affān. The former was treated uncouthly. The Makkans hamstringed his camel and were intent on killing him, except that al-Aḥābīsh (i.e. a company of men from different Quraysh clans) intervened. As for 'Uthmān, the Prophet chose him over 'Umar b. al-Khaṭṭāb whose enmity with Quraysh was well known and who lacked tribal support in Makka. 'Uthmān was commissioned to invite Quraysh to Islam and inform them of the Muslims' peaceful intentions and wish to perform the 'Umra and visit their Muslim brothers and sisters residing in Makka in order to give them the glad tidings of God's help and victory. 'Uthmān delivered the diplomatic message to some Makkans positioned at Balḍah, where he received an *ijāra* from a man from Bānu b. Sa'īd b. al-'Āṣ, ensuring his safe entry into Makka. In 'Uthmān's absence, a rumor spread in the

³⁶ Q 48:24-26 ('Alī). See al-Ṭabarī, *Tafsīr*, vol. 21, 288-315.

Muslim camp that he had sought to perform 'Umra without them, which was quickly quashed by the Prophet. Soon after another rumor surfaced, this time announcing 'Uthmān's death, which prompted the Prophet to summon his Companions to take an oath to fight their enemies until death.³⁷ The Qur'an refers to it in these words: "*Verily those who plight their fealty to thee do no less than plight their fealty to Allah. The Hand of Allah is over their hands: then anyone who violates his oath, does so to the harm of his own soul, and anyone who fulfils what he has covenanted with Allah, Allah will soon grant him a great Reward.*"³⁸ This oath of allegiance is known as the "Pledge of Satisfaction" (*bay'a al-riḍwān*) or the "Pledge under the Tree": "*Indeed, well-pleased was God with the believers when they pledged their allegiance unto thee [O Muḥammad] under that tree, for He knew what was in their hearts; and so He bestowed inner peace upon them from on high, and rewarded them with [the glad tidings of] a victory soon to come.*"³⁹ Eventually 'Uthmān returned to camp and was outraged at the presumption about him. Because of his standing among Quraysh, he was allowed to circumambulate the Ka'ba, but he had refused to do so without the Prophet and his Muslim brethren.

Unarmed for war and unable to demonstrate stark power, the Prophet tactfully resorted to subtle or "soft power" to deter Quraysh, which included strategies of rhetorical devices (consisting of promises, threats, and the like), ritualistic behavior, oath of allegiance, symbolic interactions, and negotiations. When some members of Khuzā'a—it is recalled that the Khuzā'a tribe had been on good terms with the Prophet

³⁷ Al-Bukhārī (*ḥadīth* no. 4169) in Ibn Hajar, *Fath al-bārī*, vol. 9, 271; Ibn Qayyim, *Zād al-ma'ād*, 290-91.

³⁸ Q 48:10 ('Alī). See al-Wāḥidī, *Asbāb al-nuzūl*, 382-84; al-Suyūṭī, *Lubāb al-nuqūl*, 236-38.

³⁹ Q 48:18 (Asad). See Ibn Abī Ḥātim, *Tafsīr*, vol. 10, 3300-01; al-Suyūṭī, *al-Durr*, vol. 13, 479-85; al-Ṭabarī, *Tafsīr*, vol. 21, 271-79.

because of an old alliance with the Banū Hāshim—led by Budayl b. Warqā' passed through al-Ḥudaybiyya, the Prophet seized the opportunity to entrust them with a message for Quraysh: "We are not here to fight anyone. We came to perform the 'Umra. Quraysh is overcome and weakened by war, which has hurt them. Should they desire it, I can offer a period without war, but they must not come between me and other non-Muslim Arabs (in terms of accepting Islam). Should they prevail over me, suffice it that they be supported. But should I prevail over them, they shall obey me, if they wish or not, in which case the period of the peace treaty shall not expire—unless if they have become empowered. And if Quraysh refuse (these peace terms)—I swear by Him in whose Hand is my soul!—I will surely fight them over my affair until death (literally, until 'the nape of my neck is separated') and Allah executes His command." Thus, the Prophet's 'construction of incentives' offered a negotiated settlement; at the same time, he warned them of a fight-to-the-death scenario if his peace terms were rejected. Budayl conveyed the message to the Quraysh Council of Elders (*dhawū al-ra'y*). They were stolidly unconvinced of the Muslims' peaceful intentions, so they sent 'Urwa b. Mas'ūd al-Thaqafī, who had in the past summoned the people of Ukāẓ to aid Quraysh, to the Muslim camp. The Prophet reportedly said the same thing to 'Urwa that he had said to Budayl. 'Urwa, in turn, discussed with the Prophet the worst case scenario for each side should a military clash occur in Makka. In keeping with the *Jāhili* custom, each time 'Urwa said something, he stroked the Prophet's beard and each time his hand was swiftly struck with the lower silver end of a scabbard held by Mughīra b. Shu'ba who stood guard over the Prophet as he sat. The Islamic custom was not to stand for the

Prophet, which he had forbidden: “*Whoever is gratified that men represent themselves before him standing, let him seek his abode in the Hellfire*”⁴⁰); therefore, its function on this occasion, in the presence of an emissary of a hostile state, was symbolic, as Ibn Qayyim put it, “in order to manifest Muslim power (*‘izza*), pride (*fakhr*), exalt the leader, and demonstrate readiness to obey him and act as his bodyguards.”⁴¹ Urwa keenly observed the Companions’ zealous behavior around their leader. Whenever Muḥammad raised his voice, they immediately lowered their voices. Whenever he performed ritual ablution (*wuḍū’*), they almost fought each other to catch the water that dripped from his face and hands. Even his mucous and saliva, if these bodily fluids did not reach the ground first, were caught by the ready sleeve of a Companion⁴² who would then wipe his face and body with it, so as not to let any benediction go to waste! When he admonished them, they showed no signs of anger out of great devotion to him. When he ordered them to do anything, they complied without hesitancy. The Prophet exploited this intense veneration (*al-tabarruk*) toward him for political ends on this occasion (after his death, however, his Companions reoriented their veneration away from his personal effects to his Sunna⁴³). The impact of the *tabarruk* cultural behavior had a profound impact on ‘Urwa’s consciousness. He returned to Quraysh, advising them: “By Allah! I have been a delegate to Chosroes, Heraclius, and al-Najāshī, but I have never seen a king whose cohorts exalt him as Muḥammad’s companions exalt him! . . . He has offered you a clever plan, accept it!” But Quraysh were unimpressed, so

⁴⁰ Aḥmad, *Musnad* (*ḥadīth* no. 16970), 1210.

⁴¹ Ibn Qayyim, *Zād al-ma‘ād*, vol. 3, 304.

⁴² Al-Albānī, *Irwā al-ghalīl*, vol. 1, 54-59.

⁴³ Al-Shāṭibī, *al-I‘tiṣām* (KSA: Dār Ibn al-Jawzī, 2008), 1st edition, vol. 2, 300-03.

they sent Ḥulays b. 'Alqama al-Kināna, chief of al-Aḥābīsh, to persuade Muḥammad not to enter Makka. As he approached, the Prophet told his men: "This man is from a folk who adore camels, so bring them out in full display before him." The camels were brought with tiny incisions on the right side of their humps, which showed traces of blood, thus proving that they were destined for sacrifice at Makka, as part of the pilgrimage rituals. The Qur'an comments on it: "*They are the ones who denied Revelation and hindered you from the Sacred Mosque and the sacrificial animals, detained from reaching their place of sacrifice. . . .*"⁴⁴ Among them was a male camel that had belonged to Abū Jahl (a Quraysh chief killed in the Battle of Badr); it was put on display with its prominent silver nose-ring, so as to gloat over the enemy and provoke their anger—a conflict management strategy of reciprocating anger (*mughāyaḥa*), which the Qur'an clearly endorsed: ". . .or trod paths to raise the ire of the Unbelievers. . . ." ⁴⁵ When Ḥulays returned to Makka, he pleaded with Quraysh: "I saw their camels tethered and ritually marked (for sacrifice). I do not think that they should be prevented from visiting the House!" His words too fell on deaf ears. Quraysh then sent Mikraz b. Ḥafṣ b. al-Ahkyaf whom the Prophet regarded as a perfidious man. While Mikraz was there, another Makkan emissary came; he was Suhayl b. 'Amr and was perceived as a genuine peace negotiator. Therefore, the Prophet called for parchment and ordered 'Alī to write down the terms agreed upon.⁴⁶

⁴⁴ Q 48:25 ('Alī).

⁴⁵ Q 9:120 ('Alī). See Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 268; al-Shāmī, *Subul al-hudā*, vol. 5, 93.

⁴⁶ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol.2, 454-61; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 3, 255-63; al-Qāḍī 'Iyād, *al-Durr fī ikhtisar al-maghāzī wal-siyar* (Cairo: Lajna Ihya al-Turath al-Islamiyya, 1966), 204-05; al-'Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 434-41.

The following is the full text of the treaty of Ḥudaybiyya⁴⁷:

1. *In Your Name, O Allah,*
2. *This is a peace agreement between Muḥammad b. Abdullah and Suhayl b. 'Amr.*
3. *They agreed to put off war for 10 years⁴⁸ during which the people shall be safe, restraining themselves from one another,*
4. *That whoever from Muḥammad's Companions comes over to Makka to perform the Ḥajj) or 'Umra or seek Allah's provisions [i.e., to trade], the safety of his person and property are guaranteed. And whoever from Quraysh comes to Madīna crossing over to Egypt or Syria, seeking Allah's provisions, the safety of his person and property are guaranteed,*
5. *That whoever from among Quraysh comes to Muḥammad without his patron's permission is to be sent back to them. And whoever comes to Quraysh from among Muḥammad's followers is not to be returned to him,*
6. *That there is to be between us an open depository (of sensitive information) and not treachery and bribery,*
7. *That whoever wishes to enter into a contract with Muḥammad and his compact is free to do so. And whoever wishes to enter into contract with Quraysh and their compact is free to do,*
8. *That you (Muḥammad and his group) retreat and not come to us in Makka this year. And that the next year, when you come to Makka, we will vacate the city and you will stay therein for only 3 days, bearing 'riding arms' and not weaponry of war,*
9. *That you are not to proceed (further than Ḥudaybiyya) with the animals, which you brought (for sacrifice at the sacred precincts of Makka),*
10. *That some men from among the Muslims and Quraysh are to bear witness (to this treaty).*

Two copies of the treaty were made. The second copy was written by Muḥammad b.

Musallama for Suhayl b. 'Amr.⁴⁹ The document was witnessed by Abū Bakr, 'Umar, 'Ali,

⁴⁷ This translation is based on the report found in Ḥamīdullāh, *Majmū'a wathā'iq*, 77-84.

⁴⁸ According to Ibn Hajar, "The period of 10 years reported by Ibn Ishāq is reliable, is also held by Ibn Sa'd, and is reported by al-Ḥākim from a *ḥadīth* narrated by 'Alī b. Abī al-Ṭālib. In Ibn 'Ā'idh's *Maghāzī*, from a *ḥadīth* of Ibn 'Abbās, the period given is 2 years, which is also reported by Mūsā b. 'Uqba. The reconciliation of (these apparently conflicting reports) is that Ibn Ishāq's 10-year-period refers to the stipulated duration of the peace treaty, whereas the 2-year-period report that by Ibn 'Ā'idh *et al* refers to the time that it lasted when it was nullified by Quraysh's violation of its terms. . . . As for the 4-year-period of the Treaty reported in Ibn 'Adī's *Kāmil*, Al-Ḥākim's *al-Mustadrāk*, and Al-Ṭabarānī's *al-Awsaṭ*, from a *ḥadīth* of Ibn 'Umar, it is *da'īf*, having a weak chain of authorities. It is also a *munkar* ("rejected") type of *ḥadīth* because it contradicts a *ḥadīth* that is sound (*ṣaḥīḥ*).” Ibn Hajar, *Fath al-bārī*, vol. 6, 641.

⁴⁹ Ibn Hajar, *Fath al-bārī*, vol. 6, 641.

Abdur Raḥmān b. 'Awf, Sa'd b. Abī Waqqās, Muḥammad b. Musallama, Abdullah b.

Suhayl b. Amr, and Mikraz b. Ḥafṣ.⁵⁰

During negotiations, vehement arguments occurred over the precise wording of the treaty. When the Prophet proposed to begin it with the *basmala*, Suhayl objected: “As for ‘the Beneficent’ (*al-raḥmān*), I swear by Allah, I do not know him. Write instead ‘In the Your Name, O Allah!’” When the Prophet proposed that “Muḥammad, the Messenger of Allah, agreed to this (treaty)” be written, Suhayl swore that had Quraysh recognized him as such, they would not have prevented him from entering Makka, far less fight him. So “Muḥammad, the son of Abdullah” was written instead. In this contentious manner were the terms of the treaty negotiated between Muḥammad and Suhayl—much to the chagrin of the Companions except Abu Bakr. ‘Umar, in particular, felt that the affair could have been settled with the sword rather than diplomacy, which to him seemed to give away so much and keep so little for the Muslims in terms of respect, honor, and prestige.

While the Treaty was being written, Abū Jandal b. Suhayl⁵¹ appeared in the Muslim camp bound in shackles and was warmly welcomed. He had been imprisoned in

⁵⁰ Apart from the *sīra/maghāzī/ta'rīkh* literature, the Ḥudaybiyya Incident is also related as a *ṣaḥīḥ* report in the following Ḥadīth sources: al-Bukhārī and Aḥmad; see al-Albānī, *Irwā' al-ghalīl*, vol. 1, 54-59. It is also reported with a similar wording and varying lengths in Ibn Khuzayma, *Ṣaḥīḥ* (*ḥadīth* no. 2906), vol. 4, 290; al-Ṭayālīsī, *ghawth al-madkhdūd* (*ḥadīth* no. 505 - *ṣaḥīḥ*), vol. 2, 116; al-Ṭahāwī, *Sharḥ al-ma'ānī* (*ḥadīth* nos. 4130, 6212) (Beirut: 'Ālam al-Kutub, 1994), 1st edition, vol. 2, 249, vol. 4, 174; Ibn Ḥibbān (no. 4853 - *ṣaḥīḥ*) in al-Albānī, *al-Ta'līqāt al-ḥissān 'alā ṣaḥīḥ ibn ḥibbān*, vol. 7, 231-32; al-Dāraquṭnī, *Sunan* (*ḥadīth* no. 2529), vol. 3, 267.

⁵¹ Abū Jandal's name was al-'Āṣī, He was the brother of Abdullah b. Suhayl who was a Muslim and had witnessed Badr. The first battle that Abū Jandal witnessed was al-Faṭḥ (the Conquest of Makka). It is mentioned here, so as to note the difference between the two men. He is often identified as Abū Jandal Abdullah, which is erroneous. Abū Jandal was escorted back to Makka on the day that the Ḥudaybiyya Treaty was signed under the *jiwār* of Mikraz b. Ḥafṣ, as 'Ā'idh has related. See Ibn Sayyid al-Nās, *Uyūn al-athar*, vol. 2, 177.

Makka by his father, tortured, and prevented from migrating to Madīna. His brother Abdullah, who had deserted Quraysh at Badr and joined the ranks of Muslims, was among those who greeted him. Pointing to Abū Jandal, Suhayl said to Muḥammad: “He is the first one that I request to return with me.” The Prophet remonstrated, arguing that the treaty had not been completed. But Suhayl insisted and the Prophet acceded to his demand, enraging Abū Jandal and creating confusion among the Companions. This concession, as Ibn Hajar noted, indicated that the Islamic legal approach to treaty making gives consideration to terms already articulated and agreed upon, though not yet written down. For this reason, the Prophet acquiesced, granting Suhayl’s request and assuring Abū Jandal of God’s help. After the Treaty was written and copied, the Prophet led the procession into the sacred precincts of Makka but stopped outside the Ka’ba area, where the sacrificial animals were slaughtered under the watchful eye of Quraysh.⁵² He was followed in that rite with great reluctance by most Companions. Some emulated him, performing the animal sacrifice and shaving their heads or clipping their hair. It was a rare instance in which, although his spiritual authority, as God’s Messenger, was not questioned, the legitimacy of his political authority, as Muslim ruler, among loyal subjects had hit a low point. He consulted his wife Umm Salma who advised him to lead by example, which he did, demonstrating that the

⁵² It may not have been lost on the keen student of Islamic Law that the Prophet and his Companions set out to perform ‘*umra*’ alone, as stated in the ḥadīth, yet they took with them sacrificial animals. The rites of ‘*umra*’, as discussed in the works of Islamic jurisprudence, do not include animal sacrifice unless it is connected with the intention of performing Hajj. This action of the Prophet indicates, in the realm of Islamic Law, that it is Sunna (i.e., *mandūb*, “recommended”), since according to the definition of the legal theorists (*uṣūliyyūn*), the Sunna is that which the Prophet reportedly, did, or gave tacit approval to things said or done in his presence or with his knowledge. See Ibn Hajar, *Fatḥ al-bārī*, vol. 6, 656.

Islamic State was not perverse to a woman's input on state affairs and that the political institution of consultation was flexible and open to all Muslims.

There was a serious political challenge to the Treaty when the Muslim entourage returned to Madīna, after spending about a month on the al-Ḥudaybiyya excursion.⁵³ The Prophet was soon visited by Abū Baṣīr,⁵⁴ a Muslim convert allied with the Banū Zahra, a Qurayshite clan. He had been imprisoned in Makka but had apparently escaped. Three days later, Abū Baṣīr's patron Kawthar and Khunays b. Jābir of Banū 'Āmir b. Lu'lī (another Qurayshite clan) came to Madīna to arrest him.⁵⁵ They delivered to the Prophet a letter from al-Akhnas b. Sharīq and al-Azhar b. 'Abd 'Awf, formally requesting Abū Baṣīr's extradition.⁵⁶ Like Abū Baṣīr, al-Akhnas was of the Thaḳīf tribe and Azhar of Banū Zahra. 'Umar suggested to Abū Baṣīr that he protect himself with a sword, but the Prophet advised against it: "O Abū Baṣīr! These people have made a peace agreement with us regarding your action. We will not break our contract with them. They have a right (to take you)." Abū Baṣīr protested: "You will send me back to the pagans for them to test my faith and torture me!?" The Prophet replied, "Be patient and hopeful, for Allah will give you a way out." His story is taken up again later in this chapter.

There was also a gender challenge to the Ḥudaybiyya Treaty, which was no less serious than the military and political challenges that it already faced. A

⁵³ The period is given as 10-20 days in al-Wāqidī and Ibn Sa'd but one and a half months in *'Uyūn al-athar*.

⁵⁴ Ibn Ishāq called him 'Utba; others, 'Ubayd. He was the son of Asīd b. Jāriya b. Asīd b. Abdullah b. Salama b. Abdullah b. Ghayra b. 'Awf b. Qisī (the latter was Thaḳīf b. Munabbih b. Bakr b. Hawazān, an ally of Banū Zuhura). See Ibn Sayyid al-Nās, *'Uyūn al-athar*, vol. 2, 178-80.

⁵⁵ It is also reported that one of the two men was named Murthid b. Hamrān. See Ibn Hajar, *Fath al-bārī*, vol. 6, 651.

⁵⁶ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 85.

small group of Muslim women fled Makka to Madīna, among them Umm Kulthūm, Umayma, Sabī'a, Umm al-Ḥukm, Burū', and the daughter of Ḥamza b. 'Abdul Muṭṭalib.⁵⁷ Quraysh sent a letter to Muḥammad, requesting their extradition. Some of the women's folk, like Umm Kulthūm's two brothers, al-Walīd and 'Ammāra, came to get her. Deliberating on the affair, the Prophet responded to them with these words of the Qur'an:

*O ye who believe! When believing women come unto you as fugitives, examine them. Allah is best aware of their faith. Then, if ye know them for true believers, send them not back unto the disbelievers. They are not lawful for the disbelievers, nor are the disbelievers lawful for them. And give the disbelievers that which they have spent (upon them). And it is no sin for you to marry such women when ye have given them their dues. And hold not to the ties of disbelieving women; and ask for (the return of) that which ye have spent; and let the disbelievers ask for that which they have spent. That is the judgment of Allah. He judgeth between you. Allah is Knower, Wise.*⁵⁸

Thus, he adjusted the regular procedure of extradition under the al-Ḥudaybiyya Treaty. Whereas he had repatriated Abū Jandal and permitted the arrest of Abū Baṣīr, the same was prohibited in relation to Muslim women. Consequently, Islamic Law overhauled the Treaty, exempting female believers from extradition on the basis of gender, rejecting the Quraysh interpretation that the general language of the Treaty is applicable to both men and women, and specifying a general agreement of the Prophet. Perhaps unprecedented in political history, this new Qur'anic injunction and foreign policy was specifically oriented to protect Muslim females fleeing political persecution, imprisonment, and torture. Not only did Islamic Law require the head of state to refuse

⁵⁷ Umm Kulthūm was the daughter of 'Uqba and wife of 'Amr b. al-'Āṣ; Umayma, daughter of Bishr and wife of Ḥassān who was also called Ibn Daḥdāda; Sabī'a, daughter of al-Ḥārith al-Aslamiyya and wife of Musāfir al-Makhzūmī also known as Ṣayfī b. al-Rāhib; Umm al-Ḥukm, daughter of Abū Sufyān and wife of 'Iyād b. Shadād; Burū', daughter of 'Uqba and wife of Shamās b. 'Uthmān; 'Abda, daughter of Abdul 'Uzzā b. Naḍla and wife of 'Amr b. 'Abdūd (who was killed at the Battle of Khandaq). See Ibn Hajar, *Fath al-bārī*, vol. 6, 650.

⁵⁸ Q 60:10 (Pickthall).

the repatriation of female refugees, once he had ascertained their status as believers⁵⁹ but also to dissolve their marriages to unbelievers as well as the marriages of Muslim men to unbelieving women and to oblige Muslim men to restitute the dowries of Muslim female refugees to their former husbands; thereafter, marriage to them was permissible. Moreover, the Qur'anic law required that Madanite Muslim men, who had unbelieving spouses still in Makka, relinquish their marital ties and request compensation for what they had spent on them in terms of dowry, gifts, maintenance, and so forth. 'Umar is said to have divorced his two Makkan wives—Qarība, the daughter of Abū Umayya, and the daughter of Jarwal al-Khuzā'ī,⁶⁰ adhering to the Qur'anic injunction. Nonetheless, Makka refused to acknowledge Madīna's unilateral alteration of the treaty, triggering this Qur'anic response: "*And if any of your wives have gone from you unto the disbelievers and afterward ye have your turn (of triumph), then give unto those whose wives have gone the like of that which they have spent, and keep your duty to Allah in whom ye are believers.*"⁶¹ Only one Muslim woman from Madīna is reported to have relinquished her marital ties with her Muslim husband and returned to Makka. She was

⁵⁹ Q 60:10 – "*O ye who believe! When believing women come unto you as fugitives, examine them. . . .*" Muslim exegetes and jurists differ on the exact nature of testing female Muslim refugees. One opinion is that she had to testify to God's Unity and Muḥammad's prophethood; another opinion is she had to take an oath, to wit, she was not forced to flee because of mundane reasons. It is related that whenever such a woman came to Madīna, 'Umar b. al-Khaṭṭāb was authorized to instruct her to swear by Allah that she had fled, not because of hatred for her spouse, desire to live in another land, or seeking the worldly life, but because of her love of Allah and His Messenger, as reported by al-Ṭabarānī with a *ḥasan* chain of authorities. "The test was that the she had to swear an oath, to wit, that she did not seek refuge as a recalcitrant wife, deserting her husband but was doing so for the sake of Allah and His Messenger. Once she took the oath, she was not returned and compensation for her dowry was sent to her former spouse. If she was not among those included in the Treaty, she did not swear to anything and her dowry was not returned," according to Ṣiddīq Khān al-Qinnawjī, *Faṭḥ al-bayān* (Beirut: al-Maktaba al-'Asriyya, 1993), vol. 14, 84.

⁶⁰ See al-Bukhārī (*ḥadīth* no. 2733) in Ibn Hajar, *Faṭḥ al-bārī*, vol. 6, 625.

⁶¹ Q 60:11 (Pickthall).

Umm al-Ḥukm, Abu Sufyān's daughter, who was among the first group of Muslim women who fled from Makka to Madīna in the post-treaty period. Leaving her Muslim ex-husband 'Īyāḍ b. Shaddād behind in Madīna, she renounced Islam and returned to Makka, where she married a member of Banū Thaqīf. After the Conquest of Makka, she re-embraced Islam. Her husband also accepted Islam.

Over the centuries, Muslim jurists have pored over the Ḥudaybiyya Incident, extracting many theological and juridical principles connected to acts of worship, relations between Muslims and non-Muslim, Islamic interstate law, and public etiquette. For example, in his *Zād al-ma'ād*, Ibn Qayyim extrapolated some 35 points or more of juridical import. Largely based on his analysis, the main aspects of the Prophet's political behavior and use of political resources in his conduct of state are highlighted below.

1. The Islamic State was willing to cooperate with the enemy state in order to preserve the holy precincts of Makka, which Islam had consecrated to monotheism. As the Prophet reportedly said, "*By Him in whose hand is my soul! They shall not ask me for any plan that sanctifies the sacred precincts of Makka, except that I will grant it to them.*"⁶² Therefore, he was prepared to enter into a relationship with the pagans, since they too venerated the Makkan holy sites, including the Ka'ba, as long as doing so did not compromise the integrity of Islamic monotheism. It was a delicate and difficult situation, which tried the believers like no other. The Companions were severely constricted by it, as

⁶² See al-Bukhārī (*ḥadīth* nos. 2731-32) in Ibn Hajar, *Fath al-bārī*, vol. 6, 621.

witnessed by 'Umar's incredulity over the terms of the treaty being negotiated, until Abū Bakr reassured him that the Prophet knew exactly what he was doing. Furthermore, the Treaty reflected, for the first time, Makka's formal recognition of Muslims as a polity and power with which to be reckoned.

2. As political leader, the Prophet seized the diplomatic initiative, out of consideration for the welfare and safety of the Muslim polity, to offer peace proposals first to the Quraysh side, thereby delaying war decisions and buying both sides time to rethink their moves and positions.
3. The Prophet showed forbearance for *Jāhili* idiosyncrasies, on the part of non-Muslim diplomats, conducted in his presence. An example is 'Urwa's talking to him while stroking his beard, which he tolerated since the discussion of grave matters of the Islamic State took priority over the annoyance or discomfiture of innocuous distractions.
4. The Prophet manifested a strong proclivity to consulting (*shūrā*) with his Companions frequently on state affairs, which is emphasized in the Qur'an (*"And take counsel with them in all matters of public concern"; "and who respond to [the call of] their Sustainer and are constant in prayer; and whose rule [in all matters of common concern] is consultation {shūrā} among themselves"*⁶³). This political consultation was flexible, ad hoc, and involved men and women alike with the ultimate decision lying with the Prophet. He followed the counsel of his wife Umm Salma who suggested that he lead his reluctant Companions by example,

⁶³ Q 3:159; 42:38 (Asad).

sacrificing his animal, shaving his head, and exiting the ritual state of *iḥrām* at al-Ḥudaybiyya. They followed him in that.

5. The Prophet's keen political acumen is underscored by his maintainance of steady composure and optimism concerning the Islamic mission in the face of great odds and danger, which positively impacted the mental state of his followers. Thus, when he saw Suhayl approaching the Muslim camp, he said to his Companions: "*Your affair is now made easy*," including his assurances to Abū Jandal, Abū Baṣīr, and other Muslim prisoners in Makka of God's ultimate help and victory.
6. The Prophet successfully concluded a peace agreement with the enemies of Islam, even though it was an affront to Muslim sensibilities in view of the exclusion in the Treaty of the divine attributes "the Beneficent" and "the Merciful" that were customarily written after the eulogy "In the Name of Allah," which opened his correspondences and speeches; omission of his title "Messenger of Allah," and the like. That is because the interest of the Muslim common weal took precedence over etiquette and symbols of his theological agenda and because, in essence, the concession did not undermine Islamic ideology in the least. Moreover, his decision established a precedent for juridical principles of Islamic Law, such as the maxim that evil or harm is repelled over procurement of benefit, the choice of the lesser of two evils is mandatory, and the like, which are elaborated in the works of *uṣūl al-fiqh*.

7. Overall, the Treaty appeared not to be in the best interests of the minority Muslim group of men, women, and children who were still imprisoned in Makka and who were not granted relief by its agreed upon terms; indeed, one of the major terms was the obligation upon the Islamic State to return any Muslim who came to it from Makka but who had existing social ties with the pagans, such as military alliance, tribal affiliation, slavery, and marriage—except for Muslim women who deserted their unbelieving spouses under a state of war and sought refuge in the Islamic State. For this category of Muslim female refugees with Makkan ties, the Qur'an prohibited their extradition to the enemy state and nullified their marriages to pagan spouses, as we have seen. Nevertheless, the Prophet's strategy was to sacrifice short term gains for the oppressed Muslim minority, subordinating them to the medium and long-term ideological objectives of winning the hearts and minds of a larger number of people, while trusting in God for the protection and deliverance of his fellow prisoners in Makka, which underlined the deep conviction in his role as Prophet of the Islamic Call.
8. Another category of Muslims exempted from the Islamic State's repatriation policy were those living in territories outside of Makka and Madīna, which were not governed by protocols of the Treaty.
9. That the Treaty allowed for extradition of Muslims who fled Makka, seeking asylum in Madīna is obvious. The first time that Abū Baṣīr (whose story was

mentioned earlier) came to Madīna from Makka in the post-Ḥudaybiyya period, the Prophet did not immediately grant him residency, detain him, or pressure him to leave Madīna. But when his Makkan patrons came to arrest him, the Prophet facilitated them, deferring to the Treaty. The second time that Abū Baṣīr came to the Islamic State was after he had killed one of his pagan captors Khunays b. Jābir at Dhil-Ḥulayfa, where they were camped, and pursued the other captor Kawthar to Madīna; by which time, he had already informed his slain comrade's tribe. Consequently, Khunays' people came to the Prophet, requesting blood-money. He responded in a curious way: he neither gathered blood money on Abū Baṣīr's behalf nor permitted him residency. Indeed, he declined liability for Abū Baṣīr's action because it had transpired outside the Islamic State's jurisdiction and was the legal responsibility of his captors. Moreover, he did not allow Abū Baṣīr to stay in Madīna because it would have obliged the Islamic State to repatriate him to Makka. Abū Baṣīr said to him: "You know that had I gone with them, they would have tortured me. There is no retaliation against you for what I have done because I am no longer under their treaty (with you)." The Prophet did not repudiate his statement and, using a metonymy (*ta'rīd*), alluded to him that it would be prudent for him to leave Madīna: "*Woe unto you! If only he had some men with him!*" Abū Baṣīr took the hint and left Madīna. Interestingly, Makkan authorities seemed to agree with the Prophet's position. When informed about the event, Abū Sufyān said, "Muḥammad cannot be held responsible for any claim (as regards Abū Baṣīr),

since he had already surrendered to you and had not killed on (Muḥammad's) order. In addition, I don't see that any claim of (blood money) can be made against Abū Baṣīr's family because he is not upon their religion."

10. The Abū Baṣīr affair also put on the interstate relations map an important aspect of the Islamic State's public law, which is that once the Treaty was inked and endorsed, it could not be invoked on behalf of Muslims outside the scope of its jurisdictions, living in territories or polities besides Makka and Madīna, the two signatories to it; that is, the Islamic state does not have a legal obligation to do so. The evidence is that after escaping his captors, Abū Baṣīr took up position at al-ʿĪṣ, along the coast near the settlement of the Banū Salīm, situated between Madīna and Makka. It was a route to Syria used by Makkan traders. There he was joined by Abū Jandal, who had escaped from Makka, and others, until their number swelled to 70. They relentlessly attacked Makkan trade caravans along the route. It was a clever tactical move that the Prophet had indirectly ordered, which proved devastatingly effective. The highway robberies took a severe toll on the Makkan economy. Reeling from intense economic and political pressures, Quraysh dispatched a delegation headed by Abū Sufyān b. Ḥarb to persuade Muḥammad to recall Abū Baṣīr, and his highwaymen who had the status of *persona non grata* in Madīna. He proposed an amendment to the Treaty, to wit, "Whoever forsakes us for you, he is yours lawfully without any redress." The Prophet readily accepted the proposal and sent a letter to Abū Baṣīr,

summoning him and his group to Madīna.⁶⁴ But Abū Baṣīr never made it to Madīna: he died while reading the Prophet's letter. Abū Jandal and his comrades buried him at their hideout and built a mosque or building on the spot, after which they came to Madīna, abandoning their raids on Makkan traders.

11. During the negotiation of the Treaty, the Prophet was wont to detain Makkan plenipotentiaries in reciprocity for his plenipotentiaries who had been detained by Quraysh until they were safely returned to al-Ḥudaybiyya. Whereas his representatives were treated harshly in Makka, the Prophet was humane with Makkan representatives who came to his camp (More on the Prophet's treatment of foreign envoys will be discussed later in this chapter).

The above are salient features of the Prophet's exploitation of power resources (e.g. ideology, symbols, information, human, and material) demonstrated at al-Ḥudaybiyya in order to stave off war and secure peaceful relations with Makka; but it is by no means an exhaustive study. Others have written on the juridical, theological, and ethical behavior during the Ḥudaybiyya Incident,⁶⁵ which need not concern us here, since our focus was on the Prophet's statesmanship and use of political power. Finally, the Treaty lasted only a period of two years. It was violated when the Banū Bakr, allies of Quraysh, launched an unprovoked attack on Khuzā'a who were allied with the Islamic State. The violation of the Treaty prompted the Prophet to march with some

⁶⁴ Ḥamīdullāh, *Majmū'a al-wathā'iq*, 86-87.

⁶⁵ See Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 267-75; Ibn Sayyid al-Nās, *Uyūn al-athar*, vol. 2, 173-77; Aḥmad, *al-Sīra al-nabawiyya fī daw' al-maṣādir al-aṣliyya*, 494-96; Khattāb, *al-Rasūl al-qā'id*, 192- 93.

10,000 Companions to Makka, resulting in its conquest in Ramaḍān 10, 8/629.⁶⁶ The following passages of the Qur'an are said to have been revealed during the Ḥudaybiyya Incident or shortly thereafter: "Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loveth not transgressors"⁶⁷; "Fight during the sacred months if you are attacked; for a violation of sanctity is [subject to the law of] just retribution. Thus, if anyone commits aggression against you, attack him just as he has attacked you - but remain conscious of God, and know that God is with those who are conscious of Him"⁶⁸; "And whoever among you is sick or hath an ailment of the head must pay a ransom of fasting or almsgiving or offering"⁶⁹; Q 60:10-11 (previously mentioned); and *Sūra al-Fath* (Q 48) in its entirety.⁷⁰ In the final analysis, was the Ḥudaybiyya Treaty "the greatest victory of Islam"? Al-Zuhri attempted to make such a case: "Nothing was ever greater before or after it. That is because fighting was the people's custom; but when the peace agreement put off war,

⁶⁶ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 29-40; Ibn al-Athīr, *Ta'rīkh*, 255; al-Bukharī (*ḥadīth* nos. 4275-77) in Ibn Hajar, *Fath al-bārī*, vol. 9, 384; Muslim (*ḥadīth* no. 1113) in al-Nawawī, *al-Minhāj*, 697.

⁶⁷ (Q 2:190). It is reported that the year after the Ḥudaybiyya Incident, some Companions set out for Makka, as permitted under the Treaty, to perform 'umra but feared that Quraysh might prevent them again from reaching the Ka'ba and dreaded fighting during Dhul-Qa'da, one of the holy months of pilgrimage. This *āya* is reported to have been revealed concerning them, permitting self-defense without transgression. Its *isnād*, however, is *da'īf*. See Al-Wāḥidī, *Asbāb al-nuzūl*, 55; Ibn Hajar, *al-'Ujāb fī bayān al-asbāb*, vol. 1, 465-68; Al-Suyūṭī, *Lubāb al-nuqūl*, 33; Ibn Abī Ḥātim, *Tafsīr*, vol. 2, 325.

⁶⁸ Q 2:194 (Asad). The Prophet, together with some Companions, set out for 'umra, the year after the Ḥudaybiyya Treaty, entering Makka during Dhu-l Qa'da, and staying there for three nights. They were determined, encouraged by this *āya*, not to let Quraysh stop their procession as before. See Ibn Abī Ḥātim, *Tafsīr*, vol. 2, 328-29; al-Wāḥidī, *Asbāb al-nuzūl*, 55-56; Ibn Hajar, *al-'Ujāb*, vol. 1, 468-71; al-Suyūṭī, *Lubāb al-nuqūl*, 33.

⁶⁹ Q 2:196 (Pickthall). Ka'b b. 'Ujra (d. after 50/670), like the Prophet and other Companions at Ḥudaybiyya, was also in the ritual state of *ihrām* for the performance of 'umra, but he was bothered by lice. On the basis of this *āya*, the Prophet ordered him to shave his head and make the necessary compensation (fast 3 days, sacrifice a sheep, or feed 6 poor persons) for his unintended violation of *ihrām*. See Muslim (*ḥadīth* no. 1201) in al-Nawawī, *al-Minhāj*, 749-51; Ibn Abī Ḥātim, *Tafsīr*, vol. 2, 338-45; al-Wāḥidī, *Asbāb al-nuzūl*, 59-61; Ibn Hajar, *al-'Ujāb*, vol. 1, 488-94; al-Suyūṭī, *Lubāb al-nuqūl*, 34-35.

⁷⁰ A Madinite *sūra* of 29 *āyāt*; see al-Wāḥidī, *Asbāb al-nuzūl*, 382-83; al-Suyūṭī, *Lubāb al-nuqūl*, 214. al-Ḥākim reported that *al-Fath* was revealed in its entirety between Makka and Madīna, addressing the Ḥudaybiyya incident. Al-Dhahabī commented that it is *ṣaḥīḥ* according to Muslim's criteria—except that in its *isnād* was Ibn Ishāq whom Muslim did not rely upon. See al-Ḥākim, *al-Mustadrak*, vol. 2, 539-40.

people felt safe and guaranteed one another's safety. Although they still met as usual, they discussed and argued with words but did not fight. Those who learnt about Islam, having understood it, accepted it. As a result, within a two-year period under the Treaty, the same number of people from Quraysh or more entered into Islam as there were before it." On the heels of al-Zuhri's comment, Ibn Hajar has wound it up as follows.

The Treaty was a prelude to the greater conquest (of Makka) during which people entered Islam in droves. It was the key (to opening the city). Thus, the Ḥudaybiyya Incident has been called a 'victory' (*fath*) in the Qur'an (Q 48), for *fath* in Arabic means 'opening' of something that is closed. The peace agreement was a closed thing until Allah opened it, since one of its determinants was to prevent Muslims from accessing the House (i.e. Ka'ba). The prevention wronged them outwardly but strengthened them inwardly. Because of the attendant safety and security (under the Treaty), people freely intermingled without recriminations. Muslims could recite the Qur'an to unbelievers and argue with them about Islam publicly, whereas before, they could only do so secretly. Those who hid their Islam now made it manifest. Consequently, having aspired to great glory and dominance, Quraysh were brought low.⁷¹

Part III

c. Foreign Relations: The Prophet Invites Neighboring Kings to Islam

Shortly after the Ḥudaybiyya Incident, ca. 6-9/627-30,⁷² the Prophet initiated diplomatic contacts with political systems inside and outside Arabia, including the kingdoms of al-Ghassāsana, Bahrain, Oman, Najrān, Ḥaḍramawt, Mahra, Abyssinia, Egypt, and the Byzantine and Persian Empires. He dispatched envoys to Arab and non-Arab rulers, inviting them to Islam, granted diplomatic immunity to foreign envoys, and honored them with hospitality and gifts. He said to his Companions: "Allah has sent

⁷¹ See Ibn Hajar, *Fath al-bārī* vol. 8, 649.

⁷² The MHT gives conflicting reports on the year that the Prophet dispatched his envoys with letters to neighboring kingdoms: (i) Dhu-l Ḥijja, 6/627 (al-Wāqidī, al-Ṭabarī et al) (ii) Muḥarram, 7/628 (al-Wāqidī, Ibn Sa'd) (iii) 8/629 (al-Bayhaqī) (iv) ca. 6-10/627-31 (Ibn Hishām), and so forth. Ibn Kathīr attempted to reconcile these reports, stating that "there is conflict in them, since it (the Prophet's dispatch of envoys to the kings) began before the Conquest of Makka and after Ḥudaybiyya. See al-Shāmī, *Subul al-hudā*, vol. 12, 336-39. I support the latter's view, since it is possible that the Prophet had the letters written for the kings in 6/627, entrusting them to his selected envoys with the order to deliver them; except that all of them did not reach their destinations in the same year but in the following years—a year or two before the Prophet died.

me to all peoples, so do as I say and Allah will show you mercy. Do not differ with me like the Disciples (*al-ḥawāriyūn*) differed with Jesus, Son of Mary. . . .” His Companions said, “O Messenger of Allah! We shall carry out your order, so send us wherever you wish.”⁷³ The Prophet’s chosen envoys were

- (i) Diḥya (b. Khalīfa) al-Kalbī who was sent to Caesar (i.e. Heraclius), the emperor of Rome (Byzantine Empire);
- (ii) Abdullah b. Hudhāfa al-Sahmī, to Chosroes II, the emperor of Sasanid Persia;
- (iii) ‘Amr b. Umayya Aḍ-Ḍamrī to Negus I, the king of Abyssinia;
- (iv) Ḥaṭīb b. Abī Balta’a to al-Muqawqis, the king of Coptic Alexandria, Egypt;
- (v) ‘Amr b. al-‘Āṣ al-Sahmī to Jayfar and ‘Ibād b. al-Julandī, the Azdite brothers-kings of Oman;
- (vi) Salīṭ b. ‘Amr, of Banū ‘Āmir b. Lu’ayy, to Thumāma b. Athāl;
- (vii) Hawdha b. ‘Ali al-Hanafīyyīn to the kings of al-Yamāma;
- (viii) Al-‘Alā’ b. al-Haḍramī to al-Mundhir b. Sāwī al-‘Abdī, the king of Bahrain; ruler of Hajar (and the brother of Banū Abdul Qays, ruler of Bahrayn);
- (ix) Shujā’ b. Wahab al-Asadī to al-Ḥārith b. Abī Shamir al-Ghassānī, the king of Syria); he was also sent Jabala b. al-Ayham al- Ghassānī;

⁷³ A *mursal* report; see Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 253; al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 386-88; Ibn Abdul Ḥakam, *Futūḥ miṣr wal-maghrib*, ed. Abdul Mun‘im ‘Āmir (Cairo: General Organization for Culture Centers, 2001), 64-65; al-Shāmī, *Subul al-hudā*, vol. 12, 338-39.

- (x) Al-Muhājir b. Abī Umayya al-Makhzūmī to al-Ḥārith b. ‘Abd Kalāl al-Ḥimyarī, the king of Yemen;
- (xi) Jarīr to Dhul-Kalā’;
- (xii) Al-Sā’ib to Musaylima.

All of them returned to Madīna before the Prophet passed away, except for al-‘Alā’ b. al-Haḍramī who was still in Bahrain at the time.⁷⁴ According to al-Nawawī (d. 676/1277), the Arabs used to refer to foreign leaders by generic titles, such as Caesar (Ar. *Qayṣar*) for the Roman ruler, Chosroes (*Kisrā*) for the Persian ruler, Negus (al-*Najāshi*), Muqawqis for the Coptic ruler, Khan (*Khāqān*) for the Turkic ruler, Pharaoh (*Fir‘awn*) for the Egyptian ruler, *Tubba’* for the Himyarite ruler, and so forth.⁷⁵ Informed that his letters would not be read by rulers unless they were properly sealed, the Prophet ordered that a silver ring be made inscribed with the words *Muḥammad Rasūlullāh* (“Muḥammad [is] the Messenger of Allah”) in ascending order in three separate lines.⁷⁶ Its symbolism signified the flow of sovereignty in the Islamic State, from God above to His Prophet below. The insignia is visible on a few of his original letters that have come down to us (see Excursus at the end of this dissertation). Al-Maqrizī summed up the reactions of rulers to the Prophet’s invitation as follows.

Al-Muqawqis accepted the Messenger of Allah’s letter and sent him gifts, including four concubines (among them Māriya, the Copt). Caesar (i.e. Heraclius) accepted his letter and recognized his prophethood but, fearing his people, withheld (his conversion to Islam). Negus (I) believed in him and followed him, declaring his Islam at the hands of Ja‘far b. Abī Ṭālib and sending his son with 60 other Abyssinians (to Madīna) but all of

⁷⁴ Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 253-54; al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 389; al-Ṭabarānī, *al-mu‘jam al-kabīr*, vol. 20, 8-9; al-Ṭabarī, *Ta’rīkh*, vol.3, 644; Ibn Hajar, *Fath al-bārī*, vol. 9, 582-83.

⁷⁵ Al-Nawawī, *al-Minhāj*, 1145.

⁷⁶ Ibn Sa‘d, vol. 1, 222-51; *Sharḥ al-mawāhib*, vol. 5, 3-4; al-Maqrizī, *imtā’ al-asmā’*, vol.7, 34 and vol. 9, 335.

whom drowned on their way. The Messenger of Allah had also requested that the Abyssinian king marry him (in absentia) to Umm Ḥabība, daughter of Abū Sufyān b. Ḥarb. She was a refugee in Abyssinia with her husband 'Ubaydulla b. Jaḥsh who converted to Christianity. He married her to him, giving a dowry of 400 dinars on his behalf. Abarwīz [b.] Hurmuz (Chosroes II) tore his letter, and the Messenger of Allah said, "May Allah tear up his kingdom!" The son of Chosroes II, Siroes, killed his father, succeeding him. Hawdha b. 'Alī sent a delegation to the Messenger of Allah with the proposal that he would accept Islam on condition that the Messenger of Allah bequeath Islamic rule after his death; if not, then he would declare war on Madīna. In response, the Messenger of Allah prayed, 'O Allah! Rid me of him!' Shortly thereafter, Hawdha died. As for al-Mundhir b. Sāwā, he and the people of Bahrain accepted Islam."⁷⁷

The historical record on the Prophet's letters has been the subject of critical analysis by Muslim and non-Muslim scholars. Their approaches typically follow the skeptical, 'mediating'⁷⁸, and traditionalist or 'introductory'⁷⁹ patterns discussed in the Prolog to this work. Those who cast aspersions on the Prophet's letters to the kings included Muir (d. 1905),⁸⁰ Caetani (d. 1935), and Margoliouth (d. 1940)⁸¹; the skeptical outlook is also found in the works of some Muslim scholars, such as 'Āqil's *Ta'rīkh al-'arab al-qadīm wa 'aṣr al-rasūl* and Ḥasan's *Ta'rīkh al-islām al-siyāsī*,⁸² to name a few. Among those who mediated the letters were Gibbon (d. 1794) and Arnold (d. 1930), while others like Stubbe (d. 1676) and Noldeke (d. 1930) accepted the reliability or authenticity of the letters, as have most Arab and Muslim scholars.

Relying on Caetani and Buhl (d. 1932), Watt dismissed the story of the Prophet's letters as recorded in the MHT but acknowledged that they might have a historical

⁷⁷ Al-Maqrīzī, *Imtā' al-asmā*, vol. 1, 305.

⁷⁸ Rodinson, "Modern Studies on Muhammad," 46.

⁷⁹ The traditionalist is deemed apologetic from a secular point of view. If used by secularists, Bernard Lewis calls this approach "introductory," since the aim is to acquaint western audiences on Muḥammad and Islam with what Muslims believe and relate about them. See his *Gibbon on Muhammad*, "Daedalus," Vol. 105, No. 3, *Edward Gibbon and the Decline and Fall of the Roman Empire* (Summer 1976), the MIT Press, 89-101; 93.

⁸⁰ William Muir, *The Life of Mohamet* (London: Smith, Elder, and Co., 1861), vol. IV, Cha XX, 50-60.

⁸¹ D. S. Margoliouth, *Mohammad and The Rise of Islam* (NY: G. Putnam's Sons, 1905), 364-71.

⁸² Ḥasan Ibrāhīm Ḥasan, *Ta'rīkh al-islām al-siyāsī wal-dīni wal-thaqāfi wal-ijtimā'i* (Beirut: Dār al-Jayl, 1996), 14th edition, vol. 4, 129-41.

basis: "The conclusion to be drawn is not that the stories of the six envoys are worthless, they contain a kernel of fact which has become distorted in the course of transmission because of the theological interest." His reasoning is as follows.⁸³

1. Watt: *"This story cannot be accepted as it stands. Muḥammad was a wise and far-seeing statesman, and he did not 'lose his head' after the measure of success he obtained at al-Ḥudaybiyya. To appeal to the princes at this period to accept Islam would have involved more harm than good."* Coming from a simple politician chiefly concerned with the preservation of his polity, maybe; but Muḥammad was no ordinary politician. He was a revolutionary; hence, his diplomatic initiative toward neighboring kingdoms was hardly a "preposterous" affair but was calculated on the internal logic of the state's Islamic ideology, reflecting growing confidence in the success of its mission—namely, the Islamic Call—his role as a universal messenger, and a tactical probe of the receptivity of foreign political systems to the new faith. On his way from al-Ḥudaybiyya to Madīna, the Prophet rehearsed *Sūra al-Fath* (Q 48), as noted earlier. The *sūra* bristles with promises and revelations of success for the Islamic call⁸⁴; divine succor⁸⁵; God's

⁸³ Watt, *Muhammad in Medina*, 345-47.

⁸⁴ *"Verily We have granted thee a manifest Victory (fath)" (Q48:1). Fath*, "victory" (literally, "opening"), as in the conquest of a city, opening it before which it was closed; Exegetes differ greatly on its reference. Since the *sūra*'s connection is with the occasion of Ḥudaybiyya, *fath* most likely refers to the Treaty. "There was no greater *fath* than Ḥudaybiyya," according to al-Zuhri. "That is because unbelievers mixed freely with Muslims, hearing their talk about Islam and imbibing it, so that in three years' time, a great number of people became Muslims." See Siddiq Khān al-Qinnawjī, *Fath al-bayān*, vol. 13, 86. Thereafter, *fath* was applied to Muslim victories in general, such as the Prophet's reference to the seizure of Khaybar as "a manifest victory (*fath*)," dividing its spoils among the participants at Ḥudaybiyya, as reported by Aḥmad, Abū Dāwūd, al-Ḥākim, and al-Bayhaqī, and others.

⁸⁵ *"And that Allah may help thee with a powerful help" (Q 48:2).*

omnipotence⁸⁶; the role of God's Messenger⁸⁷; divine sovereignty as above, so below⁸⁸; spoils of war⁸⁹; other gains,⁹⁰ including the defeat of non-Muslim foes⁹¹, realization of visions,⁹² and the perceived imminence of Islam's dominance of Islam in the land.⁹³ In sum, the Qur'anic impetus behind the Prophet's diplomatic engagement with the interstate system came on the heels of concluding a major peace treaty with Quraysh, ushering in a new social environment conducive to proselytization of the new Faith. At this stage of political evolution, 6/627, Islam was more than a mass religious movement: it was a burgeoning state exhibiting an expansionist tendency because of its defiant ideology of "making all the gods One God." Thus, the Prophet's policy of inviting unbelieving rulers to accept his leadership at the spiritual and political levels was a logicity of the Islamic *idéologique*. Recall his statement quoted earlier, when he was choosing the Muslim envoys: "Allah has sent me to all peoples, so do as I say and Allah will show you mercy. Do not differ with me like the Disciples (*al-ḥawāriyūn*) differed with Jesus, Son of Mary. . . ." Although

⁸⁶ "For to Allah belong the Forces of the heavens and the earth; and Allah is Exalted in Power, Full of Wisdom" (Q 48:7).

⁸⁷ "We have truly sent thee as a witness, as a bringer of Glad Tidings, and as a Warner. . . ." (Q 48:8)

⁸⁸ "To Allah belongs sovereignty (*mulk*) of the heavens and the earth. . . ." (Q 48:14).

⁸⁹ "And many spoils (*maghā'nim*) will they acquire (besides): and Allah is Exalted in Power, Full of Wisdom. . . ." (Q 48:19-20). The spoils here are in reference to Khaybar, which is treated in the chapter on "The Prophet's Relations with Non-Muslims."

⁹⁰ "And other gains (there are), which are not within your power, but which Allah has compassed: and Allah has power over all things" (Q 48:21). T

⁹¹ "If the Unbelievers should fight you, they would certainly turn their backs; then would they find neither protector nor helper. . . ." (Q 48:22-23).

⁹² "Truly did Allah fulfill the vision for His Messenger: ye shall enter the Sacred Mosque, if Allah wills, with minds secure, heads shaved, hair cut short, and without fear. For He knew what ye knew not, and He granted, besides this, a speedy victory" (Q 48:27).

⁹³ "It is He Who has sent His Messenger with Guidance and the Religion of Truth, to proclaim it over all religion: and enough is Allah for a Witness. Muḥammad is the apostle of Allah. and those who are with him are strong against Unbelievers (but) compassionate amongst each other. . . ." (Q 48:28-29).

several cultural forces (economic, political, social, etc) were involved in changing Arabia's political landscape, the impact of Muḥammad's revolution was great, which paved the way for the Islamic State's expansion. History recorded the unexpected fall of the Byzantine and Persian empires less than 50 years after his death. Or, as Roy put it, "The great historian Gibbon describes the rise and expansion of Islam as 'one of the most memorable revolutions which has impressed a new and lasting character on the nations of the globe.' . . . The Roman Empire of Augustus, as later enlarged by the valiant Trajan, was the result of great and glorious victories, won over a period of seven hundred years. Still, it had not attained the proportions of the Arabian Empire established in less than a century. The Empire of Alexander represented but a fraction of the vast domain of the Khalifs. For nearly a thousand years, the Persian Empire resisted the arms of Rome, only to be subdued by the 'Sword of God' in less than a decade."⁹⁴

2. Watt: *"Moreover, close examination shows that the sending of some of the envoys was prior to al-Ḥudaybiyya. The mission of Dihya to Bostra must have been in the summer of 627, since he was plundered on his return by Judhām and a punitive expedition was sent against them about October 627."* The MHT record is inconsistent on the exact date that the Prophet dispatched his envoys to kingdoms inside and outside of

⁹⁴ M. N. Roy, *The Historical Role of Islam* (Bombay: Vora and Co. Publishers Ltd., 1938), 4-6.

Arabia.⁹⁵ But the conflicting dates can be reconciled in a number of ways. According to Ibn Hajar, after his return from al-Ḥudaybiyya, the Prophet dispatched Diḥya with Heraclius' letter toward the end of 6/627; his envoy, however, did not reach the Emperor until Muḥarram, 7/628. He added, "al-Wāqidī said that, and it is recorded in *Ta'riḫ al-khulafā'*, the sending of the letter to Heraclius was in 5/626. But the first report is more firmly established; indeed, it is an error on the part of Abū Sufyān (narrator of the *ḥadīth* in al-Bukhārī) that the incident (of his meeting Heraclius) occurred during the period of the al-Ḥudaybiyya Treaty, since it is unanimously agreed that the Treaty (was signed) toward the end of 6/627."⁹⁶ In sum, it is possible that the Prophet's letters to the kings were written at the end of 6/627 and that his envoys left in 7/628, delivering them to the various destinations over the next few years before the Prophet's death in 11/632, since it is recorded that all of the envoys returned to Madīna before he died—except 'Amr b. al-'Āṣ who remained in Oman, officiating Islamic duties.⁹⁷

3. Watt: "*The two slave-girls brought back by the envoy to the Muqawqis appear to have been in Medina soon after January 627, since Muḥammad presented one of them to*

⁹⁵ Ibn Ishāq vaguely gave the date that the Prophet dispatched his envoys with letters to kings as vaguely between Ḥudaybiyya and his death. Ibn Hishām was more specific, suggesting that it was shortly after his return from Ḥudaybiyya. Al-Ṭabarī, from a report by Al-Wāqidī, said that it was in Dhul-Ḥijja, 6/627. Ibn Sa'd also recorded it as Dhul-Ḥijja, 6 AH but stated that, after the Prophet returned from Ḥudaybiyya, he wrote letters to foreign kings, inviting them to Islam, but did not send them out with his six envoys until Muḥarram, 7 AH. See Aḥmad, *al-Sīra al-nabawiyya*, 514.

⁹⁶ Ibn Hajar, *Fath al-bārī*, vol. 1, 80;

⁹⁷ Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 1, 226; Ibn Sayyid al-Nās, *Uyun al-athar*, vol. 2, 353-55; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 37-43; Ibn Qayyim, *Zād al-ma'ād*, vol. 3, 605-07; Ibn Ṭulūn, *I'lām al-sā'ilīn*, 96-100; al-Zuhaylī, *Naṣab al-rāya*, vol. 4, 423-24; Ḥamīdullāh, *Majmū'a wathā'iq*, 161-62.

Ḥassān b. Thābit at the conclusion of the 'affair of the lie' (ifk)." The majority of reports in the MHT, however, confirm that the Prophet presented Ḥassān with the Coptic slave-girl Sīrīn not at the end of the 'Ifk affair but in 7/628.⁹⁸

According to Khaṭṭāb, "These two dates—6/627 and 7/628—are often mixed up; thus, some historians assumed that Ḥātib went to Egypt in 7/628, which is speculative, since the sources agree that he set out as envoy near the end of 6/627, after the battle of al-Ḥudaybiyya."⁹⁹

4. Watt: "Theological motive might have been behind the fabrication [of the Prophet's letters to kings] in order to substantiate the claim that Muḥammad was a universal messenger." This statement is speculative. The exegetical literature on the Qur'an, however, holds that all the āyāt that speak to the universal scope of Muḥammad's messengership were revealed in Makkan (Pre-Hijra) suwar of the Qur'an, thus placing it before 6 AH when he announced his wish to call the kings to Islam. In Ḥadīth literature, there are *ṣaḥīḥ* reports that confirm his sending of envoys with letters to the kings, although their contents are not given—except for his letter to Emperor Heraclius and its circumstances, which are related in detail.¹⁰⁰ It is reported that "the Prophet wrote to Chosroes, Heraclius, Negus,

⁹⁸ Al-Ṭabarī, *Ta'rikh*, vol. 3, 21-22; Ibn al-Athīr, *Ta'rikh*, 251; al-Balādhurī, *Ansāb al-ashraf*, 531.

⁹⁹ See Maḥmūd Shīṭ Khaṭṭāb, *Sufarā al-nabī* (Beirut: Mu'assasa al-Rayyān, 1996), 1st edition, vol. 1, 121-22.

¹⁰⁰ Al-Bukhārī (*ḥadīth* nos. 2938, 2940-41) in Ibn Hajar, *Fath al-bārī*, vol. 7, 206-08; Muslim (*ḥadīth* nos. 1393-97, 1773) in al-Nawawī, *al-Minhāj*, 1141-42; Abū 'Awwāna, *Musnad* (*ḥadīth* no. 6726) (Beirut: Dār al-Ma'rifa, 1998), 1st edition, vol. 4, 266-68; Aḥmad, *Musnad* (*ḥadīth* nos. 2370; see also nos. 2371-72), 223-24; Ibn Ḥibbān (*ḥadīth* nos. 6519-21) in al-Albānī, *al-Ta'līqāt al-hissān 'alā ṣaḥīḥ ibn ḥibbān*, vol. 9, 273-76.

and to every tyrant (*jabbār*), inviting them to Allah. . . .”¹⁰¹ There are also non-Muslim sources that refer to the some of the Prophet’s letters, such as the 12th century Armenian writer Abū Ṣāliḥ who, in his *Kanā’is miṣr wa adīratuhā* (“The Churches of Egypt and Their Administration”), cited the Prophet’s letter to Muqawqis¹⁰²; also, the previously mentioned Christian sources given by Gibbon, which altogether give credence to the story of the Prophet’s letters to kings. Nevertheless, Watt’s view that “the story (of the letters) cannot be accepted as it stands”¹⁰³ has some resonance with *muḥaddithūn* who have long since contested their authenticity as a whole,¹⁰⁴ which is proof again that traditionalists have never accepted the MHT as being wholly reliable and authentic (as explained in the Prolog)—even so, they agreed on the historicity of the event and the authenticity of a few of the letters based on their criteria of *isnād* and *jarḥ wa ta’dīl*. Indeed, “the texts of these letters cannot be authenticated (by) the *ḥadīth* method, which does not mean that the Prophet’s sending of envoys with his letters is negated,” explained al-‘Umarī. “It also does not represent historical criticism of the texts, since it is possible that they are authentic in respect of form and content but do not meet the level of proof [i.e. the categories of *ṣaḥīḥ*

¹⁰¹ Muslim (*ḥadīth* no. 1774) in al-Nawawī, *al-Minhāj*, 1144-45.

¹⁰² See ‘Izzuddīn Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī ilā mulūk fī ‘aṣriḥ*, “Proceedings of the 3rd World Conference on *Sīra* and *Sunnā*” (Beirut: al-Maktaba al-‘Arabiyya, 1981), edited by ‘Abdullah Ibrāhīm al-Anṣārī, 1st edition, vol. 6, 265.

¹⁰³ Watt, *Muhammad at Medina*, 345.

¹⁰⁴ Al-Wāqidi reported on the Prophet’s letters from the *asānīd* of 4 Companions, but he is considered *matrūk* by *ḥadīth* scholars; therefore, his *ḥadīth* reports are graded as *ḍa‘īf*. On the other hand, his student Ibn Sa’d, who is considered *ṣudūq*, adhered to al-Wāqidi’s path, in his *al-Ṭabaqāt al-kubrā*, relying heavily on his transmission, reconciling conflicting statements of the 4 Companions, and transmitting them as one continuous report as well as other narrations of the Prophet’s letters from the path of Hishām al-Kalbī (who is *ḍa‘īf*) and ‘Alī b. Muḥammad al-Madā’nī (who is *ṣudūq*); even so, what is reported from the latter is not free from defect, including *mursal* reports. See al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa ṣaḥīḥa*, vol. 2, 454.

and *ḥasan*] used in *sharia*-based politics. . . . which is the same for other documents of the Prophet's time."¹⁰⁵

To date, it is believed that some of the Prophet's original letters to the kings have come to light. Ḥamīdullāh, in his *Majmū'a al-wathā'iq al-siyāsa*, gave their number as six. These six letters are those that the Prophet sent to the Byzantine Emperor Heraclius, the Persian Emperor Chosroes, the Abyssinian Negus, the Muqawqis of Coptic Alexandria in Egypt, the fraternal kings of Oman Jayfar and 'Abd b. al-Julandī, and the king of Bahrain al-Mundhir b. al-Sawā, which are treated fully in an excursus at the end of this dissertation. A 1981 study, presented by 'Izzuddīn Ibrāhīm at the Third World Conference on the *Sīra* and *Sunna* in Qatar, assessed the state of research on the Prophet's letters and the existence of some of them, arguing for the preponderance of their authenticity.¹⁰⁶ But his findings lack certitude and are therefore unlikely to convince skeptics. For this reason, al-'Umari called for a fresh research to "decisively" establish the authenticity of the letters once and for all. The problem with this objective is that if certitude is sought, the findings will hardly convince everyone interested in the subject, as it was argued in relation to the epistemological issues of *reliability*, *authenticity*, and *certainty* connected with the Islamic sources in the Prolog. To illustrate, at least one of them—the Prophet's letter to Heraclius—was subjected to the scientific Carbon-14 dating method in the Ibrāhīm study, which yielded a date of over 1000 years old, placing it in the time period in which the MHT reported that it was written. Possible interpretations are that it is the original letter, a copy of the original,

¹⁰⁵ Al-'Umari, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 459.

¹⁰⁶ Ibrāhīm, *al-Dirāsāt al-muta'allaqa bi rasā'il al-nabī*, 246-84.

or more tests, such as x-ray, textile, and paleographic analyses, are needed to further determine its authenticity. What matters is the particular point reached in the investigation when a researcher feels that his or her doubts are removed, thereby establishing a justified belief (or psychological certainty), which can never be agreed upon by everyone given the various paradigms through which they understand worldly phenomena. In other words, thorough investigations of these letters are necessary but not sufficient to establish the letters' authenticity beyond any shadow of doubt or certainty of the epistemological variety.

In review, the Prophet's letters signalled a drastic policy shift from defense against exogenous pagan attacks to expansion. That is not to say war had become the *raison d'être* of the Islamic State; rather, the Call to Islam remained the ideological imperative, as reflected in many of his treaties, correspondences, and wars with pagans, People of the Book, and non-Muslims in general. Demonstrating his acute awareness of the interstate political system around Arabia, the letters are revolutionary in content, ambitious in spirit, concise, and straightforward. They proclaim his universal apostleship and hail the universal divine sovereignty but not without a caveat: those who heed and submit to his rule, their dividend is peace but those who resist, his "horses shall occupy" their rebellious kingdoms. The letters project the Islamic political order, governed by the Divine Legislative Authority, as looming on the political horizons and irresistible. The logicity of the Islamic political system posited that as long as power is in the hands of God's Messenger and the Islamic state endures, the universal sovereignty of God, the King of all kings, must be duly

recognized in the world willingly and unwillingly. The Prophet seldom addressed any ruler in his letters as “king” (*malak*), according to the authentic reports, although the names of some of them are mentioned as a mark of respect. Indeed, Yunāq thought that the omission of his paternal uncle’s imperial title in Muḥammad’s letter to him was grossly offensive. But Emperor Heraclius remonstrated with his nephew: “Your opinion is weak. You want me to discard the letter from a man, whom the Holy Spirit (*al-namūs al-akbar*) might have visited, without knowing what is in it? If he is truly God’s Messenger, then it is proper that he mentions himself first in the letter. And he is correct that I am the *ṣāhib* (“Master” or ‘*aẓīm*, “leader,” in other reports) of Rome and that God is my King and the King of Rome.”¹⁰⁷ Defying the conventional protocols of diplomatic correspondence, the Prophet began his letters to the kings (after *al-basmala* placed at the top) with “From Muḥammad, the Messenger of God, to. . . .”¹⁰⁸ The custom at the time was to put the addressee’s title and name first followed by the sender’s name and title, as we find in some of the royal replies that he received. The Abyssinian king, for example, wrote “To Muḥammad, the Messenger of Allah, from Aṣḥama, the Negus”¹⁰⁹ Thus, the Prophet introduced a new political dynamic into Arabian politics. God’s Legislative Authority was established on earth, as manifested in the Islamic State. Political systems within and without Arabia that had rejected it or were oblivious of it, turning to the rule of *Jāhiliyya* and judging by “that which God did not

¹⁰⁷ See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 11-12.

¹⁰⁸ Al-Qalqashandī, *Ṣuḥb al-a‘shā*, vol. 6, 222-24, 365-66; al-Kittānī, *al-Tarātīb al-idāriyya* (Beirut: Dār al-Arḳam b. Abī al-Arḳam), 2nd edition, vol. 1, 159-62.

¹⁰⁹ Ibn Ṭulūn, *I‘lām al-sā’ilīn*, 54-55; Khattāb, *Sufarā al-nabī*, vol. 1, 67; Aḥmad b. Ḥudāya, *al-Miṣbāḥ al-muḍiyy* (Beirut: ‘Ālam al-Kitāb, 1985), 2nd edition, vol. 2, 34-35.

reveal” must now come to terms with the Islamic political system: accept the Prophet’s spiritual and political authority and unite with the expanding Muslim body politic; submit to his political authority alone and pay the *jizya*; or defy him and prepare for war. He reportedly said, “I have been ordered to fight the people until they confess that there is no deity but Allah and that Muḥammad is the Messenger of Allah, perform the *ṣalāh*, and pay the *Zakāh*. If they comply, they shall have my protection of their blood and property—except (for certain criminal acts punishable) in accordance with Islam—and their ultimate reckoning is with Allah, the Almighty.”¹¹⁰ In sum, the letters portray Muḥammad as a revolutionary to the core.

Part IV

d. The Year of Delegations – 9 AH/630 CE

The year 9/630 is remembered in the MHT as the Year of Diplomatic Deputations (*sanna al-wufūd*).¹¹¹ After the Prophet conquered Makka, returned from Tābuk, accepted Banū Thaqīf’s conversion to Islam and their pledge of allegiance,¹¹² Arab delegations (*wufūd*; sing. *wafd*¹¹³) began to meet him from all parts of the

¹¹⁰ According to al-Suyūṭī, in his *al-Jām‘i al-ṣaghīr*, this *ḥadīth* is *mutawātir*; for a full listing of sources where it is reported, see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa*, vol. 1, 764-70.

¹¹¹ The sources differ on the exact date toward the end of 8/629 after the Prophet returned from Al-Ji‘rāna or 9/630 after his return from Tabūk. See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 637; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 203; al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 335; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 113.

¹¹² After the Prophet returned to Madīna from Tabūk, he was visited by ‘Urwa b. Mas‘ud al-Thaqafī who accepted Islam. ‘Urwa returned to his people to persuade them to enter into the fold of Islam but he was opposed and killed. A few months later, in Ramaḍān 9/630, fearing a backlash from the growing number of Arab tribes embracing Islam, Banū Thaqīf reconsidered their decision and sent a delegation to Madīna to announce their conversion. The Prophet sent a letter to them, which included the penalty for cutting down a certain type of tree in the valley of Wajj in Tā‘if. See Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 185; al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 315-18; Ḥamīdullāh, *Majmū‘a al-wathā‘iq* (no. 182), 287-88.

¹¹³ Etymologically, *wafd*, from the Arabic verb *wafada*, “to come”; *wāfid*, literally “a comer” or “one who arrives”; culturally, according to al-Nawawī, a *wafd* is a group chosen from among a people to meet with foreign rulers. See *Lisān al-‘Arab*, vol. 6, 4881; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 113.

Peninsula. According to Ibn Ishāq,¹¹⁴ Quraysh opposed and fought against Muḥammad but, following his conquest of Makka, they surrendered and embraced Islam, setting a precedent for Arab tribes to follow suit. In his critical analysis of the MHT (Ibn Ishāq, al-Wāqidī, al-Bukhārī, al-Bayhaqī, *et al*), Ibn Kathīr showed that the Prophet began to receive *wufūd* prior to the Conquest of Makka, which necessitated that a distinction be made between *wufūd* that came before and after 9/630. He wrote, “Since the chroniclers were concerned about the *wufūd* but omitted certain things about the affair, we shall mention them here. . . .”¹¹⁵ These things included information on the first *wufūd*, the year that they started coming to Madīna, the duration of the affair, and the like. The *wufūd* visitation lasted several years, beginning in 5/626 with the arrival of some 400 members of the Muzayna tribe from Muḍar, according to al-Wāqidī.¹¹⁶ By some accounts, the last *wafḍ* that the Prophet received before he died was al-Nakh‘.¹¹⁷ The basis of the *wufūd* affair is found in the *ṣaḥīḥ* Ḥadīth¹¹⁸, though not in rich detail in the *sīra/maghāzī/ta’rīkh* literature. As for the total number of *wufūd* that visited the Islamic

¹¹⁴ The MHT generally reported about the deputations to Madīna without *isnād*. When *asānīd* are given, the reports are usually transmitted by the Followers al-Zuhārī, Abdullah b. Abī Bakr, and Ḥasan al-Baṣrī, which make them *mursal* (pl. *marāsīl*)—except for the arrival of the lone delegate Ḍamām b. Tha‘laba to Madīna, which was narrated by transmitted by Ibn ‘Abbās but its *isnād* is *ḍa‘īf*. Ibn Sa‘d has one of the most extensive delegation accounts arranged in the chronological order of their arrival in Madīna; he relied chiefly on his teacher al-Wāqidī and Hishām al-Kalbī, both of whom are *matrūk*, according to *ḥadīth* scholars; in sum, these reports are *ḍa‘īf*. See Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 637-65; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 203-40; Ibn Sa‘d, *al-Ṭabaqāt al-kubrā*, vol. 1, 252-309; al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 541.

¹¹⁵ Ibn Kathīr, *al-Bidāya wal-nihāya*, 708-33; Aḥmad, *al-Sīra al-nabawiyya*, 639-72.

¹¹⁶ Ibn Kathīr, *al-Bidāya wal-nihāya*, 708.

¹¹⁷ al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 233.

¹¹⁸ Al-Bukhārī (*ḥadīth* no. 4302) in Ibn Hajar, *Fath al-bārī*, vol. 9, 415-16; Aḥmad, *Musnad* (*ḥadīth* no. 20598), 1488; al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 4425), vol. 3, 52; al-Ṭabarānī, *al-mu‘jam al-kabīr*, vol. 17, 30; al-Haythamī, *Baghiya al-rā‘id* (*ḥadīth* no. 2319), vol. 2, 205.

State, here too MHT sources differ on the exact figure, ranging from 60 to 100.¹¹⁹ The general agenda of the *wufūd* involved their tribal leaders confessing their Islam before the Prophet, giving him the oath of allegiance, receiving verbal or written instructions from him as regards Islamic policy, or negotiating treaties with the Islamic State.

Receiving and sending delegations was an old diplomatic practice in Arab culture. We learnt earlier that 'Urwa, who negotiated with Muḥammad at al-Ḥudaybiyya, informed Quraysh that he had been a *wāfid* to Chosroes, Negus, and Heraclius, but he did not find the willingness of their soldiers to die for them comparable to the willingness of Muḥammad's followers to die for him. Rather, the significance of the Prophet's diplomatic relations with foreign delegations, guests, and strangers to Madīna lies in his personal stamp, highlighting Islamic statesmanship. Thus, we find the Prophet guaranteeing immunity to all foreign diplomats in the city, forbidding their maltreatment,¹²⁰ hosting them in special guest houses (Ar. *al-dār al-kubrā* or *dār al-ḍuyūf*) constructed for the purpose, feasting them during their stay, authorizing one or two of his Companions to eat first from food served to his guests, thereby allaying suspicions that it might be poisoned, appointing a Companion as a type of Masters of Ceremonies "who instructed the guests previous to their reception by the Prophet in the local formalities,"¹²¹ bestowing them with gifts in cash (dirham or dinar) or kind (usually dates)¹²² and decreeing that the protocol be continued after his

¹¹⁹ al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 114; al-Shāmī, *Subul al-hudā*, vol. 6, 386-681.

¹²⁰ See Aḥmad, *Musnad* ((ḥadīth no. 16085), 1131; Abū Dāwūd, *Sunan* (ḥadīth no. 2761 - *ṣaḥīḥ*), vol. 2, 174.

¹²¹ Ḥamīdullāh, *Muslim Conduct of State*, 137.

¹²² Aḥmad, *Musnad* (ḥadīth no. 16814), 1196.

death¹²³, accepting gifts sent to him by foreign rulers unless if they were money sent as charity, in which case he donated it to the poor, since it did not befit the status of God's Messenger as well as his household to receive charity from people (as explained in the chapter on the Political Economy of the Islamic State), donning his finest garb in the presence of delegates, allowing them (if they were People of the Book) to pray in the Mosque, allotting certain hours during the day or night to hold talks with them, instructing those who wished to become Muslims to return to their home states first and then come back to him if they wished to stay with him¹²⁴, erecting tents as makeshift hospices annexed to the Mosque in order to accommodate sick or injured and guests and assigned nurses for their care.¹²⁵ Arabs were already well known for their traditional hospitality to sojourners in their midst, and the Prophet used to boast that he was sent to complete good manners. From the SFS perspective, the symbolic aspect of his gracious conduct of state toward all envoys who came to meet him from hostile, neutral, or friendly states was to impress upon them his status as a benevolent messenger of God and not a malevolent king, thereby exploiting good character as a political resource with the aim of eliciting positive responses in others vis-à-vis his spiritual or political authority. Most of the *wufūd* accepted Islam.

¹²³ The *ḥadīth* is *ṣaḥīḥ* and is reported by Abū Dāwūd, Aḥmad, al-Bayhaqī, al-Bukhārī, Muslim, and al-Taḥāwī; see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 1133), vol. 3, 125.

¹²⁴ Abū Rāfi' was a Quraysh envoy to Madīna when the Hudaybiyya Treaty was still in effect. When he met the Prophet, he wished to embrace Islam. The Prophet told him, "*I am not one to hold a treaty in contempt or detain envoys* (*burud*; sing. *barīd*). *Go back to them. If what is in your heart now is still there, then return.*" The *ḥadīth* is reported in Aḥmad, *Musnad* (no. 24358), 1787; Abū Dāwūd, *Sunan* (*ḥadīth* no. 2758 - *ṣaḥīḥ*), vol. 2, 173.

¹²⁵ For more on the Prophet's treatment of delegates and its sources, see al-Kattānī, *Nizām al-ḥukūma al-nabawiyya*, vol.1, 343-51; Ḥamīdullāh, *Muslim Conduct of State*, 137-44.

The Najrān Christian delegation¹²⁶ did not acknowledge the Prophet's spiritual authority but succumbed to his political authority. The outcome was not what he had wished, hoping that they would accept Islam. His encounter with them reveals some aspects of Islamic public law and the use of symbolic resources. Najrān was situated a 7-day journey (by animal transport) away from Makka on the way to Yemen, consisting of some 73 villages and containing a predominantly Christian population. A large city, it was probably named after its founder Najrān b. Zayd b. Yashjab b. Ya'rab. The Qur'an (Q 85:4) mentions the story of al-Ukhdūd, which is said to have been a Najrān village plundered by the Arab-Jewish king Nawwās of Humayr in the past.¹²⁷ The first Christian delegation of Najrān of 20 persons visited the Prophet while he was in Makka, according to Ibn Ishāq.¹²⁸ In Madīna, the Prophet wrote to Najrān, inviting them to Islam¹²⁹; in response, they sent a delegation comprising 60 riders, some of whom were of nobility.¹³⁰ It is said that their beautiful apparel fascinated Muslim onlookers. Reports in the *maghāzī/sīra/ta'rīkh* and *asbāb al-nuzūl* literature vary on the number of āyāt of *sūra 'Alī 'Imrān* (Q3) revealed concerning the Najrān visitation to Madīna, from the first 80 āyāt of the *suwar* (sing. *sūra*)—(Q3:1-6, 14-15, 58, 59, 61, 64, 67, and 79). The gist of the Najrān affair is that they met the Prophet who allowed them to perform their ritual prayer facing east in the mosque.¹³¹ He discussed Islam with them, but the dialog became polemical over the nature of Jesus Christ. They challenged his claim of

¹²⁶ Neither Ibn Ishāq or Ibn Hishām mentions the Najrān delegation's visit to Madīna but it is found in Ibn Sa'd, *al-Ṭabaqāt al-kubrā*, vol. 1, 307.

¹²⁷ al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 186.

¹²⁸ See Ibn Hajar, *Fath al-bārī*, vol. 9, 528-29.

¹²⁹ Al-Bayhaqī, *Dalā'il al-nubuwwa*, vol. 5, 385-91; Ibn Kathīr, *al-Bidāya wal-nihāya*, 713-14.

¹³⁰ The Najrān men of nobility were 24 in al-Bukhārī but 14 in Ibn Sa'd, Ibn Ishāq, and Ibn Hishām.

¹³¹ Ibn Kathīr, *al-Bidāya wal-nihāya*, 715.

prophethood. Failing to win them over with the Qur'an and reason, he issued a *mulā'ana* or *ibtihāl* challenge to them, involving the invocation of divine curse on the mendacious party. The Qur'an refers to *ibtihāl* in these words: "*And whoso disputeth with thee concerning him [Jesus], after the knowledge which hath come unto thee, say (unto them): 'Come! We will summon our sons and your sons, and our women and your women, and ourselves and yourselves, then we will pray humbly (to our Lord) and (solemnly) invoke the curse of Allah upon those who lie.'*"¹³² The belief is that those on the receiving end of the curse shall witness the destruction of their properties by divine retribution. The Najrān delegation consulted among them. The next day, the Prophet met them, holding the hands of his daughter Fāṭima with her husband 'Ali and their sons al-Ḥasan and al-Ḥussayn ready to invoke the divine curse. The Najrān Christians backed down and were given an ultimatum of three options: (i) accept Islam, (ii) pay *jizya*, or (iii) prepare for war. They opted to pay *Jizya* and requested that the Prophet appoint a trustworthy supervisor (*amīn*) over it.¹³³ The *ibtihāl* challenge accomplished two objectives in the Muslim polity in relation to his spiritual and political authorities: it demonstrated his veracity as God's Messenger to his Muslim subjects and his power to exercise external sovereignty, forcing the Christians, a formidable power in their own right, to accept his terms. He appointed Abū 'Ubayda to supervise Najrān's tribute to the Islamic State¹³⁴ and sent

¹³² Q3:61 (Pickthall).

¹³³ Ibn Hajar, *al-Ujāb*, vol. 2, 679-87.

¹³⁴ See al-Bukhārī (*ḥadīth* nos. 4380-82) in Ibn Hajar, *Fath al-bārī*, vol. 9, 528.

them official letters, stipulating the terms of their treaty and *dhimma* status.¹³⁵ They were the first among the People of the Book to pay *jizya*.¹³⁶

In conclusion, the Prophet was wont to navigate first the channels of diplomacy before taking up arms. “The Messenger of Allah never fought a people,” narrated Ibn ‘Abbās, “unless he invited them (to Islam) first.”¹³⁷ An exception to his general rule is perhaps the Muslims’ battle against the Banū al-Muṣṭaliq in 6/628, attacking them in their dwelling while they were unprepared.¹³⁸ According to Ibn Ishāq, the Prophet had gathered intelligence that al-Muṣṭaliq were planning to attack the Muslims in a military operation led by al-Ḥārith b. Abī Ḍarār, the father of the Prophet’s wife Juwayriya¹³⁹; therefore, the pre-emptive Muslim attack on Banū al-Muṣṭaliq was in keeping with his aphorism “War (ḥarb) is deception (khud‘a).”¹⁴⁰ Ḥamidullah wrote that the Prophet assiduously pursued peaceful resolutions to conflicts, incorporating

- (i) *Face-to-face* talks (e.g., Battle of Khandaq¹⁴¹);
- (ii) *Mediation* of a third party (e.g. Ubayy b. Salūl’s intercession with the Prophet on behalf of the besieged Jewish tribe Qaynuqā’); and

¹³⁵ Ḥamidullāh, *Majmū‘a al-wathā‘iq*, 167.

¹³⁶ See al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 11.

¹³⁷ The *ḥadīth* is reported by al-Ḥākim, Aḥmad, Abū Ya‘lā, al-Ṭabarānī with an *isnād* in which all the authorities are trustworthy (*thiqāt*); see al-Haythamī, *Baghiya al-rā‘id (ḥadīth no. 9312)*, vol. 5, 466-67; al-Shawkānī, *Nayl al-awṭār*, vol. 9, 326.

¹³⁸ Al-Bukhārī (*ḥadīth* no. 2541) in Ibn Hajar, *Fatḥh bārī*, vol. 6, 371-72; Muslim (*ḥadīth* no. 1730) in al-Nawawī, *al-Minhāj*, 1115; al-Shawkānī, *Nayl al-awṭār*, vol. 9, 331-32.

¹³⁹ Ibn Ishāq, *al-Sīra al-nabawīyya*, vol. 2, 439.

¹⁴⁰ Al-Bukhārī (*ḥadīth* nos. 3029-30) in Ibn Hajar, *Fatḥh al-bārī*, vol. 7, 282; Muslim (*ḥadīth* nos. 1739-40) in al-Nawawī, *al-Minhāj*, 1118.

¹⁴¹ It is reported that during the Khandaq standoff, al-Ḥārith al-Ghaṭafānī, a spokesman for the Aḥzāb, came to the Prophet with the proposal that he give them half of Madīna’s date crop, else Quraysh forces will occupy the city. The Prophet informed him that he would have to consult al-Sa‘ūd (i.e. Sa‘d b. ‘Ibāda and Sa‘d b. Mu‘ādh) before making a decision. They categorically declined the proposal, preparing for war. The *ḥadīth* is reported by al-Bazzār and al-Ṭabarānī, according to al-Haythamī. “In the *isnād* is Muḥammad b. ‘Amr whose *ḥadīth* is *ḥasan*, but the rest of authorities are *thiqāt*.” See al-Bazzār (*ḥadīth* no. 1803) in Ibn Haythamī, *Kashf al-astār*, vol. 2, 331-32.

- (iii) *Arbitration* (e.g., the death sentence of .. against Qurayza's male fighters¹⁴²;

Additionally, these negotiating strategies involved diplomatic correspondences and treaties. The Prophet also exercised internal sovereignty seen in the appointment of 'ummāl or state revenue collectors, usually informing them by letter in all provinces within his jurisdiction in Arabia.¹⁴³ On the exercise of external sovereignty, the Prophet successfully made arrangements with Abyssinia for the repatriation of the Makkan Muslim refugees. After the Ḥudaybiyya Incident, 'Amr b. Umayya al-Ḍamarī, the Prophet's envoy to Abyssinia, brought back fifteen remaining Muslims (including men, women, and children) in two ships to Madīna.¹⁴⁴ In 11/632, the Prophet died, leaving behind the firm foundation of a new ideological state destined to play a major role in world politics. In his *History of the Saracens*, Ali wrote, "How an army, almost always overmatched in numbers, collected from a congeries of warring tribes divided by fierce tribal jealousies, who had never before united in common enterprise, shattered the seasoned cohorts of Chosroes and the disciplined and well-armed legions of Caesar is, as Professor Noldeke rightly remarks, a marvel. . .and has few parallels in the history of mankind."¹⁴⁵ Yet Muḥammad's greatest legacy might not be secular but spiritual manifested in an unshakeable conviction in his prophetic mission and Islamic Call to

¹⁴² Ḥamīdullāh, *Muslim Conduct of State*, 140-42.

¹⁴³ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 667; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 242; al-Wāqidī, *al-Maghāzī*, vol. 3, 973;

¹⁴⁴ Ibn Ishāq, *al-Sīra al-nabawiyya*, vol. 2, 495-501;

¹⁴⁵ Ameer 'Alī, *A Short History of the Saracens* (London: Macmillan and Co., Ltd, 1949), v.

One God. His dying words were “*Glory be to my Lord, the Upraiser (al-rafiʿ)! Verily, I have conveyed the Message.*”¹⁴⁶

¹⁴⁶ Al-Ḥākim, *al-Mustadrak* (*ḥadīth* no. 4448), vol. 3, 62.

Epilog

The Islamic Political System

“Circumstances of time and place favored Muḥammad,” wrote Montgomery Watt. “Various forces combined to set the stage for his life-work and for the subsequent expansion of Islam, including but not confined to the social unrest in Mecca and Medina, the movement towards monotheism, the reaction against Hellenism in Syria and Egypt, the decline of the Persian and Byzantine empires, and a growing realization by the nomadic Arabs of the opportunities for plunder in the settled lands round them.”¹ According to Gibb, “Before (Muḥammad’s) death ten years later (after his Hijra from Makka to Madīna), it had become clear that Islam was not simply a body of private religious beliefs but involved the setting up of an independent community, with its own system of government, laws, and institutions.”² Esposito concurred with this statement: “Under Muḥammad’s guidance, Islam in Medina crystallized as both a faith and a socio-political system.”³ Scholars agree on the theological orientation of the Islamic State, which is apparent from the *Ṣaḥīfa* (Clauses nos.42 and 47), to wit, “*And verily if any murder or quarrel takes place between the parties to this Ṣaḥīfa, from which any trouble may be feared, it shall be referred to Allah and to Muḥammad, the Messenger of Allah; and verily Allah is the guarantee of the most faithful and scrupulous observance of the contents of this Ṣaḥīfa*”; “*and verily Allah is the protector of those who fulfill and observe the pledge scrupulously, even as Muḥammad, the Messenger of Allah, is (i.e., the protector).*” They sharply differ, however, on

¹ Montgomery Watt, *Muḥammad: Prophet and Statesman*, 236.

² Gibb, *Mohammedanism*, 2.

³ John Esposito, *Islam and Politics* (Syracuse: Syracuse University Press, 1984), 4.

how to describe the Islamic political system, labeling it with sundry profiles like “theocracy,”⁴ “totalitarian,”⁵ “federation of (Arab) tribes in alliance with Muḥammad,”⁶ “Islamic neo-tribalism (communalism),”⁷ or unlike a “kingship,”⁸ and the like, which are serious enough to interrogate here, albeit briefly.

First, let us look at what the early Islamic State was not. Again, the attempt here is to tease out the internal logic that guided its conduct. That the Muslim polity was not a kingship is clear. The Qur’an refers to rulers by several different titles, including *malak* (“king”),⁹ *fir‘awn* (“pharaoh”),¹⁰ *ūlil-amr* (“those in authority among you”),¹¹ *mala’* (“ruling elite,” “chieftains,” “royal court”),¹² *‘azīz* (“mighty” or “highly esteemed”),¹³ *rabb* (“lord”),¹⁴ even *imra’a tamlikuhum* (“a woman who rules them”).¹⁵ Yet, when it specifically refers to Muḥammad’s political authority, the Qur’an does not project him as king or divine king but as “the Messenger” (*al-rasūl*), as in “Obey Allah and obey the Messenger. . . .”¹⁶ Muḥammad himself is reported to have said, “*I am not a king. Rather, I am the son of a Quraysh woman who used to eat al-qadīd* (literally, ‘shreds of meat salted

⁴ Wensinck, *Muhammad and the Jews of Medina*, 2; Denny, “*Umma* in the Constitution of Medina,” 47.

⁵ Bernard Lewis, *The Political Language of Islam* (Chicago: The University of Chicago Press, 1988), 30-31.

⁶ Watt, *Islamic Political Thought*, 14; Watt, *Islam: A Short History*, 34.

⁷ Antony Black, *The History of Islamic Political Thought* (NY: Routledge, 2001), 12, 18.

⁸ See ‘Alī ‘Abd al-Rāziq, “The Caliphate and the Bases of Power,” 25.

⁹ Q 2:246.

¹⁰ Q 2:49.

¹¹ Q 4:59.

¹² Q 7:60, 109; 27:29.

¹³ Q 12:30.

¹⁴ Q 12:41.

¹⁵ Q 27:23.

¹⁶ Q 3:32, 132; see also Q 4:59; 5:92; 8:1, 20, 46; 20:90; 24:54, 56; 47:33; 58:13.

and dried in the Sun’).¹⁷ Indeed, Qur’anic political thought appears anti-thetical to kingship politics prevalent at the time. The Qur’an denounces blameworthy kingship, especially god-kings. The classic example is Pharaoh (Rameses II)¹⁸ who ruled as a tyrant and declared himself ‘the Highest Lord’: “Go (O Moses!) unto Pharaoh! For, verily he has transgressed all bounds of what is right. . . But [Pharaoh] gave him the lie and rebelliously rejected [all guidance], and brusquely turned his back [on Moses]. . . and said, ‘I am your Lord All-Highest!’”¹⁹ The Prophet reportedly said, “The most perfidious name to Allah on the Day of Judgment is that of a man who called himself ‘King of kings.’”²⁰ Unlike Pharaoh, other earthly kings may not have deified themselves, but they acted as if they were divine, arbitrarily usurping the possessions of others²¹ and subjugating them in humiliation: “Verily, whenever kings enter a country they corrupt it, and turn the noblest of its people into the most abject. And this is the way they [always] behave.”²² Assuredly, there have been good monarchs in human history. The Qur’an acknowledges David, Solomon, and Saul as praiseworthy kings: “and Allah gave him the kingdom (**mulk**) and wisdom, and taught him of that which He willeth.”²³; “And Solomon was David’s heir”²⁴; “how they said unto a prophet of theirs: ‘Raise up a king (**malak**) for us, [and] we shall fight in God’s cause. . . .’ And their prophet said unto those elders: ‘Behold, now God has raised up Saul to be your king.’”²⁵ Prophetic rulers

¹⁷ Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 1, 56: the *ḥadīth* is *mursal*; Ibn Māja, *Sunan* (*ḥadīth* no. 3312 - *ṣaḥīḥ*), 557; al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 1876 - *ṣaḥīḥ*), vol. 4, 496-97.

¹⁸ Q 43:51.

¹⁹ Q 79:24.

²⁰ Al-Hākim, *al-Mustadrak* (*ḥadīth* nos. 7804-05), vol. 4, 410.

²¹ Q 18:79.

²² Q 27:34.

²³ Q 2:251 (Pickthall).

²⁴ Q 27:16 (‘Alī).

²⁵ Q 2:247 (Asad).

or kings, however, as trustees of His Divine Legislative sovereignty, were obliged to rule and judge by that which God had revealed in His Scripture: “O David! Lo! We have set thee as a viceroy (*khalīfa*) in the earth; therefore, judge aright between mankind, and follow not desire (*hawā*) that it beguiles thee from the way of Allah. . . .”²⁶ Here is Ibn Taymiyya’s take on the relationship between Islamic rule and kingship:

Kingship under divine laws (*shari‘āt*; sing. *sharia*) before ours was permissible (i.e. valid, such as the examples of David, Solomon, Joseph, Abraham²⁷). . . . Further investigation indicates that some prophets were kings. That is so, since prophets and messengers are associated with three states: [i] if they were belied, they were neither followed nor obeyed—such prophets were not kings; [ii] if they were obeyed (accepted and followed), they were kings; and [iii] if they commanded only by divine authority, then they were servants (*‘ibād*; sing. *‘abd*) and messengers (*rusul*; sing. *rasūl*) but not kings. If, however, they commanded as they wished, which was divinely permitted to them, then they acted like kings, as it was said to Solomon, ‘[And We told him:] “***This is Our gift, for thee to bestow freely on others, or to withhold, without [having to render] account!***” [Q 38:39]. This is (an example of) a prophet-king. Kingship is a part of his status as an *‘abd-rasūl*. The explanation of the first—obedience (*maṭā‘a*) and being followed (*ittibā‘a*)—is that it is part of prophethood (*nubuwwa*) and messengership (*risāla*) and is the most complete manifestation, which was the state of our Prophet, for he was *‘abd-rasūl*, supported, obeyed (*maṭā‘a*), and followed (*maṭbū‘a*). Thus, he has the reward like one who follows him, benefiting people who are shown mercy because of him and who himself is shown mercy because of them. But the Prophet was not chosen to be a king so that his status will not diminish because of the enjoyment of his leadership and value of his position in the hereafter. Hence, the *‘abd-rasūl* is better with Allah than the prophet-king (*nabī-malak*). . . .”²⁸

In sum, the Qur’an variously designates this type of *‘abd-rasūl* or *nabī-malak* government, to use the Ibn Taymiyya’s coinage, as *khalīfa*, *ḥukm allāh* (“God’s rule”), *al-ḥukm bi mā anzala allāh* (“rule by God’s revelation”), and *al-ḥukm li allāh* (“the rule belongs to God”),²⁹ and the like. Because kings at the time of Islam did not judge in accordance with God’s Legislative Will, as espoused in the *Sharia*, the Prophet disassociated kingship with the early Muslim conduct of state. This peculiar notion of

²⁶ Q 38:26 (Pickthall).

²⁷ See Q 2:251; 38:35; 12:101; 4:54-55.

²⁸ Ibn Taymiyya, *al-Khilāfa wal-mulk*, ed. Ḥammād Salāma (Jordan: Maktaba al-Manār, 1994), 2nd edition, 39-40.

²⁹ See Q 5:45, 47, 48, 49, 50; 6:114; 12:40, 67.

Islamic political leadership endured after Muḥammad in the early caliphate. The first caliph Abū Bakr (d. 13/634) did not refer to himself as king but as *khalīfatul-rasūlallāh* (“the caliph or successor of the Messenger of Allah”). The second caliph ‘Umar b. al-Khaṭṭāb (d. 23/643) used to wonder what type of ruler he represented: a king or caliph? On one occasion, he was told that if he were to misappropriate Muslims’ wealth, he would be acting like a king and not like a caliph; on another occasion, he was told that the difference between the two types of political sovereigns is that a caliph deals justly with the properties of others, whereas a king does the opposite.³⁰ ‘Umar also thought of adopting the titular *khalīfatu khalīfatil-rasūlallāh* (“the caliph of the caliph of the Messenger of Allah”). Finding the title too long and cumbersome, he abandoned it in favor of the simpler *amīrul-mu’minīn* (“Commander of the Faithful”),³¹ indicating that the early caliphs clearly understood that they had been empowered to exercise the sovereignty of the Islamic State and not the office of prophethood, which had ceased with Muḥammad’s transition.

Was the early Islamic State a theocracy? It depends on how one defines theocracy and what is meant by it in the political discourse. Theocracy comes from the Greek *theokratia* (*theos*, “god” + *kratos*), meaning “a rule, regime, strength” or “the rule of God” (Josephus); from 1622, a sacerdotal government under divine inspiration (as that of Israel before the rise of kings); and from 1825, a “priestly or religious body

³⁰ Ibn Sa’d, *al-Ṭabaqāt al-kubrā*, vol. 3, 1112; al-Kittānī, *al-Tarātib al-idāriyya*, vol. 1, 85-86.

³¹ Al-Ṭabarī, *Ta’rīkh*, vol. 4, 208; al-Suyūṭī, *Ta’rīkh khulafā’ al-rāshidīn* (Beirut: Dār al-Kitāb al-‘Arabī, 2003), 108.

wielding political and civil power.”³² Based on the etymology of theocracy, the early Islamic State can be described as a type of theocracy, since one of its functions is to uphold “God’s rule” (*ḥukm Allāh*). But if by theocracy is meant ideologically that the ruler of a state is God’s representative, then the same cannot be applied to the nascent Muslim polity because, as we have seen earlier through the Qur’anic political paradigm, Muḥammad was a mortal and only what was divinely revealed to him, in his capacity as prophet or messenger of God, constitutes the Divine Law or *Sharia*, alongside the Qur’an. Ramadan refuted the latter theocratic concept applied to Islam with the following argument:

In clear contrast to the Western concept of “theocracy,” Islam was a revolt against all anthropomorphic implications in the realm of faith. This can well explain the peculiar expression *une theocratic laïque et égalitaire* which Louis Gardet coined to characterize Islam: a peculiarity of expression revealing an inability to understand an ideology which is neither theocratic nor secular, in the expressional sense which either of these terms conveys. It is the impact of this paradox which renders Islam difficult to define. Prof. Gibb, however, came very close to such a definition when he remarked that ‘it is characteristic of the practical bent of the Islamic community and of its thought that its earliest activity and most highly developed expression is in law rather than in theology.’ Notwithstanding the explanation he gave for this and the many deviations from which the Muslim community afterwards suffered, it should be noted that the ‘earliest activity’ to which Prof. Gibb referred represents the prophetic, that is, the authentic, introduction of Islam. . . .In brief, it may be said that the rule of Islamic Law can never lead to ‘theocracy,’ for the simple reason that the absence of any priestly hierarchy lies at the very root of its conception of religion.³³

To Ramadan’s argument may be added this clarifying statement by Lewis: “In pagan Rome, Caesar was God. For Christians, there is a choice between God and Caesar, and endless generations of Christians have been ensnared in that choice. In Islam, there was no such choice. In the universal Muslim polity, through the Qur’anic paradigm, there is

³² “Theocracy.” Dictionary.com. *Online Etymology Dictionary*. Douglas Harper, Historian. <http://dictionary.reference.com/browse/theocracy> (accessed: June 17, 2011).

³³ Ramadan, *Islamic Law: Its Scope and Equity*, 55-56

no Caesar but only God who is the sole sovereign and the sole source of law.

Muḥammad was his Prophet who, during his lifetime, both taught and ruled on God's behalf.”³⁴ Elsewhere, Lewis cogently faulted not only the notion that Islam is a theocracy but that it is also totalitarian:

There are two very common misapprehensions concerning Islamic political thought and government, the one perceiving them as theocratic; the other as despotic or even dictatorial. These judgments are based on misunderstandings. The question whether the Islamic polity is or is not theocratic is more semantic than substantial, and the answer depends largely on the definition of theocracy that is adopted. If by theocracy we mean a state governed by the church, that is, by priests, Islam clearly is not (that) and until recently could not be a theocracy. There is no church or priesthood in Islam, neither theologically, since there is no priestly office or mediation between God and the individual believer, nor institutionally, since there are no prelates and no hierarchy. At least, there were none in classical Islamic times. . . .

There is even less foundation for the portrayal of Islamic government as a system in which the ruler is an all-powerful despot and the subject his helpless slave, entirely at his mercy. This picture is false in both theory and practice. Muslim law has never conceded absolute power to the sovereign, nor, with few exceptions, have Muslim sovereigns ever been able to exercise such power for any length of time. It is true that the predominant view of the jurists is authoritarian, that is to say, that the sovereign, once installed, has a very considerable authority, and that the subject's duty is of obedience is a religious obligation as well as a political necessity. Nevertheless, the authority of the ruler, though paramount, is subject to a very important limitation. The principle which underlies this limitation derives from the Muslim conception of law. In the traditional Muslim view, the state does not create the law, but is itself created and maintained by the law, which comes from God and is interpreted and administered by those who are skilled in these tasks. The ruler's duty is to defend and uphold, to maintain and enforce, the law, by which he himself is bound no less than the humblest of his subjects. For these purposes he may make rules and regulations, to clarify and apply the law. He may in no way abrogate or amend the law, nor may he add to it. Since the ruler cannot change the Holy Law, he cannot legally exceed the degree of authority assigned to him by that law. If he attempts to do this, if he acts, or commands others to act, in a manner that is contrary to the law, he is guilty of an offense against the law, for which he is liable to punishment.³⁵

If by totalitarian, one means that the early Islamic State was fascist, then the description is anachronistic. It was shown in the chapter on the law of the Islamic State that not every public decision of Muḥammad was divinely inspired, that is, integral to

³⁴ Bernard Lewis, “State and Society in Islam” in *The Wilson Quarterly* (1976-), Vol. 13, No. 4 (Autumn, 1989), 39-53.

³⁵ Bernard Lewis, *The Political Language of Islam*, 29-31.

Sharia; rather, only what he said, did, and approved for his subjects and followers, *in his capacity as the Prophet or Messenger of Allah*, according to Qur'anic political thought, constituted *sharia* decrees. His *ijtihād* or personal decision and judgment, as Muḥammad the man or ordinary mortal, was subordinated to *sharia*, which sometimes approved it, sometimes rejected it, and sometimes remained silent on it, thereby limiting his government's legislative authority in theory and in fact. As for the descriptions that the Islamic State was “neo-tribalism” or “communal,” such qualifications concentrate on some but not all of its structures and system functions and does not capture its distinctively Islamic characteristics, which I have tried to put into relief in this work.

Let me concisely review now what type of system I think it was. From my research findings and readings of the early sources of the MHT, it seems to me that the Islamic State, which the Prophet established with the help of certain social forces, was a polity in which the government was duty bound to implement God's Legislative (not to be confused with His Creative) Will as understood in the Islamic ideological context. This type of regime necessitated the creation of a new type of political authority (namely, the Messenger of God or Prophet of God and after him, *khalīfa rasūl allāh* or the Messenger of Allah's caliph—keeping in mind that it is a successorship to his political and prophetic office), concept of sovereignty, and reprioritizing of government functions. His political leadership, based on Qur'anic constructs of power and authority, set him apart, ideologically and symbolically, from the conventional political norms of Arab chieftaincy, monarchy, and *mala'* (collective leadership) in the Peninsula. Historically, the Islamic State, at least in its early phase ca. 622-30 CE, is perhaps the

first type of 'voluntaristic' state known in the anthropological record. As its power and influence grew, the Islamic State morphed into an 'expansionist' state ca. 630-32 CE, not so much by extending its political borders but its law over increasingly expanding territories under its rule. The early Islamic State was also an early forerunner of the 'welfare' state. I have shown in the chapter on the political economy of the Islamic State that Muslim subjects had rights, enshrined under *sharia*, upon the wealth of the state. Nowhere is this economic policy more acutely demonstrated and discerned than in the reigns of the first four caliphs (Abū Bakr, 'Umar, 'Uthmān, and 'Alī). "*Muḥammad is not the father of any their men,*" the Qur'an says, reflecting the fact that he was not survived by any male offspring. Politically, it meant that the Islamic system had to bequeath a different kind of legacy—namely, the substitution of agnatic claims to political authority of the state with a political culture that extolled the Muslim faith and piety, which is epitomized in his aphorism: "*Hear and obey, even if the leader over you is a mutilated Abyssinian slave, as long as he guides!*"³⁶

One of the chief distinctions between Muḥammad and the powerful leaders of his time, like Heraclius and Chosroes, is the conceptualization of political authority and the method of legitimization.³⁷ Muḥammad is depicted in the MHT, as we saw in the chapter on the diplomacy of the Islamic State, as God's Messenger who combines the roles of political, military, and religious leaders into a singular role as head of the Islamic State, whereas the Byzantine and Persian emperors are primarily political and

³⁶ See Ibn Māja, *Sunan* (*ḥadīth* no. 2861 - *ṣaḥīḥ*; see also nos. 2860, 2862), 485-86.

³⁷ See Nadia Maria El-Cheikh, "Muḥammad and Heraclius: A Study in Legitimacy" in *Studia Islamica*, No. 89 (1999), 5-21.

military leaders, even though they wielded great influence over religion in their empires. Subjects of the Byzantine and Sassanid empires primarily viewed their heads of state as secular leaders responsible for political administration, including defense, taxes, and propagation of Christianity or Zoroastrianism but not as authoritative religious figures. That is because, as Arnold explained:

During the early part of the Middle Ages two rival political systems, one in the West and the other in the East, dwelt face to face, ignorant and entirely unappreciative of one another's ideals. Each claimed to exist by divine appointment and appealed for sanction of its authority to the revealed Word of God. . . .But in spite of these characteristics of resemblance the two systems were fundamentally different. The Holy Roman Empire was consciously and deliberately a revival of a pre-existing political institution that had been in existence before the birth of Christianity and was now revived under a specifically Christian character. . . .Side by side with the Emperor was the Pope, and the Pope possessed spiritual authority and functions which were denied to the Emperor; as the Vicar of God upon earth, he (the Pope) ruled over and guided the souls of men, while it was the part of the Emperor to deal with the concerns of their bodies. As every student of the Holy Roman Empire knows, there was a long conflict over the problem of the true relationship between these two independent authorities; but throughout the centuries during which the Holy Roman Empire was a living force in Europe, the distinction between temporal and spiritual authority was never lost sight of.³⁸

The circumstances under Islam or the Muslim Umma were entirely different, as this research has shown. In conclusion, much has been written over the centuries in paying tribute to Muḥammad's remarkable success on the military, political, and religious fields. Today, in light of the general apprehension, real or imagined, about political Islam in the west today, perhaps it is fitting to end with a quote from one of the pre-eminent leaders of western liberal political thought. In his famous *On the Social Contract*, Jean-Jacques Rousseau (d. 1778) penned these words: "*False tricks can form a fleeting bond; wisdom alone can make it durable. The Jewish Law, which is still in existence, and the law of the son of Ishmael [Muḥammad], which has ruled half the world for ten centuries, still bears witness*

³⁸ Thomas Arnold, *The Caliphate* (London: Oxford University Press, 1924), 9-10; Lewis,

*today to the great men who formulated them. And whereas proud philosophy or blind partisan spirit regards them merely as lucky imposters, the true political theorist admires in their institutions that great and powerful genius which presides over lasting establishments. . . .”*³⁹

³⁹ Jean-Jacques Rousseau, “The Social Contract,” in *Princeton Readings in Political Thought*, eds. M. Cohen and N. Fermon (NJ: Princeton University Press, 1996), 287.

EXCURSUS – Discovery of the Prophet’s Letters to Non-Muslim Rulers

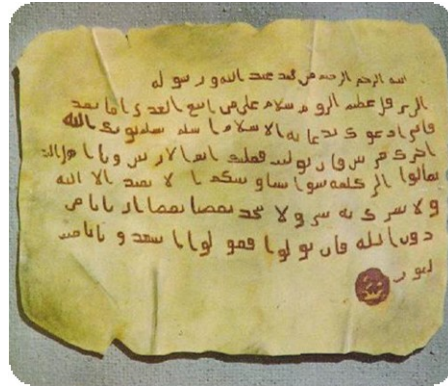


Figure 1. Facsimile of the letter reportedly sent by the Prophet to the Byzantine Emperor Heraclius.

In the Name of Allah, the Beneficent, the Merciful¹
From Muhammad, the Servant of Allah and His Messenger,
To Heraclius, Ruler of Rome
Peace be unto the one who follows the Guidance (as to what follows):
Verily, I invite you to the Call of Islam. Accept Islam, you will be safe! Accept Islam, Allah will
reward you twice!²

¹It is reported that the Prophet, before he began using the *basmala* (i.e. “*In the Name of Allah, the Beneficent, the Merciful*”) to open his letters, used to follow the Qurayshite convention and write *allahumma* (“O Allah!”) until the *āya* (Q 11:41) was revealed. After that, he used to write *bismillā* (“In the Name of Allah”) until the *āya* (Q 17:110) was revealed; after that, he used to write *bismillāhil-rahmān* (“In the Name of Allah, the Beneficent, the Merciful”) until the *āya* (Q 27:30) was revealed; after that, he was contented to begin his correspondences with *bismillā al-rahmān al-rahīm* (“In the Name of Allah, the Beneficent, the Merciful”). See Ibn Sa’d, *Ṭabaqāt*, vol. 1, 276.

²Cf Q 28:54 (‘Alī): “*Twice will they be given their reward. . . .*” See Ibn Kathīr, *Tafsīr*, 1420. Cf the Prophet’s saying, “*Three persons will be given their reward twice: a person from the People of the Book who believed in their prophet and then met the Prophet, believed in him, and followed him. . . .*” The *ḥadīth* is *ṣaḥīḥ* and is reported by al-Dārāmī, *Sunan* (*ḥadīth* no. 2244), ed. Fawwāz Aḥmad Zumarī *et al* (Karachi: Qadime Kutub Khana, 1986), vol. 2, 206; Ibn Hibbān (*ḥadīth* no. 227 - *ṣaḥīḥ*), in al-Albānī, *al-Ta’līqāt al-ḥissān ‘alā ṣaḥīḥ ibn ḥibbān* (Jedda: Abū Wāzīr, 2004), vol. 1, 300; Abū ‘Awwāna, *Musnad* (*ḥadīth* nos. 302-04), ed. Aymān b. ‘Arīf (Beirut: Dār al-Ma’rifā, 1998), vol. 1, 96-97. For more references of this *ḥadīth*, see al-Albānī, *Silsila al-āḥādīth al-ṣaḥīḥa* (*ḥadīth* no. 1153), (Riyadh: Makataba al-Ma’ārif, 1995), vol. 3, 143-44.

*But if you turn your back on it, then you will bear sins of the farmers (arīsīn)³
And ‘O People of the Book, come to common terms as between us and you: That we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other than Allah.’ If then they turn back, say “Bear witness that we (at least) are Muslims”⁴
(Sealed: Muḥammad, the Messenger of Allah)*

Al-Bukhārī (d. 256/870) reported that the Prophet wrote to Heraclius, inviting him to Islam; his report indicates that the correspondence occurred in the post-al-Ḥudaybiyya period, ca. 7/628.⁵ At that time, he sent the letter with his envoy Diḥya b. Khalīfa al-Kalbī, instructing him to deliver it to the Byzantine Emperor via the ruler of Buṣrā. After defeating Chosroes’ forces, Heraclius had marched from Ḥomṣ to Ilīyā to offer his gratitude to God. It was there he received the Prophet’s letter and had it read to him. The Emperor ordered his men to seek out and bring back some members of Muḥammad’s tribe, so that he could question them about his “Messenger of Allah” claim. They came upon Abū Sufyān⁶ (d. 32/652) who, accompanied by a group of Quraysh merchants, was in Syria. A sworn enemy of the Islamic State at the time, Abū Sufyān narrated that they were brought to Ilīyā’ before the Emperor who was seated on a throne wearing a crown and was surrounded by his advisors. Heraclius said to his translator, “Ask them which one of them is closest in kin to this man who thinks that

³ *Arīsīn* (sing. *arīsī*), “farmers,” as in al-Bukhārī’s report; but it is *akārīn* (sing. *akār*) in Ibn Ishāq’s and *ḥarāthīn* and *falāḥīn* in others, having the same meaning. Abū ‘Ubayd wrote that “*Arīsīn* refer to helpers and servants.” Ibn Hajar wrote, “*Arīsī* is related to *arīs*. . . Ibn Sayyid said that *arīs* is *akār*, meaning ‘farmer,’ as is with Tha‘lab. Karrā’said it meant ‘commander’ or ‘prince’ and al-Jawharī, that it is a Syriac word. Ibn Fāris also denied that it is Arabic. Other explanations of it have been given, but the meaning (of farmer) here is correct. . . .” See Abū Ubayd, *Kitāb al-amwāl* (Beirut: Dār al-Shuruq, 1989), 1st edition, 92-94; Ibn Hajar, *Fath al-bārī*, vol. 1, 82; *Sharḥ al-mawāhib*, vol. 5, 7.

⁴ Cf Q 3:64 (‘Alī).

⁵ The Prophet’s envoy Diḥya al-Kalbī left with the letter to Heraclius toward the end of 6/627, after Ḥudaybiyya, but did not deliver it to him until Muḥarram 7/628; and he may have been accompanied by another Companion ‘Adī b. Ḥātim. See Ibn Hajar, *Fath al-bārī*, vol. 1, 80.

⁶ His full name is Ṣakhr b. Ḥarb b. Umayya b. ‘Abd Shams b. ‘Abd Manāf al-Umawī.

he is a prophet.” Abū Sufyān said that he was the closest relative of Muḥammad among them. Heraclius asked him: “What is the relation between you and him?” Abū Sufyān replied, “He is the son of my paternal uncle. There is no one here, among this band of men, from Banū ‘Abd Manāf but me.” Heraclius then beckoned him to draw nigh, while the Quraysh group stood behind him. He said to his translator, “Say to (Abū Sufyān’s) companions that I will ask this man about the one who thinks that he is a prophet. If he lies, they should confirm that he is lying.” Abū Sufyān narrated, “By Allah! Had it not been for the shame on that day of having my companions honor me by lying, I would have lied when he asked me about him. But I was embarrassed about that happening, so I answered him truthfully.” Heraclius said to his translator: “Ask him about this man’s lineage among them.” Abū Sufyān replied, “He is of noble lineage.” “Has anyone among you said such a thing before him?” He replied, “No.” “Did you ever accuse him of lying before he said what he said?” He replied, “No.” “Was any of his forebears a king?” He replied, “No.” “Do any of your notables follow him or the lowly?” He replied, “The lowly follow him.” “Are they (the number of Muslims) increasing or decreasing?” He replied, “They are increasing.” “Has anyone, after entering his religion, apostatized out of anger?” He replied, “No.” “Is he treacherous?” He replied, “No. But we now have with him a period in a period in which we fear that he might be treacherous.” “Did you fight him or did he fight you?” He replied, “Yes (we fought each other).” “What are the outcomes of his wars and yours?” He replied, “It vies, alternating at times. Sometimes (the victory) goes to him over us and sometimes to us.” “What does he command you?” He replied, “He commands us to worship Allah alone and not to associate any partners

with Him. He prohibits us from what our forefathers worshiped. He commands us to perform the ritual prayer, give the alms, be chaste, adhere to our contracts, and fulfill our trusts.” Through his translator, Heraclius stated, “I asked you about his lineage among you, and you said that he is of noble lineage—such indeed are the messengers who are divinely sent: they are of noble lineage among their peoples. I asked you if there was anyone among you who said this thing before him, and you said no. If anyone of you had said that this thing was said before him, I would have said that a man completes a statement that was said before him. I asked you if you had ever accused him of lying before he said what he said, and you said no. I knew then that he would neither lie to the people nor against God. I asked you if there was anyone among his forebears who was a king, and you said no. I thought that if there had been a king, he would have sought their kingship. I asked you if the notables or the lowly follow him, and you said that the lowly follow him: they are the followers of messengers. I asked you if their number is increasing or decreasing, and you said that they were increasing, which is definitely the case of faith until it is completed. I asked you if anyone had apostatized from his religion out of anger, and you claimed no: such indeed are the messengers of God; they are not treacherous. I asked you if you fought him and he fought you, and you said yes and that it alternates: one time he has the upper hand over you, and another time, you have the upper hand over him; in this way, the messengers are tested, but the final outcome is always with them. I asked you what he commands you, and you said that he commands you to worship God and not ascribe any partners with him. He prohibits you from what your forefathers used to worship.

He commands you to prayer, give alms, be chaste, adhere to your treaties, and fulfill your trusts. Indeed, it is the description of a prophet. I knew that he would appear, but I did not know that he would be from among you. If what you say is true, then he is about to own the place under my two feet [i.e. Jerusalem or Syria]; and if I could flee and meet him, I would undertake the task; and if I were to be with him, I would wash his feet!”⁷ The Byzantine Emperor then ordered that the Prophet’s letter be read out aloud to the gathering: *‘In the Name of Allah, the Beneficent, the Merciful, From Muḥammad, the Servant of Allah and His Messenger, To Heraclius, Ruler of Rome, Peace be unto the one who follows the Guidance, (As to what follows), Verily, I invite you to the Call of Islam. . . .’* Abū Sufyān further narrated that after its public reading, a clamor ensued in the royal court, as Heraclius’ advisors began to shout around him, but he did not understand

⁷ The MHT attributes Heraclius’ knowledge of the Prophet’s characteristics to his reading of Judeo-Christian scriptures and familiarity with astrology. Al-Zuhrī reported from Ibn al-Nāṭūr, a prince of Ilīyā’ and companion of Heraclius who later converted to Islam, who narrated that when Heraclius came to Ilīyā’, he appeared opprobrious one day; so one of his military commanders (*baṭāriqa*; sing. *biṭrīq*) told him about their disapproval of his demeanor. An astrologer (*ḥazzā’*) who used to gaze at the stars, Heraclius said to them, “One night I looked at the stars and saw that the Circumcision Kingdom had arisen. Who circumcises in this nation?” They said, “No one does that but the Jews. Their affair should not concern you. Write to the cities of your kingdom, ordering that Jews be killed.” While they were discussing it, Heraclius was approached by a man who was sent by the King of Ghassān, informing him about the news of the Messenger of Allah. Heraclius ordered some of his men to find out if Muḥammad was circumcised or not. They came back, reporting that he was circumcised and that circumcision was common among Arabs. Heraclius said, “The kingdom (of Arabs) has arisen!” He then wrote a letter in Roman (i.e. Latin) to his comrade who was his equal in knowledge of astrology, and proceeded to Homs where he received a reply from him, confirming his opinion about the Prophet’s advent. The Emperor gave permission for his notables to meet with him at his *daskara* (a palace-like building fitted for a king, having abodes for servants and household and surrounded by houses or chambers; see Lane, *Arabic-English Lexicon*, 879). He ordered that its gates be closed and said to his notables, “O assembly of Rome! Are you prosperous and guided that your kingdom will be established, giving allegiance to this Prophet?” But they converged like wild animals, contracting the space toward the closed gates. When Heraclius saw them disperse like kinsmen who go forth to war when an event oppresses them or falls upon them suddenly, he despaired of hope and said, “Bring them back to me! I said what I said previously in order to test your steadfastness to your religion, which I have observed.” They fell prostrate to him and were pleased with him. Al-Zuhrī also reported that he met Ibn al-Nāṭūr, who was a learned religious leader (*suquf*) among the Christians, in Damascus during the reign of Abdullah Mālik b. Marwān (d. 86/705). See Ibn Hajar, *Fathī al-bārī*, vol. 1, 71-72, 85.

what they were saying. The Quraysh group was led out of the meeting. He added, “When I left with my Quraysh band, I said to them, ‘Abū Kabsha’s son⁸ has become a leader [i.e., Muḥammad’s affair has assumed great importance]. Even the king of Banū al-Aṣfar⁹ fears him!’ By Allah, I remained humiliated but convinced that his affair will prevail, hating it all the while until Allah caused my heart to enter Islam.”¹⁰ Less than two years after this incident, Heraclius’ forces engaged the Muslims in the Battle of Mu’ta (8/629), which is described in the *sīra/maghāzī/ta’rīkh* literature.¹¹

In his *al-Rawaḍ al-anaf*, al-Suhaylī (d. 581/1185) recounted that Emperor Heraclius honored the Prophet’s first letter sent to him, storing it as an heirloom in a golden chest, which his dynasty successively inherited from him. They continued to pass it down from one elder to the next in the most stately receptacle and place. Eventually, the letter reached Alfonso VI (Idhḥūnash, d. 1109) of Castile, who had captured Ṭulayṭula (Toledo) in 1085 CE and parts of Andalusia; it was later passed on to one of his daughters’ sons known as al-Salīṭīn. A Muslim general named ‘Abdul Malik b.

⁸ Quraysh used to refer to Muḥammad as Abū Kabsha al-Khuzā‘ī’s son because Abū Kabsha, whose name was Wajz, had opposed them in the past in their worship of idols, such as ‘Abdul-Sha‘rī and al-‘Ubūr—a well known star to them. Thus, when Muḥammad began to preach against their gods, they likened him to Abū Kabsha. It is also related that Abū Kabsha was the Prophet’s great-great-maternal grandfather and the Prophet resembled him in his anti-polytheism agenda. See Ibn Ṭulūn, *I’lām al-sā’ilīn* (Beirut: Mu’assasa al-Risāla, 1987), 2nd edition, 71.

⁹ Banū al-Aṣfar, Arabic epithet for the Byzantines, which refers to the yellow clothing usually worn by them. See al-Nawawī, *al-Minhāj*, 1144; Ibn Ṭulūn, *I’lām al-sā’ilīn*, 71.

¹⁰ See al-Bukhārī (*ḥadīth* nos. 2938, 2940-41) in Ibn Hajar, *Fath al-bārī*, vol. 7, 206-08; Muslim (*ḥadīth* nos. 1393-97, 1773) in al-Nawawī, *al-Minhāj*, 1141-42; Abū ‘Awwāna, *Musnad* (*ḥadīth* no. 6726), vol. 4, 266-68; Aḥmad, *Musnad* (*ḥadīth* nos. 2370; see also nos. 2371-72), (Riyadh: International Ideas Home, 1998), 223-24; Ibn Ḥibbān (*ḥadīth* nos. 6519-21) in al-Albānī, *al-Ta’līqāt al-ḥissān ‘alā ṣaḥīḥ ibn ḥibbān*, vol. 9, 273-76; *Sharḥ al-mawāhib*, vol. 5, 6; al-Albānī, *Irwā’ al-ghalīl* (Beirut: al-Maktaba al-Islāmī, 1979), vol. 1, 37; Ḥamīdullāh, *Majmū‘a al-wathā’iq al-siyāsa lil-‘ahd al-nabawī wal-khilāfa al-rāshida* (Beirut: Dār al-Mafā’is, 1987), 6th edition, 107.

¹¹ See Ibn Sayyid al-Nās, *‘Uyūn al-athar* (Beirut: Dār Ibn Kathīr, n.d.), vol. 2, 208-13; Ibn Abdul Barr, *al-Durr fī ikhtisār al-maghāzī wal-siyar* (Cairo: Lajna Iḥyā’ al-turāth al-Islāmiyya, 1966), 222-23; Ibn al-Athīr, *al-Kāmil fīl-ta’rīkh* (Riyadh: International Ideas Home, n.d.), 253.

Sa‘īd narrated that “He (al-Salīṭīn) showed me the letter. I cried and wished to kiss it, but he securely kept it in his hand, preventing me out of protection for it and because it was a prized object to me.”¹² Ibn Hajar, his *Fatḥ al-bārī*, recounted that al-Manṣūr Qalāwūn (the seventh Mamluk sultan of Egypt, d. 1290) sent Sayfuddīn al-Falīḥ al-Manṣūrī to the king of the Maghreb with a gift. When he got there, the king of the Maghreb sent him to intercede before the Frankish king (possibly Michael VIII Palaiologos, d.1282 CE). His intercession was accepted and he was asked to stay but declined. The Frankish king said to him, “I shall give you a very old gift.” He brought out a golden chest and took out a golden pen-holder from it and a letter with some writing still visible on it that was wrapped with a piece of silk. He said, “This is your Prophet’s letter to my grandfather Heraclius, which we have continued to inherit among ourselves until now. Since Heraclius, our forefathers have bequeathed it, ordering us to do the same. As long as this letter stayed with us, our rule abided, so we tenaciously preserved it, venerated it, and concealed it from Christians, so that our kingdom may abide.” Ibn Hajar added that the story is supported by that which occurred in the *ḥadīth* of Sa‘īd b. Rāshid, to wit, the Prophet invited al-Tanūkhī, Heraclius’ envoy, to Islam but he declined. He said to him, “I wrote to a letter to your king, which he has kept. They will continue to find fortune from it as long as there is good (*khayr*) in life.” Ibn Hajar concluded, “It is also supported by what is related that when the Prophet received Chosroes’ reply, he said, ‘May Allah tear up his kingship!’

¹² See al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 304.

But when he received Heraclius’ reply, he said, ‘May Allah entrench his kingdom.’”¹³ Similarly, Abū ‘Ubayd reported a *mursal*¹⁴ tradition, in his *Kitāb al-amwāl*, narrating that “The Messenger of Allah wrote to Chosroes and Heraclius. When Chosroes read his letter, he ripped it; and when Heraclius read his letter, he folded it and exalted it. . . .” The Prophet also reportedly said, “*Their (the Persians’ kingdom) will be torn up and theirs (the Byzantines’) will remain.*”¹⁵

According to Ḥamīdullāh, the Prophet’s letter to Heraclius resurfaced in the twentieth century with the report that King Abdullah I (d. 1951) of Jordan had procured it. After his death, a female member of his household is said to have taken the letter, which she later sold in Switzerland to the Sultan of Abu Dhabi. When Jordan’s King Hussein (d. 1999) learned about it, he requested it from Abu Dhabi, returning it to Amman, where it is still kept.¹⁶ In his *Sufarā al-nabī wa kuttābihi wa rasā’ilih*, al-Wakīl wrote that “ever since an Arab judge purchased this noble letter of the Prophet to Heraclius, reports about it have multiplied. Undoubtedly, it is of great concern to the Islamic World that the reality of this glorious affair be unveiled and doubt be replaced by certainty!”¹⁷ ‘Izzuddīn Ibrāhīm, in his *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, has given a somewhat different account of its discovery: “In 1973, the existence of the fifth (the Prophet’s letter to Heraclius) was unveiled. For a long while, it had been in the

¹³ Ibn Hajar, *Fath al-bārī*, vol. 1, 91; *Sharḥ al-mawāhib*, vol. 5, 18-19.

¹⁴ *Mursal*, in the terminology of the *ḥadīth* sciences, refers to a type of ‘weak’ (*ḍa‘īf*) *ḥadīth* in which the *sanad* or *isnād*, that is, the chain of authorities stops with a *tābi‘ī* (“Follower,” i.e. a member of the Muslim generation who were students or associates of the Prophet’s Companions) who did not hear it directly from the Prophet.

¹⁵ Abū ‘Ubayd, *Kitāb al-amwāl*, 94.

¹⁶ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 11.

¹⁷ Al-Wakīl, *Sufarā al-nabī*, 26-27.

possession of King Abdullah b. al-Hussein of Jordan. When he died, his widow Queen Nāhida Ḥijāzī (*sic*), when she grew old, wished that it be entrusted in the care of a Muslim ruler. Enter the governments of Kuwait and United Arab Emirates, assuming responsibility for the letter’s safekeeping, which has led to a number of scholarly studies on it.”¹⁸ Three studies have been done so far: the first by Yāsīn Ḥāmid Ṣāfdī, head of the Arabic manuscripts section at the British Museum; the second by a committee of professors (Drs. Ḥussayn Mu’annas, Shākīr Muṣṭafā, and Maḥmūd ‘Alī Makkī) in Kuwait; and the third by Ibrāhīm in Abu Dhabi, which was published in the newspaper *al-Ittiḥād* in May 1974. Ṣāfdī’s study confirmed the letter’s authenticity, whereas the second did not. As for Ibrāhīm’s study, which was carried out in collaboration with a Dr. Reed of the University of Leeds, it conducted a series of scientific tests, including the Carbon-14 dating method, on the letter’s ink and paper texture in England, concluding that it is over 1000 years old. The results indicated that it was either an original letter or a copy of it written around the same time.¹⁹ On February 25, 1977, the Arabic magazine *al-Uṣbū‘ al-‘arabī* published an article on the third study, reporting that King Hussein of Jordan, son of his predecessor Ṭīlāl b. Abdullah, had procured the original copy of the Prophet’s letter to Heraclius. It was sent to the British Museum and the University of Leeds where scientists tested its ink,

¹⁸ ‘Izzuddīn Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, in “Proceedings of the 3rd World Conference on Sīra and Sunna” (Beirut: al-Maktaba al-‘Arabiyya, 1981), ed. Abdullah Ibrāhīm al-Anṣārī, 1st edition, 278.

¹⁹ Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, 279.

confirming that the age of the document dates back to the seventh century CE. The letter is said to be in the custody of the ruling Hussein family of Jordan.²⁰

Interestingly, the writing on the extant original confirms the content as reported by al-Bukhārī and Muslim (the full text is given above), such as the phrases “. . .to **Hiraql** (*Heraclius*), ruler (**‘azīm**) of Rome” and *arīsīn* (“farmers”), whereas other reports read “**Qayṣar** (*Caesar*), ruler (**ṣāhib**) of Rome” and *akārīn* (sing. *akār*), as in Ibn Ishaq’s report; *ḥarāthīn* and *falāḥīn* in others—all of which have the same meaning as “farmers.”²¹ The Prophet’s letter to Emperor Heraclius is the best preserved of his historical letters, the most reliable report of which is found in al-Bukhārī’s *Ṣaḥīḥ*, according to al-Kittānī. He continued, “The first person who I knew that spoke about its existence in his time was al-Suhaylī in *al-Rawḍ (al-unf)*. He died in Marrakesh, 581 (1185), and his report was summarized by al-Karmānī in his *al-Kawākib al-dawārī*, by al-Ḥāfiẓ Ibn Hajar in his *Fatḥ al-barī*, by al-Burhān al-Ḥalabī in his *Nūr al-nabrās*, by Ibn Ghāzī in the margin of *al-Ṣaḥīḥ*, by al-Shaykh Abū Zayd al-Fāsī in his *Tashnīf al-musāmi‘*, by al-‘Allāma al-Jimā‘ al-Shaykh al-Quwaysim al-Tūnisī in his *Samṭil-lālī*, and others. . . .”²² The Muslim Historical Tradition (MHT) mentions the reports of several other correspondences between the Prophet and Heraclius.²³

The following is a translation of the Prophet’s letter to the fraternal kings of Jayfar b. al-Julandī and ‘Abd b. al-Julandī, of Oman.

²⁰ Maḥmūd Shīṭ Khaṭṭāb, *Sufarā al-nabī* (Beirut: Mu’assasa al-Rayyān, 1996), 1st edition, vol. 2, 143-44.

²¹ For variant readings of the Prophet’s letter to Heraclius, See Abū Ubayd, *Kitāb al-amwāl*, 92-94; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 6-8.

²² Al-Kittānī, *al-Tarātīb al-idāriyya* (also known as *niẓām al-ḥukūma al-nabawiyya*), ed. Abdullah al-Khālidi (Beirut: Dar al-Arqam b. Abi al-Arqam, n.d.), 2nd edition, vol. 1, 163-65.

²³ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 107-15.

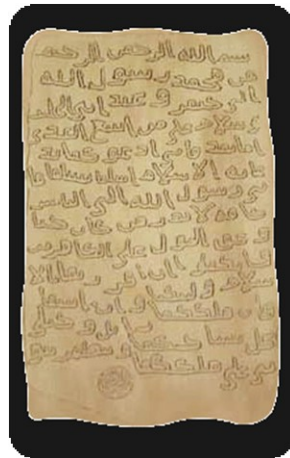


Figure 2. Facsimile of the letter that the Prophet reportedly sent to the two brothers-kings of Oman.

*In the Name of Allah, the Beneficent, the Merciful,
From Muḥammad to Jayfar and ‘Abd, sons of al-Julandī
Peace be upon those who follow the Guidance (as to what comes next):
Verily, I invite you both to the Call of Islam. Accept Islam, you will be safe!
I am indeed the Messenger of Allah to all of mankind in order to warn those alive.
And this statement shall take effect upon the disbelievers.
If you decide to accept Islam, I will set you over the affair your people.
But if you refuse to accept it, your kingdom shall decline for a surety.
My horsemen shall occupy your court and my prophethood shall dominate your kingdom.
(Sealed: Muḥammad, the Messenger of Allah)²⁴*

‘Amr b. al-‘Āṣ al-Sahmī (d. ca. 43-50/663-70), the Prophet’s envoy to Oman,
narrated that he arrived there²⁵, deliberately going straight to ‘Abd b. al-Julandī whom
he believed was the humbler and more mild-tempered of the two Azdite kings. He said

²⁴ Hamīdullāh, *Majmū‘a al-wathā’iq*, 162.

²⁵ It is reported that ‘Amr was sent to Oman in Dhi-l Qa‘da, 8/629, after Khaybar, or after Hunayn. See *Sharḥ al-mawāhib*, vol. 5, 37; Khattāb, *Sufarā al-nabī*, vol. 1, 363-601; William Muir, *Life of Mahomet* (London: Smith, Elder and Co., 1861), vol. 4, 213.

to him, “I am the envoy of the Messenger of Allah to you and your brother.” ‘Abd replied, “My brother (Jayfar) is senior to me in age and rule. I will take you to him, so that he can read your letter. To what do you invite?” ‘Amr said, “I invite you to Allah alone who has no partner; to forsake what is worshiped besides Him; and to bear witness that Muḥammad is His servant and His Messenger.” ‘Abd replied, “O ‘Amr! You are the son of your people’s chief. How did your father (al-‘Āṣī b. Wā’il al-Sahmī) act? He is a model for us.” ‘Amr said, “He died without believing in Muḥammad (May Allah’s peace and blessings be upon him!). I would have liked that he had accepted Islam and believed in him. I had the same opinion as him until Allah guided me to Islam.” ‘Abd asked, “When did you start to follow him?” ‘Amr said, “A short time ago.” ‘Abd then asked him where he had accepted Islam. ‘Amr said, “(I accepted it together) with Negus,” informing him that the Abyssinian king too had accepted Islam. ‘Abd asked, “How have your people behaved with respect to (Muḥammad’s) rule?” ‘Amr said, “They approved it and followed him.” ‘Abd asked, “Do the bishops and monks also follow him?” He replied, “Yes.” ‘Abd said, “Consider what you say, O ‘Amr! The most disgraceful person is the one who lies!” ‘Amr replied, “I have not lied, for we do not permit lying in our religion.” ‘Abd asked, “Did Negus make known his Islam to Heraclius?” ‘Amr said, “Indeed, that is so.” ‘Abd asked, “And how do you know this?” ‘Amr explained, “Negus used to extract wealth (i.e. taxes) for him. But when he became a Muslim, believing in Muḥammad, he declared, ‘By Allah! If he (Heraclius) were to ask me for a single dirham, I will not give it to him!’ This news reached the Byzantine Emperor whose brother Yannāq spoke to him, saying ‘Are you sparing your servant

who neither extracts wealth for you nor follows your religion?!’ Heraclius said, ‘A man desires a religion and chooses it for himself. What can I do? By God! Were it not for the tenacious hold on my kingdom, I would have done the same thing!’” ‘Abd said, “Consider what you say, O ‘Amr!” He replied, “By Allah! I have told you the truth!” ‘Abd asked, “Tell me what does he command you and forbid you?” ‘Amr said, “He commands us to obey Allah and forbids us from disobeying Him. He commands us to do righteousness and to keep family relations and forbids us oppression, enmity, adultery, drinking intoxicants, and the worship of stones, idols, and the cross.” ‘Abd stated, “O how wonderful is that to which he invites you! Were my brother to follow me, we would ride out, so that we could believe in him and accept him. But my brother tenaciously clings to his rule and will not let go of it; he is unwilling to quit.” ‘Amr said, “If he accepts Islam, the Messenger of Allah will allow him to keep his kingdom, taking *ṣadaqa* [i.e. *Zakāh*] from the rich and giving it to the poor.” ‘Abd replied, “This is fair conduct. What is *ṣadaqa*?” ‘Amr said, “I informed him what the Messenger of Allah had mandated concerning *ṣadaqāt* on wealth, ending with camels.” ‘Abd asked, “You mean it is taken from wild grazing animals that pasture among the trees and access the water?” ‘Amr said, “Yes.” He replied, “By Allah! I do not see my people, their large number, having their dirhams and giving this (*ṣadaqa*).” ‘Amr narrated that he waited a couple of days, while the junior king informed his older brother king about what had transpired between the two. He was then summoned to meet them. When ‘Amr entered the royal chamber, the kings’ men attempted to seize him by the arms, but ‘Abd shouted, “Leave him be!” ‘Amr went up to the senior king and looked at him. He did not sit since the

Arab custom in Oman was that no one was allowed to sit in the king’s presence. He said, “Speak your need.” ‘Amr gave him the Prophet’s sealed letter, which was written by Abū b. Ka’b. The king broke the seal and read it and then gave it to ‘Abd, the more agreeable of the two kings. Jayfar said, “Tell me about the actions of Quraysh?” ‘Amr answered, “They follow him: either willingly, desiring the religion, or under subjugation of the sword.” “And who is with him?” ‘Amr said boldly, “The people who desired Islam and chose it over the other religions, understanding with their intellects and Allah’s guidance that they had been misguided. I do not know of anyone besides you who remain in this dense thicket. If you do not accept Islam today and follow him, his horses will tread upon you and your stock will be destroyed. Accept Islam, you will be safe; and he will appoint you over your people, so that his men and horses will not come upon you.” Jayfar replied, “Leave and return to me tomorrow.” ‘Amr went to the junior king who said to him: “O ‘Amr! I hope that he accepts Islam. If only he did not cling so tightly to his kingdom!” The next day, ‘Amr went to the senior king but was not allowed to see him. He returned to the junior king and informed him about what happened. Jayfar said, “I thought about your invitation. I will be the weakest Arab if I make this man a king over what is in my hand. His horses will not reach me here. If they do, I will prepare for war the likes of which no person has ever seen!” ‘Amr replied, “I am leaving tomorrow” and conferred with ‘Abd, saying “What is our position concerning this manifestation? Everyone who has received (an envoy) has responded to him (the Prophet).” The next day ‘Amr was summoned and informed that the two brothers-kings had accepted Islam and believed in the Prophet. He was granted free

access to *ṣadaqa* and their rule, and they were his helpers against anyone who opposed him. ‘Amr remained in Oman as the Prophet’s envoy, instructor, liaison, and tax-collector of the Islamic State until the news reached him of the Prophet’s death.²⁶

Ḥamīdullāh, in the fourth introduction to his *Majmū‘a al-wathā’iq*, commented on the discovery of the Prophet’s letter to the Azdite kings of Oman: “As for the original letter of Jayfar, a Tunisian magazine has published a color photograph of it, which I saw with one of the brothers in Paris, 1400/1979—except that I did not know the name of the magazine or the year in which it was published. We are preparing to publish a copy of it in front of Document No. 76 (in his book).”²⁷ The letter is part of the official history of Oman, where a copy of it (shown above) encased in a golden frame is displayed at the Sohar Fort Museum.

²⁶ Ibn Sa‘d, *Ṭabaqāt*, vol. 1, 226; Ibn Sayyid al-Nās, *‘Uyun al-athar*, vol. 2, 353-55; *Sharḥ al-mawāhib*, vol. 5, 37-43; Ibn Qayyim, *Zād al-ma‘ād fī hadyī khayril-‘ibād* (Beirut: Mu’assasa al-Risala, 1994), 27th edition, vol. 3, 605-07; Ibn Ṭulūn, *I‘lām al-sā’ilīn*, 96-100; al-Zayla‘ī, *Naṣab al-rāya* (Jedda: Dār al-Qibla, 1997), 1st edition, vol. 4, 423-24; Ḥamīdullāh, *Majmū‘a wathā’iq*, 161-62.

²⁷ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 11.

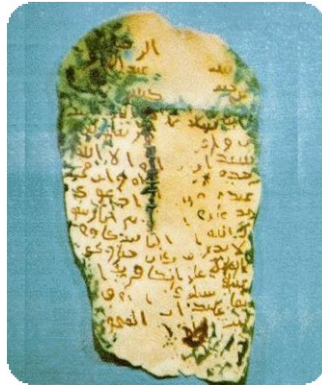


Figure 3. Facsimile of the letter that the Prophet reportedly sent to Chosroes, Emperor of Persia.

*In the Name of Allah, the Beneficent, the Merciful,
From Muḥammad, the Messenger of Allah,
To Chosroes, ruler of Persia:
Peace be unto the one who follows the Guidance, believes in Allah and His Messenger, and bears witness that no deity is worthy of worship except Allah who is alone without any partner, and that Muḥammad is His Servant and Messenger.
I invite you to the call of Allah, Verily I am the Messenger of Allah to all peoples²⁸ in order to warn those alive that this statement shall take effect upon disbelievers.
Accept Islam, and you will be safe! If you refuse, then the sin of Zoroastrians will be on you!
(Sealed: Muḥammad, the Messenger of Allah)*

Al-Bukhārī reported that the Prophet sent a letter to Chosroes (i.e. Chosroes II, r. 590-628 CE)²⁹ with his envoy Abdullah b. Ḥudhayfa al-Sahmī³⁰, ordering him to deliver

²⁸ Cf Q 7:158 (‘Alī) – “Say: “O men! I am sent unto you all, as the Messenger of Allah. . . .” and “We have not sent thee but as a universal (Messenger) to men. . . .” (Q 34:28 {‘Alī}).

²⁹ Opinions differ on the identity of the said Chosroes who received the Prophet’s letter. Ibn Hajar argued that it was (Kavadh II or Shiroe), the son of Chosroes II. But the overwhelming majority of historical reports indicate that it was the latter Chosroes II (Parvez; Ar. Abarwīz) who figures prominently, along with Heraclius, in reference to the Qur’an: “Alim. Lām. Mīm. The Romans have been defeated in the nearer land, and they, after their defeat will be victorious. . . .” (Q 30:1-8).

it to the ruler of Bahrain (al-Mundhir b. al-Sāwī) to pass it on directly to the Persian Emperor.³¹ That was in Muḥarram, 7/628. Abdullah b. Ḥudhayfa narrated that he arrived with the letter in Persia and requested permission to meet Chosroes II and that it was he (not the Bahraini ruler) who gave it to the Emperor. It is possible that the Prophet’s envoy delivered it to the king of Bahrain who took him to the Persian court, obtaining permission for him to enter and hand over the letter to the Emperor.³² A report by al-Zuhrī relates that the Prophet’s envoy to Chosroes was Shujā’ b. Wahb, but it is *mursal*.³³ When the letter was read to him, Chosroes II took it and, without looking at it, ripped it. Informed about it, the Prophet said, “O Allah! Rip his kingdom!”³⁴ Another report, which is also *mursal*, states that the Prophet’s letter to the Persian Emperor contained the words: “*Come to common terms as between us and you: That we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other than Allah.*’ If then they turn back, say ‘Bear witness that we (at least) are Muslims.’”³⁵ Chosroes II is said to have replied to the Prophet, enclosing his letter in two pieces of silk and musk. The Prophet took a pinch of the musk, smelt it, and gave it to his Companions. As for the silk, he said, “We have no need of the silk, since it is not our type of wear. You (the Prophet is speaking to the Persian Emperor’s

³⁰ One of the early Muhājirūn, his full name was Abdullah b. Hudhāfa b. Qays b. ‘Adī b. Su‘ayd b. Sa‘d b. Sahm b. al-Qurayshī al-Sahmī. He died in Egypt during ‘Uthmān’s caliphate. See Ibn Hajar, *Taqrīb al-tahdhīb* (entry no. 3290), 499.

³¹ Al-Bukhārī (*ḥadīth* no. 4424) in Ibn Hajar, *Fath al-bārī*, vol. 9, 580-84.

³² *Sharḥ al-mawāhib*, vol. 5, 16.

³³ See Ibn Kathīr, *al-Bidāya wal-nihāya*, 642.

³⁴ Ibn Sa‘d, *Ṭabaqāt*, vol. 1, 223-24; al-Ṭabarī, *Ta’rīkh*, vol. 2, 654-57; Ibn Sayyid al-Nās, *‘Uyūn al-athar*, vol. 2, 347-48; Ibn Ṭulūn, *I’lām al-sā’ilīn*, 64-66; al-Zayla‘ī, *Naṣab al-rāya*, vol. 4, 420-21; Ibn Qayyim, *Zād al-ma‘ād*, vol. 3, 601.

³⁵ Ibn Ṭulūn, *I’lām al-sā’ilīn*, 65.

envoy) must enter into my fold or I will surely come to you with those who are with me! Allah’s decree is even quicker than that. Concerning the letter, I am more informed about it than you. It states such and such.”³⁶ The Prophet did not open it or read it, and the envoy returned to Chosroes II.³⁷ It is also reported that the Persian Emperor had sent the Prophet a mule as a gift.³⁸

In May 1963, Ṣalāḥuddīn al-Munajjid published an article in the Beirut *al-Ḥayāh* newspaper, announcing the discovery of the Prophet’s letter to Chosroes II. The leathery original had been in the possession of Henri Phillipe Pharaoun (d. 1993), a former Lebanese minister who played a crucial role in his country’s independence from France in 1943 and was known for his collection of artifacts and relics. Pharaoun inherited the priceless letter along with other manuscripts from his father who had bought them from someone in Turkey, which was at the time in political turmoil. Al-Munajjid concluded that it was most probably an authentic document. “The most important development since the second edition (of *Majmū‘a al-wathā’iq*), wrote Ḥamīdullāh, “is the stumbling upon the original letter of the Prophet to Chosroes. It is available at present in a special book collection. The credit of the discovery goes to Dr. Ṣalāḥuddīn al-Munajjid. We have attached a picture of it and details of studies concerning it at the appropriate place.”³⁹ The letter was examined by Ibrahim, who had assisted in scientific dating tests on the Prophet’s letter to Heraclius, as mentioned

³⁶ On the Prophet’s prohibition of wearing silk for Muslim men, see Ibn al-Athīr, *Jāmi‘ al-uṣūl fī āḥādīth al-rasūl* (Damascus: Maktaba Dār al-Bayān, 1982), vol. 10, 677-87.

³⁷ Ḥamīdullāh, *Majmū‘a wathā’iq*, 143.

³⁸ *Sharḥ al-mawāhib*, vol. 5, 19.

³⁹ *Sharḥ al-mawāhib*, vol. 5, 18.

earlier. He reported that the Chosroes letter was protected between two glass panes and displayed a rip to the right of the middle of the letter, which ran all the way down to the bottom of it. Apparently, the letter had been stitched back together with great care and skill.⁴⁰ Al-‘Umarī, in his *al-Sīra al-nabawiyya al-ṣaḥīḥa*, wondered how al-Munajjid’s announcement of discovery of the Prophet’s letter to Chosroes gives credence to its reliability given that authentic reports indicated that the Emperor had ripped it!⁴¹ But al-‘Umarī rushed to judgment. The claim that the letter is actually that which the Prophet sent to the Persian Emperor cannot be dismissed as incredulous, however, unless all possibilities are eliminated. It may be that the letter was ripped but not necessarily rendered into smithereens, as most Ḥadīth reports seem to suggest⁴²; therefore, the Companion Abdullah b. Ḥudhāfa b. al-Sahmī might have retrieved it after Chosroes II’s undiplomatic response and brought it back to Madīna, reporting the incident to the Prophet. Al-‘Umarī correctly noted, though, that “the text of the Prophet’s letter to Heraclius remains the single report by which the rest of the letters can be compared for the purpose of historical criticism. . . . This judgment is applied to most of the documents in the Prophetic era, since there is no scope for their authentication from the point of view of *ḥadīth* methodology, as they are not unrecorded in the Six Books⁴³—except the Prophet’s letter to Heraclius found in al-

⁴⁰ See Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, 277-78; Khattāb, *Sufarā al-nabī*, vol. 2, 139; Hamīdullāh, *Majmū‘a wathā’iq*, 139-44.

⁴¹ Akram Diyā’ al-‘Umarī, *al-Sīra al-nabawiyya al-ṣaḥīḥa* (Medina: Maktaba al-‘Ulūm wal-Ḥikam, 1994), 6th edition, vol. 2, 459.

⁴² Al-‘Umarī, *al-Sīra al-nabawiyya al-ṣaḥīḥa*, vol. 2,

⁴³ That is, the two *ṣaḥīḥayn* (al-Bukhārī and Muslim) and the four *sunan* (Abū Dāwūd, al-Naṣā’ī, al-Tirmidhī, and Ibn Māja).

Bukhārī⁴⁴ [as well as Muslim, Aḥmad, Abū ‘Awwāna, and Ibn Ḥibbān⁴⁵] and the letter to ‘Umayr Dhū Mirān in Abū Dāwūd; although it is possible that many of them are authentic (*ṣaḥīḥ*) from the point of view of history yet are not evidentiary in matters of theology (*‘aqīda*) and law (*sharia*).”⁴⁶

⁴⁴ Ibn Hajar, *Fath al-bārī*, vol. 1, 70-72.

⁴⁵ Al-Nawawī, *al-Minhāj*, 1141-42; Abū ‘Awwāna, *Musnad* (*ḥadīth* no. 6726), vol. 4, 266-68; Aḥmad, *Musnad* (*ḥadīth* nos. 2370; see also nos. 2371-72), 223-24; Ibn Ḥibbān (*ḥadīth* nos. 6519-21) in al-Albānī, *al-Ta’līqāt al-hissān ‘alā ṣaḥīḥ ibn ḥibbān*, vol. 9, 273-76.

⁴⁶ Al-‘Umarī, *al-Sīra al-nabawiyya al-ṣaḥīḥa*, vol. 2, 459.



Figure 4. Facsimile of the letter that the Prophet reportedly sent to Negus I, King of Abyssinia.

*In the Name of Allah, the Beneficent, the Merciful
From Muḥammad, the Messenger of Allah,
To Negus, leader ('azīm) of Abyssinia:
Peace unto the one who follows the Guidance, (as to what follows)
Verily I praise Allah, besides whom there is no other god, before you
He is the King (al-Malak), the All-Holy (al-Qudūs), the Peaceful One (al-Salām), the Giver of
Faith (al-Mu'min), the Protector of Safety (al-Muḥaymin).
I bear witness that Jesus, Son of Mary, was the Spirit of Allah and His Word that was conveyed to
Virgin Mary who was pure and chaste and who bore Jesus (as an issue from Allah's Spirit and
Breath, just as He created Ādam with His Hand.
I invite you to (worship) Allah, who is alone and has no partner, to associate in obeying Him, and
to follow me, having firm faith in what has come to me.
Verily, I am the Messenger of Allah, and I invite you and your soldiers to Allah.
Indeed, I have transmitted the Message and given counsel, so accept my advice.
(Sealed: Muḥammad, the Messenger of Allah)*

This letter is part of a series of communications between the Prophet and the Neguses of Abyssinia during his lifetime. The Prophet had written two letters and had

sent them with ‘Amr b. Umayya al-Ḍamrī to Negus I (Aṣḥama b. Abḥar)⁴⁷; the first letter invited the Abyssinian king to Islam and the second letter requested him to be the Prophet’s legal guardian (*wakīl*) in his marriage to Umm Ḥabība, daughter of Abū Sufyān b. Ḥarb, who was among the Muslim refugees in Abyssinia.⁴⁸ He married Umm Ḥabība to the Prophet in absentia, giving her a dowry of 400 dinars on his behalf. Umm Ḥabība’s ex-husband ‘Ubaydulla b. Jaḥsh al-Aswad had converted to Christianity and died there in Abyssinia. When he read the first letter, Negus I is said to have put it over his eye, descended from his couch, and sat down on the floor. He stored the two letters in an ivory receptacle. He also sent his son Arīḥā b. al-Aṣḥam, together with 60 Abyssinians, to Madīna to meet the Prophet, but halfway on their journey, their ship sank and they all perished at sea.⁴⁹ Gifts were also exchanged between them: the Prophet sent Negus I musk and jewelry⁵⁰ and Negus I in turn sent him one or two mules.⁵¹ When his royal court suspected that he had reneged from Christianity and threatened to oust him, Negus I resorted to dissimulation, tucking the Prophet’s letter in his *qubbā’* (i.e. a tunic that generally reached to the middle of the shank, was divided down the front, and was made to overlap the chest) and asking them what they believed concerning Jesus. They said, “He is the Son of God.” He replied, placing his hand on his chest and over the concealed letter, “I bear witness that Jesus, Son of Mary,

⁴⁷ Al-Dhahabī, *Siyar a’lām al-nubulā’* (Beirut: al-Resala Publishing House, 1996), 11th edition, vol. 1, 428-43; Ibn Hajar, *al-Iṣāba fī tamyīz al-ṣaḥāba* (Calcutta: anonymous publisher, 1853), vol. 1, 112.

⁴⁸ The first emigration of Muslims from Makka to Abyssinia occurred 5 years after Muḥammad’s prophetic call or 9 years before the Hijra proper; shortly thereafter, it was followed by a second emigration. See al-Maqrīzī, *Imtā’ al-asmā’* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1999), vol. 1, 37-38.

⁴⁹ Al-Ṭabarī, *Ta’rīkh*, vol. 2, 653; Ibn Ṭūlūn, *I’lām al-sā’ilīn*, 56; Ibn Ḥudayda, *al-Miṣbāḥ al-muḍīyy* (Beirut: ‘Alām al-Kutub, 1985), 1st edition, vol. 2, 43-44;

⁵⁰ Al-Bayhaqī, *Dalā’il al-nubuwwa* (Beirut: Dār al-kutub al-‘ilmiyya, 1998), vol. 4, 412.

⁵¹ Al-Ḥudayda, *al-Miṣbāḥ al-muḍīyy*, vol. 2, 316.

does not exceed that.” He wrote back to the Prophet, announcing his acceptance of Islam and allegiance to him and his cousin Ja‘far b. Abī Ṭālib. He also prepared a few ships to take back the Muslim refugees to Arabia as necessary, in case he was ousted; if not, then they could remain in Abyssinia. When the Prophet was informed that Negus I had died in Rajab, 9/630, he performed the congregational Funeral Prayer (*ṣalatul-janāza*) for him in absentia in the mosque at Madīna.⁵² After his death, the political state of affairs became unstable in the country, causing some native Abyssinians to come to Madīna, seeking his other son Abū Nīzar, a client of ‘Ali b. Abī Ṭālib, to acclaim as the new Negus. ‘Ali b. Abī Ṭālib had bought Abū Nīzar as a slave from a merchant in Makka but had freed him as a compensation for what his father Negus I had done to accommodate and protect Muslim refugees in Abyssinia. Abū Nīzar declined, explaining that he had no desire for kingship after God had granted him Islam.⁵³

There is much inconsistency in the MHT concerning the Prophet’s prayer for Negus I and other related issues due to variant reports of the letters, ambiguity on the identity of the Negus or Neguses and envoys, and the dates of the correspondences. Several studies have tried to throw light on it but have not reached a consensus.⁵⁴ “There is confusion (over which of the Neguses for whom the Prophet prayed),” wrote Ibn Qayyim. “The narrator mixed it up by not distinguishing between the Negus whom he prayed for (in absentia) and the Negus to whom he wrote, inviting him to Islam, as is

⁵² Ibn Sa‘d, *Ṭabaqāt*, vol. 1, 222-23; Ibn Sayyid al-Nās, *‘Uyūn al-athar*, vol. 2, 349-50; al-Zuhaylī, *Naṣab al-rāya*, vol. 4, 421.

⁵³ Al-Hudayda, *al-Miṣbāḥ al-muḍīy*, vol. 2, 30-31.

⁵⁴ See, for example, Khaṭṭāb’s *Sufarā al-nabī*, Ibn Hadayda’s *al-Miṣbāḥ al-muḍī*, and Qāsim’s *Diblūmāsiyya muḥammad*.

clear in Muslim’s *Ṣaḥīḥ*.”⁵⁵ What is clear in Muslim’s *Ṣaḥīḥ* is the *isnād* report (Muslim ⇒ Yūsuf b. Ḥammād al-Ma’ni ⇒ ‘Abd al-A’lā ⇒ Sa’ād ⇒ Qatāda ⇒ Anas [b. Mālīk] who narrated it), which reads, “Allah’s Prophet wrote to Chosroes [II], Caesar [the Byzantine Emperor], Negus, and every tyrant, inviting them to Islam. *But this Negus was not the Negus for whom the Prophet prayed (when he died)* [emphasis mine].”⁵⁶ But immediately following it, Muslim recorded two more related *isnād* reports: (i) Muslim ⇒ Muḥammad b. Abdullah al-Rāzī ⇒ Abdul Wahhāb b. ‘Aṭā’ ⇒ Sa’īd ⇒ Qatāda ⇒ Anas b. Mālīk who narrated the likes of it but he did not say ‘*But this Negus was not the Negus for whom the Prophet prayed*’” and (ii) Naṣr b. ‘Alī al-Jahdami ⇒ his father ⇒ Khālīd b. Qays ⇒ Qatāda ⇒ Anas who narrated the likes of it but did not mention ‘*But this Negus was not the Negus for whom the prayed*.’”⁵⁷ By citing these extra reports, it is as if Muslim, as some have observed,⁵⁸ wanted to draw our attention to the preponderant narration that he favored, namely, that Anas most likely did not mention the last sentence in the first narration. If not, then what is the purpose of their inclusion in his *Ṣaḥīḥ*? Thus, it is plausible that the Negus who embraced Islam is the same one to whom he wrote and prayed for when he died or that there were two Neguses both of whom received letters from the Prophet and accepted Islam.

One can attempt to reconcile these contradictory reports or dismiss them entirely on the grounds of skepticism regarding the MHT as a whole or one can argue that they are simply *mursal* reports and are therefore unreliable. The problem is that

⁵⁵ Ibn Qayyim, *Zād al-ma’ād*, vol. 3, 601-03; Ibn Hajar, *Fath al-bārī*, vol. 9, 584.

⁵⁶ Muslim (*ḥadīth* no. 1774) in al-Nawawī, *al-Minhāj* 1144.

⁵⁷ Al-Nawawī, *al-Minhāj*, 1144-45.

⁵⁸ Ibn Ṭūlūn, *I’lām al-sā’ilīn*, 57-58; see fn nos. 30-32.

ṣaḥīḥ reports, as found in Muslim, al-Bukhārī, Aḥmad, and others state that the Prophet wrote to the kings of neighboring kingdoms and that he sent to them his handpicked envoys bearing letters). Sifting through the myriad (at times conflicting) reports of the correspondences and diplomatic exchanges between the Prophet and the Neguses in the MHT (especially the *sīra/maghāzī/ta’rīkh* literature), it may be deduced that the Prophet sent his envoy ‘Amr b. Umayya al-Ḍamrī (who died during Mu‘awiyya’s caliphate) twice to the Abyssinian kingdom. Al-Wāqidī reports a narration in which ‘Amr b. al-‘Āṣ recounts at length his path to Islam, stating that in the aftermath of Ḥudaybiyya he had led a delegation of his tribe, carrying prized gifts of goat skins to Abyssinia ostensibly to seek an alliance with Negus out of fear of Islam dominating Arabia. While they were there with Negus I, ‘Amr b. Umayya al-Ḍamrī entered the royal court carrying two letters from the Prophet to the Abyssinian king (one inviting him to Islam and the other seeking marriage with Umm Habiba, as mentioned earlier). ‘Amr b. al-‘Āṣ stated his purpose, asking Negus I if he believed in Muḥammad.⁵⁹ That was the first time that ‘Amr b. Umayya al-Ḍamrī had visited Negus I as one of the Prophet’s first envoys. The second time must have been in 9 /630, following the death of Negus I, to his successor Negus II who, unlike his predecessor, did not accept Islam. In his *al-Muntaẓam*, Ibn al-Jawzī summed it up thus: “It is possible that he (the Prophet) wrote to the last Negus (i.e. Negus II) after he had written to the one that he prayed for (i.e.

⁵⁹ See al-Wāqidī, *Kitāb al-Maghāzī*, ed. Marsden Jones (London: Oxford University Press, 1965), vol. 2, 741-45; al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 2, 307; al-Maqrīzī, *Imtā’ al-asmā’*, vol. 1, 38-41; Ḥamīdullāh, *Majmū’a al-wathā’iq*, 99; Aḥmad b. Ḥudāya, *al-Miṣbāḥ al-muḍīyy* (Beirut: ‘Ālam al-Kitāb, 1985), 2nd edition, vol. 2, 56-61.

Negus I).”⁶⁰ The Prophet’s letter to Negus II (possibly al-Aṣḥam b. Muḥam) might be the one that al-Bayhaqī reported in his *Dalā’il al-nubuwwa* (with the *isnād* of Yūnus b. Bakīr who narrated from Ibn Ishāq), which reads as follows:

*In the Name of Allah, the Beneficent, the Merciful: This is a letter from Muḥammad, the Messenger of Allah, to Negus al-Aṣḥam, the ruler of Abyssinia. Peace unto the one who follows the Guidance and believes in Allah and His Messenger, and bears witness that there is no god but Allah Who has not taken any consort or offspring and that Muḥammad is His Servant and Messenger. I invite you to the Call of Allah, for verily I am His Messenger. Accept Islam, you will be safe. ‘O People of the Book, come to common terms as between us and you: That we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other than Allah.’ If then they turn back, say “Bear witness that we (at least) are Muslims.” If you refuse, then upon you are sins of the Christians.*⁶¹

The confirmation that Negus II did not embrace Islam comes from a report concerning the Prophet’s military expedition to Tabūk in Rajab, 9/630.⁶² There Heraclius’ envoy al-Tanawwukhī brought him money gifts and a letter, in which the Byzantine Emperor confessed his conversion to Islam. The Prophet distributed the dinars among his Companions and declared that the Emperor was still a Christian and had lied about his Islam. He then invited the envoy to Islam but he declined, stating “I am the envoy of a people and follow their religion. I will not leave it until I return to them.” The Prophet laughed and quoted these words from the Qur’an: “*It is true thou wilt not be able to guide every one, whom thou lovest; but Allah guides those whom He will.* . . .”⁶³ He then said to the Christian envoy: “O brother Tanawwukh! Verily, I wrote a letter to

⁶⁰ Ibn al-Jawzī, *al-Muntaẓam fī ta’rīkh al-mulūk wal-umam* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1992), 1st edition, vol. 3, 289.

⁶¹ Al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 2, 308; Abū ‘Ubayd, *Kitāb al-amwal* (no. 59 – *mursal*), 94; al-Ḥākim, *al-Mustadrak ‘alal-ṣaḥīḥayn* (*ḥadīth* no. 4303), ed. al-Dhahabī (Cairo: Dār al-Ḥaramayn, 1997), 1st edition, vol. 2, 731; Ibn Kathīr, *al-Bidāya wal-nihāya*, 401; *Sharḥ al-mawāhib*, vol. 5, 25-26; Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 103-04; Ibn Ṭūlūn, *I’lām al-sā’ilīn*, 58.

⁶² Ibn Hishām, *al-Sīra al-nabawiyya* (Beirut: Dār al-Kitāb al-‘Arabī, 1990), vol. 4, 155; Ibn Sa‘d, *Ṭabaqāt*, vol. 2, 150.

⁶³ Q 28:56

Chosroes and he ripped it, and I pray that Allah rip his kingdom. *I wrote a letter to Negus and he ripped it, and I pray that Allah rip his kingdom* [emphasis mine]. And I wrote a letter to your ruler (Heraclius) and he kept it. The people will not experience misery from him, as long as there is good in life. . . .”⁶⁴ That there were two Neguses with whom the Prophet communicated is further gleaned from this statement of al-Bayhaqī who reported from Ibn Ishāq: “‘Negus’ name was Muṣḥama, which in Arabic means ‘a gift’ (‘aṭiyya), and the word Negus (al-Najāshī) is a title for a king like Caesar (Qayṣar) was for Heraclius. As for our report from Yūnus who transmitted it from Ibn Ishāq, to wit, the name Aṣḥam is found in the (Prophet’s) letter, it is more authentic than Jābir’s *ḥadīth*,⁶⁵ which narrates that the Prophet prayed for Aṣḥama, the Negus.”⁶⁶ Most Muslim chroniclers did not notice that there were two Neguses having two slightly different names. According to the majority opinion, the Prophet’s letter to the Abyssinian king (i.e. Negus II) was sent with his envoy ‘Amr b. Umayya al-Ḍamrī in 6/627 (or 8/629, before the Conquest of Makka, according to al-Bayhaqī).⁶⁷ The foregoing is but one plausible way of reconciling the variant reports of communications between the Prophet and the Neguses. Others have opined differently.⁶⁸

⁶⁴ Abū ‘Ubayd, *Kitāb al-amwāl*, 94-95; Ibn Zanjawīh, *Kitāb al-amwāl*, ed. Shākir Zayb Fayyāḍ (Riyadh: King Faisal Center for Research and Islamic Studies, 1986), 1st edition, vol. 1, 125; Ibn Kathīr, *al-Bidāya wal-nihāya*, 696-97; Ḥamīdullāh, *Majmū‘a al-wathā‘iq*, 111-15.

⁶⁵ Al-Bukhārī (*ḥadīth* nos. 1318-20) in Ibn Hajar, *Fath al-bārī*, vol. 4, 83-85, 108-10; Muslim (*ḥadīth* nos. 951-52) in al-Nawawī, *al-Minhāj*, 611-12; al-Nasā’ī, *Sunan (ḥadīth* nos. 1879 - *ṣaḥīḥ*; 1980 - *ṣaḥīḥ* 303, 317.

⁶⁶ Al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 2, 310.

⁶⁷ *Sharḥ al-mawāhib*, vol. 5, 25-26; al-Maqrīzī, *Imtā’ al-asmā’*, vol. 1, 304-05.

⁶⁸ See Khaṭṭāb, *Sufarā al-nabī*, vol. 1, 31-72. The author’s conclusions are that the Prophet’s first letter was sent with Ja’far b. Abī Ṭālib to al-Aṣḥam b. Abjar and the second with ‘Amr b. Umayya al-Ḍamrī to al-Aṣḥama b. Abḥar.

In the second edition of his *Majmū‘a al-wathā’iq*, Ḥamīdullāh claimed that the Prophet’s letter to Negus (I) was discovered, publishing a picture and transcription of it. He also wrote about it in his French work *Le Prophète de l’Islam* and in his English work *Muḥammad Rasūl Allāh*.⁶⁹ In 1940, the English Orientalist Dunlop published an article in *JRAS*, revisiting the discovery of the Prophet’s letter to Negus.⁷⁰ A picture of it was reproduced in the journal. Dunlop wrote that he had obtained the parchment manuscript from a Syrian who had acquired it from an Abyssinian priest who came to Syria during the Second World War. The letter measured 13 ½ inches long and 9 inches wide, having round visible letters with 17 lines of text written in brown ink and a seal at the bottom of it not larger than 1 inch across inscribed with the words, from bottom up, ‘Muḥammad, the Messenger of Allah’ on separate lines. After consulting with experts at the British Museum who had conducted a paleographic study of it, Dunlop expressed doubt about the letter’s authenticity. His skepticism was reinforced by the negative results yielded by his comparison of the so-called Negus letter to another extant letter believed to be the Prophet’s letter to the Coptic ruler Muqawqis (discussed next) and reports of it in the MHT (notably al-Ṭabarī) as well as the rejections of Margoliouth, Wellhausen, Caetani, and Grimme, to wit, it was inconceivable that Muḥammad could have written to these kings, many of whom were powerful, either because such a conduct was not in step with his well-attested moderation or that he was not in a strong military position to do so. That left him without any doubt that it

⁶⁹ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 22, 99-103.

⁷⁰ D. M. Dunlop, “Another ‘Prophetic’ Letter,” *Journal of the Royal Asiatic Society of Great Britain and Ireland*, No. 1 (Jan., 1940), 54-60.

was a fabrication.⁷¹ Dunlop’s paleographic analysis stands out in contrast to Muslim scholars’ linguistic assessment of its contents, which is said to reflect the registers of Qur’anic Arabic and the dialects of Arabs of the period⁷²; moreover, no scientific dating tests were carried out on it, as was done on the Prophet’s letter to Heraclius, in order to accurately determine its age. Dunlop returned the manuscript to its Syrian owner, but its whereabouts today is unknown.

Generally, Muslim scholars have mixed opinion on its reliability.⁷³ My assessment is that, insofar as Dunlop’s comparisons of the manuscript to historical reports of are concerned, there is no exact Arabic equivalent of the extant original found in variant reports of the MHT. For example, the MHT contains the word *malik*, whereas the original letter has the word ‘*azīm*; the MHT (some but not all reports) has the sentence “*I have sent to you Ja’far....*”, whereas the original does not; the MHT (some reports) has the name “al-Asham,” whereas the original has the addressee Negus (al-Najāshī) only (it may be that it faded out over time); the MHT has “to believe” (*tu’min*), which might be an error in transcription since, with diacritics, the writing can easily be read either way, whereas the original has “to have firm faith” (*tūqin*). Indeed, the closest corresponding report is that transmitted by al-Wāqidi.⁷⁴ These discrepancies can be explained by *tadlīs* on the part of the narrators. In sum, the jury is still out on the authenticity of the manuscript, but no one can say with certainty that it is or is not the

⁷¹ Dunlop, “Another ‘Prophetic’ Letter,” 59.

⁷² *Sharḥ al-mawāhib*, vol. 5, 22-23.

⁷³ See Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, 276-77; al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 459; Khattāb, *Sufarā al-nabī*, vol. 2, 136; Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 99-103.

⁷⁴ Ibn Sayyid al-Nās, *‘Uyūn al-athar*, vol. 2, 349; Ibn Qayyim, *Zād al-ma‘ād*, vol. 3, 601-03; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 19-21; Ibn Ṭūlūn, *I’lām al-sā’ilīn*, 54.

Prophet’s letter to Negus I. I identify the addressee in the letter as Negus I because its tone is not as strong, assertive, admonishing, and threatening, as that in the batch of letters sent to Heraclius, Chosroes II, the brothers-kings of Oman, and others; rather, it is more in conformity to the Islamic construction of Negus I’s profile as a good king, a believer⁷⁵, whereas the text of the other letter—the extant original—contains the warning “*If then they turn back, say ‘Bear witness that we (at least) are Muslims.’ If you refuse, then upon you are sins of the Christians,*” which reflects the general provocative attitude, brimming confidence, and strident conviction of the Prophet and his projection of his political authority, as exhibited in the letters sent the non-Muslim kings and rulers in 6/627.

⁷⁵ Al-Dhahabī, *Siyar al-nubulā’*, vol. 1, 439-41.



Figure 5. Facsimile of the letter that the Prophet reportedly sent to al-Muqawqis, ruler of Coptic Egypt.

*In the Name of Allah, the Beneficent, the Merciful,
From Muḥammad, the Servant of Allah and His Messenger,
To Muqawqis, ruler (‘aẓīm) of the Copts:
Peace be unto the one who follows the Guidance (as to what follows):
I invite you to the Islamic Call. Accept Islam, you will be safe! Accept Islam, Allah will give you a two-fold reward.
But if you turn away, then upon you are sins of the Copts: ‘O People of the Book! Come to common terms as between us and you: that we worship none but Allah; that we associate no partners with him; that we erect not, from among ourselves, Lords and patrons other than Allah. If then they turn back, say ye: Bear witness that we (at least) are Muslims (bowing to Allah's Will)’
(Sealed: Muḥammad, the Messenger of Allah)*

The envoy Ḥaṭīb b. Abī al-Balta‘a al-Lahkmī (d. in Madīna) reportedly took the Prophet’s letter to al-Muqawqis (identified as Jurayj b. Mīnā’)⁷⁶, the king of Alexandria in Egypt, inviting him to Islam. Ḥaṭīb addressed the ruler of Copts, who were subjects of the Byzantine Empire, and handed him the letter. Ibn Sa’d and others do not mention the letter’s contents, reporting that after al-Muqawqis read it, he placed it in an ivory

⁷⁶ It is a puzzle that western and Muslim historians differ so widely on al-Muqawqis’ identity, role, and duration of reign. See Khaṭṭāb, *Sufarā al-nabī*, vol. 1, 105-16.

receptacle, sealed it, and gave it to a slave girl. They also reported that al-Muqawqis spoke approvingly of the Prophet and wrote him a letter (i.e. he ordered one of his scribes to write it in Arabic), stating “I knew that a prophet remained (to appear), but I thought that he would do so in Syria. I have honored your envoy and sent you the gifts of two concubines (Māriya, the daughter of Sham‘ūn, and her sister Shīrīn accompanied by a male cousin Jabar, a eunuch) of great status among the Copts. I have also sent you 20 pieces of clothing (*kiswa*) and a (grayish white) mule (named Duldul) for you to ride.” Other reports mention that a donkey, two more concubines (which would raise the total number to four), 1000 dinars, a comb, mirror, a container of kohl, and a drinking bowl were also among the king’s gifts to Muḥammad. Ḥaṭīb narrated that al-Muqawqis was a gracious host and that he stayed with him five days.⁷⁷

As for the contents of the Prophet’s letter to al-Muqawqis presented here, they are found in some *sīra/maghāzī/ta’rīkh* works and are identical, variant, or similar to the extant original except for “the son of” (*ibn*) after Muḥammad. After reading al-Muqawqis’ letter, the Prophet said, “He holds tenaciously to his kingdom but it will not last.”⁷⁸ In 1850, the Prophet’s letter to Muqawqis was reportedly discovered in a church near Ahkmīm in Egypt by a French Orientalist. Barthélemy found it attached to a Coptic

⁷⁷ Abū ‘Ubayd, *Kitāb al-amwāl*, 347-48; al-Zanjawī, *Kitāb al-amwāl* (entry no. 969), 590; Ibn Sa’d, *Tabaqāt*, vol. 1, 273; Ibn Hishām, *al-Sīra al-nabawiyya*, vol. 4, 254; al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 390; al-Ṭabarī, *Ta’rīkh*, vol. 2, 657; al-Bayhaqī, *Dalā’il al-nubuwwa*, vol. 1, 59 (also vol. 4, 395); Ibn al-Jawzī, *al-Muntazam*, vol. 3, 274-75;

⁷⁸ Ibn Sayyid al-Nās, *Uyūn al-athar*, vol. 2, 350-52; *Sharḥ al-mawāhib*, vol. 5, 27-32; Ḥamīdullāh, *Majmū’a al-wathā’iq*, 135-39; Ibn Ṭūlūn, *I’lām al-sā’ilīn*, 81-85; Ibn Qayyim, *Zād al-ma’ād*, vol. 3, 603-604; Ibn Kathīr, *al-Bidāya wal-nihāya*, 643-44; al-Zayla’ī, *Nasab al-rāya*, vol. 4, 421-23; al-Qalqashandī, *Ṣuḥb al-a’shā* (Cairo: Dar al-Kutub al-Miṣriyya, 1922), vol. 6, 378; Ibn Ḥudāya, *al-Miṣbāḥ al-muḍiyy*, vol. II, 107-50; Khattāb, *Sufarā al-nabī*, vol. I, 117-26.

bible in a monastery. It was written on leathery paper. In 1854, Barthelmy documented his finding was in the *Journal Asiatique*. In 1856, Rodiger published a notice of Barthelmy’s finding in ZDMG. Belin confirmed that it was original and Noldeke agreed with him. In November 1940, a fresh study of it was published in the Arabic magazine *al-Hilāl al-miṣrī* (“The Egyptian Crescent”). In 1955, Ḥamīdullāh referred to Barthelmy’s discovery in the second edition of his *Majmu‘a al-wathā’iq*⁷⁹ and also published a study of it in the *Arabica* journal (1955). The Ottoman sultan Abdulhamid II (d. 1909) is said to have acquired the letter for some 300 pounds, enclosed it in a golden frame, and stored it in a golden chest. At present, it is on display at the Topaki Museum in Istanbul, Turkey.⁸⁰ Scholars remain divided on its authenticity.

⁷⁹ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 24.

⁸⁰ Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, 274-75; al-‘Umarī, *al-Sīra al-nabawī al-ṣaḥīḥa*, vol. 2, 459; Khattāb, *Sufarā al-nabī*, vol. II, 132-35.

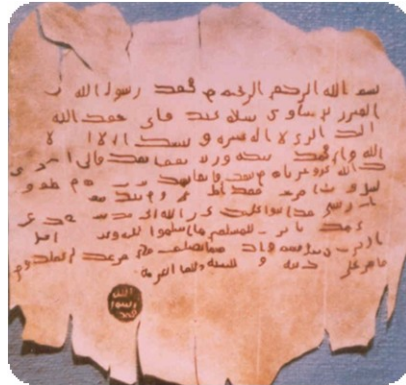


Figure 6. Facsimile of the letter that the Prophet reportedly sent to al-Mundhir b. al-Sāwā, King of Bahrain.

*In the Name of Allah, the Beneficent, the Merciful,
From Muḥammad, the Messenger of Allah,
To al-Mundhir b. al-Sāwā:*

Peace be unto you! I praise Allah besides whom there is no other deity. I bear witness that none is worthy of worship but Allah and that Muḥammad is His Servant and Messenger (As to what follows):

*I remind you about Allah, and he who counsels does so for his own sake. Whosoever obeys my envoys and follows their command has obeyed me; and whoever gives counsel to them has given counsel to me. My envoys have spoken praiseworthy of you. I intercede before you on behalf of your people: Leave the Muslims upon that which submitted. I have pardoned the sinners, so draw nigh to them. Verily, whatever good you do, we shall not depose you from your action. As for those remain upon Judaism and Zoroastrianism, let them pay the **jizya**.*

(Sealed: Muḥammad, the Messenger of Allah)

The above letter appears to be the Prophet’s reply to a letter that he had received from al-Mundhir b. al-Sāwā [al-‘Abdī], the king of Bahrain, who was a Christian. According to al-Wāqidī, ‘Ikrima narrated, “I found this letter among Ibn ‘Abbās’ collection after his death and copied it. It read (perhaps paraphrasing), ‘The Messenger of Allah sent al-‘Alā’ b. al-Ḥaḍrāmī to al-Mundhir b. Sāwā with a letter of

invitation to Islam. Al-Mundhir wrote back to the Messenger of Allah, stating ‘O Messenger of Allah, I read your letter to the people of Bahrain. Those who love Islam and are fascinated by it have entered it. Others dislike it. In my land, there are Zoroastrians and Jews, so inform me concerning their affairs.’ The Messenger of Allah wrote him. . . (the aforementioned letter).”⁸¹ According to Ibn Sa’d, on his departure from al-Ji’rāna (ca. 8/629), the Prophet sent his envoy al-‘Alā’ b. al-Ḥaḍrāmī (d. between 14-21/635-41) to al-Mundhir with a letter to the king of Bahrain, a direct dependency of Sassanid Persia.⁸² Ibn Sa’d did not mention the letter’s contents, which are gleaned from other sources. Al-Wāqidī reported that the Prophet, returning from Tabūk, sent his envoy along with Abu Hurayra, two days before the end of Rajab, 9/630, with a sealed letter to the Bahraini king, inviting him to Islam: “*In the Name of Allah, the Beneficent, the Merciful. From Muḥammad , the Messenger of Allah, to al-Mundhir b. Sawa: Peace be unto the one who follows the Guidance, (as to what follows)—I invite you to Islam. Accept Islam, and you will be safe. Accept Islam, and Allah will give you what is below your hands. Know that my religion will dominate until the end of wheresoever my camels and horses may go.*”⁸³ Al-Wāqidī also reported that the Prophet instructed his envoy to preach good to the people of Bahrain; that if they accepted it, he should remain there until further instruction; and that he should extract the *Zakāh* from the rich and give it to the poor. Al-‘Alā’ requested the Prophet to write it down for him.⁸⁴ He narrated, “The Messenger of Allah wrote a letter for me on the stipulations concerning camels, cows, sheep,

⁸¹ Ibn Sayyid al-Nās, *‘Uyūn al-athar*, vol. 2, 352-53; Ibn Qayyim, *Zād al-ma‘ād*, vol. 3, ; 604-05;

⁸² Ibn Sa’d, *Ṭabaqāt*, vol. 1, 227, 237-39.

⁸³ Al-Zayla‘ī, *Nasab al-rāya*, vol. 4, 419;

⁸⁴ Al-Zayla‘ī, *Nasab al-rāya*, vol. 4, 420; Ibn al-Athīr, *Ta’rīkh*, 248.

agricultural produce, and dinars and dirhams. . . .”⁸⁵ Another report states that the Prophet wrote to al-Mundhir on his return from al-Ḥudaybiyya or before the Conquest of Makka and appointed al-‘Alā’ as the official representative of the Islamic government in Bahrain.⁸⁶ The discrepancy in the date of al-‘Alā’s departure to Bahrain is obvious. The majority view is that he went there in 8/629. Al-Mundhir b. al-Sawa (b. al-Akhnas b. Banān b. ‘Amr b. Abdullah b. Zayd b. Abdullah b. al-Darāmī al-Tamīmī al-Darāmī) accepted Islam, as did most of the Arab community in Bahrain, and died ca. 11/632 before his people apostatized. That the Bahraini king himself led a delegation to visit the Prophet is disputed.⁸⁷ The MHT also reports an exchange of several communications between the Prophet and al-Mundhir.⁸⁸

In 1863, the Orientalist Busch published an article in Germany, announcing the discovery of the Prophet’s letter to al-Mundhir (*fig. 6* above). Ḥamīdullāh also published a study of it in the journal *Islamic Culture* (Hyderabad, October 1939) and discussed it in his *Majmū‘a al-wathā’iq*.⁸⁹ At one time, the al-Mundhir letter was acquired by a Kemal Affendi who took it to the Turkish Ministry of Education; another time, it was said to be with the al-Qūtilī or al-Marādī family in Syria. In honor of the letter, the Bahraini government had a copy of it sculptured marble, which was displayed in its

⁸⁵ Ibn Ṭūlūn, *I‘lām al-sā’ilīn*, 62-63.

⁸⁶ Ibn Ṭūlūn, *I‘lām al-sā’ilīn*, 59-61; Ibn Hajar, *al-Iṣāba*, vol. 6, 139; Khaṭṭāb, *Sufarā al-nabī*, vol. I, 160-70.

⁸⁷ Al-Suhaylī, *al-Rawḍ al-unf*, vol. 4, 390-91; *Sharḥ al-mawāhib*, vol. 5, 33-35; al-Qalqashandī, *Ṣuḥb al-a‘shā*, vol. 6, 376; al-Ḥudāya, *al-Miṣbāḥ al-muḍiyy*, vol. 2, 280-84; Ibn al-Athīr, *Asad al-ghāba fī ma‘rifat al-ṣaḥāba* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1994), 1st edition, vol. 5, 255.

⁸⁸ Ibn Sa‘d, *Ṭabaqāt*, vol. 1, 226-27, 238-39; Abū ‘Ubayd, *Kiāb al-amwāl*, 91; al-Zarqānī, *Sharḥ al-mawāhib*, vol. 5, 36.

⁸⁹ Ḥamīdullāh, *Majmū‘a al-wathā’iq*, 145-48.

international airport; but it has since been moved. According to Ibrāhīm, “It should be noted that the writing on the Prophet’s letter (to al-Mundhir) resembles greatly the writing of his letter to al-Muqawqis, which is preserved at the Topaki Museum in Istanbul. Undoubtedly, they are two letters written by the same hand. If not, then the writer of al-Mundhir’s letter was a skilled copyist of the characters of al-Muqawqis’ letter.”⁹⁰ Today, the whereabouts of the original letter, which was written in the Kufic script, are unknown.

In the final analysis, a more extensive study of the Prophet’s diplomatic correspondences, including the letters examined here, needs to be undertaken. Even if the extant letters of the Prophet, which have come down to us, are subjected to rigorous scientific dating tests, literary analyses, x-ray scans, textile, and paleographic analyses, and it is proven that they date back to the seventh century CE, there is still no guarantee that such results and findings will automatically or necessarily resolve the centuries-old debate over their reliability and accuracy to the degree of certainty that will satisfy everyone. Thus, authenticity of the Prophet’s correspondences, especially his letters to non-Muslim kings and rulers, probably hinges on what type of justified belief that findings and results of their studies constitute and for whom.

⁹⁰ Ibrāhīm, *al-Dirāsāt al-muta‘allaqa bi rasā’il al-nabī*, 275-76; Muḥammad M. al-‘Azamī, *The History of the Qur’anic Text* (Leicester: UK Islamic Academy, 2003), 124; Khattāb, *Sufarā al-nabī*, vol. 2, 135-36.

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