

Freedom of Expression in Islam: An Analysis of *Fitnah*

Mohammad H. Kamali

This article develops the concept of *fitnah* and its bearing on freedom of expression. It puts together information from the unconsolidated source materials of the Shari'ah in a manner reflecting the interest and style of a modern student of comparative law. It also develops the theme that modern interpretations of seditious speech and conduct have done much to restrict the scope and substance of the freedom of expression. The Shari'ah tends to advocate the opposite, as it confines the scope of restrictions to measures necessary to repel an imminent danger to normal order in society. The individual's freedom to investigate facts and ideas and to formulate and express an opinion are integral to Islam's approach to the dignity of the individual and the quest for ascertaining the truth.

What Is *Fitnah*?

Dictionaries give various meanings for *fitnah*: temptation, trial, misguidance, enticement, fascination, commotion, sedition, confusion, affliction, torture, and strife (Majma' al Lughah al 'Arabiyah 1405/1958; al Zawi n.d.; Wajdi 1971; Cowan 1976; Hughes n.d.; Khan 1979). This plurality of meaning might have contributed to a certain ambiguity noted in the term's juridical meaning. *Fitnah* and its derivatives feature prominently in the Qur'an, being found in no less than sixty places. In the chapter "Kitab al Fitana," *Shahih al Bukhari* records eighty-six hadiths. Thus, as might be expected, the word appears in both the Qur'an and the hadith in several contexts and denotes meanings that converge and overlap.

Mohammad H. Kamali is a professor of law at the International Islamic University, Kuala Lumpur, Malaysia.

Among the juridical meanings of immediate concern are seditious speech that attacks a government's legitimacy and denies believers the right to practice their faith (Hughes n.d.). This latter meaning tends to be the most dominant one in the Qur'an. Each of these two meanings will be addressed in detail as the discussion proceeds. However, there are a few other Qur'anic usages of *fitnah* of which the reader should be aware.

As a dominantly moral concept, *fitnah* occurs in the Qur'an in the sense of temptation or enticement, as in: "Know that your possessions and your offspring are but a trial (*fitnah*) and that it is God with Whom lies your highest reward" (Qur'an 8:28; 64:15). Love of property and children may thus entice one to indulge in sinful conduct (Ibn al Qayyim 1983).

Fitnah is also used to denote trial and testing (*imtiḥān*) someone for what he/she finds difficult to accept or deny. In this sense, it entails an exposure to hardship with a view to forcing someone to do or abandon an act, speech, or a belief. God tests believers and unbelievers in order to reward or punish them in proportion to the *fitnah* they have undergone. Note for example: "We put to test (*laqad fatannā*) those who preceded them (the believers) and God knows the truthful from those who lie" (Qur'an 29:3; 9:49; 44:17; Riḍā 1910).

Another meaning of *fitnah*, but one on which commentators disagree, is the association of other deities with God (*shirk*), as in: "And fight them (the associators) until *fitnah* (disbelief) is no more and faith in God prevails everywhere" (Qur'an 8:39). According to a commentary attributed to Ibn 'Abbās, which is upheld by Ibn Kathīr and the majority of leading commentators, *fitnah* in this passage means disbelief (*shirk*). The text would thus mean that believers are to fight disbelievers until disbelief is eliminated and only Islam remains. However, al Alūsī says that the correct meaning here is aggression that seeks to eliminate freedom of belief (Riḍā 1910). Commenting on this, Ibn al Qayyim points out that *fitnah* occurs here in contradistinction with the phrase "the whole of religion" (al *dīn kullihī*), which appears in the latter part of the sentence. It is thus implied that *fitnah* destroys religion, which may explain why commentators have interpreted it to denote disbelief (Ibn al Qayyim 1983).

Among the various Qur'anic usages of *fitnah*, the most typical is that of oppression, whether verbal or actual, that denies believers the right to practice their faith. For example: "And expel them from where they have expelled you. For *fitnah* (oppression) is worse than killing" (Qur'an 2:191). Such oppression is classified as *fitnah* that destroys the freedom of religion (*fitnah fī al dīn*). In the early days of Islam, disbelievers tried to prevent the Muslims from observing their faith by such hostile actions as persecution, expulsion, and expropriation of property, all of which are described in the Qur'an as being more hideous than murder (Riḍā 1910).

'Abd Allāh ibn 'Umar has explained *fitnah* as: "And there were very few Muslims, so a man used to be persecuted on account of his religion. They either murdered him or subjected him to torture until Islam became predominant" (Khan 1979).

On a slightly different note, Riḍā points out that hypocrites (*munāfiqūn*) sought to promote *fitnah* during the battles of Uḥud and Ṭābūk by urging Muslims not to participate. In the case of Uḥud, about one-third of the Muslim forces were so persuaded by Ubay ibn Salūl. In a more modern context, Riḍā observes further that the attempt of disbelievers to propagate their beliefs among Muslims, especially among those who lack understanding and/or are ignorant, with the intent of tempting them away from Islam and towards disbelief, can be considered as *fitnah* (ibid.).

In hadith literature, *fitnah* generally refers to the outbreak of the war, commotion, and tumult that are to precede the Day of Judgment (*al ayyām al akhīrah*). Thus many major hadith collections contain a chapter entitled "al Fitan." In this context, *fitnah* originates in a misguided ruler imposing on his/her society a reign of oppression that leads to chaos and confusion over values. Other related and prominent themes are challenging a legitimate government's authority and calamities that afflict the community due to the rampant indulgence in corruption. A total sense of insecurity afflicts believers in such circumstances, and they are advised to isolate themselves from the sources of tumult until the truth emerges (Khan 1979; Hughes n.d.).

Freedom of expression does not allow the subjection of believers to corrupt views and influences that violate Islamic principles. Such offensive speech and conduct may be penalized, although the precedents of the Prophet's four immediate political successors suggest that punishment should be severe only if the conduct in question amounts to blatant disbelief (*kufr sharīḥ*). While Islam forbids the use of coercion by those seeking to spread the faith, it also takes measures to protect Muslims against aggression that would deny them their own freedom. As used here, *fitnah* is antithetic to freedom of religion and can claim no validity under any legitimate concept and variety of freedom (Ghazawī n.d.).

Seditious (i.e., political) *fitnah* is an abuse of the freedom of expression that threatens the legitimacy of a lawful government as well as the collapse of a society's normal order. This theoretical characterization may appear fairly uncontroversial, but problems arise when it is translated into practice. Defining its scope and establishing a correct balance among conflicting values often tend to be problematic. For instance, while sedition by definition undermines the authority of a legitimate government, the very legitimacy of the government in question is not always self-evident, as in the case of the Soviet-installed regimes that ruled Afghani-

stan during the 1980s (Kamali 1985). Such regimes often imprison and persecute their internal opponents on charges of sedition and other crimes against the state. It should also be noted that words and acts constitute *fitnah* only if they succeed, or are likely to succeed, in posing a threat to a society's normal order. An isolated opinion that remains ineffective and does not incite opposition to a lawful government would therefore fail to qualify as *fitnah*.

Statutory restrictions on freedom of speech and expression are common in both Muslim and non-Muslim legislation. The main areas of concern tend to differ from one country to another, although a broad line of distinction could be ascertained between advanced and developing countries. Sedition that threatens state security tends to occur more frequently in developing nations, as industrialized nations generally have had a longer experience with democracy. On the other hand, the latter are faced with problems of obscenity and vice perhaps on a larger scale than might be the case in developing countries.

Seditious *fitnah* applies to words and acts that incite dissension and controversy among people to such a degree that believers can no longer be distinguished from disbelievers. It so clouds the atmosphere of understanding and confounds the thoughts and minds of people that they can no longer distinguish right from wrong and, therefore, are unable to advocate the truth (Ismā'īl 1986).

The Sunnah is emphatic on solidarity with the community of justice (*ahl al 'adl*) and the citizen's duty to obey the lawfully elected imam. There is, however, one particularly sensitive occasion that is susceptible to seditious *fitnah*: succession to the rule. When a leader is duly elected and confirmed through the community's pledge of allegiance (*bay'ah*), any attempt to overthrow him or to incite disobedience and strife can, according to one hadith,¹ be punished by death (Ibn al Qayyim 1983; al Khaṭīb al Tabrīzī 1979). But entering into further detail on this might lead us away from the main theme of this discussion: the bearing of *fitnah* on freedom of speech.

Historical Examples

A total separation of the religious and political contents of *fitnah* is unfeasible in an Islamic polity, for in Islam, the state is associated closely with religion, which supersedes, in order of significance, all considera-

¹"If you are all united under one leader and then someone attempts to split you asunder and destroy your unity, then kill him" (al Albānī 1399/1979, hadith number 3678).

tions of race, language, geography, and culture. Thus when the religious principles of Muslim society are subverted or attacked, the threat is directed automatically at the society's and the state's foundation (Abū Zahrah n.d.). Abū Zahrah cites the Kharijites as an example. He states that when they spread pernicious views and doctrines against Islam, they were not exercising legitimate freedom of expression in pursuit of either truth or knowledge, "but were bent on destruction and abuse, and their activities threatened the disintegration of the community." The Kharijites acted in concert and had enough power to jeopardize the security of the nascent Islamic state (ibid.). Before discussing this case in greater detail, I would like to refer to some relatively minor instances of *fitnah* that preceded that of the Kharijites.

Once when the *khalīfah* 'Umar ibn al Khaṭṭāb was adjudicating a case of theft, he asked the thief: "Why did you commit the offense?" The thief replied: "It was God's will." 'Umar is reported to have ordered an additional number of lashes to the prescribed penalty for theft on account of the misguided remark, which Abū Zahrah refers to as an ill-conceived interpretation (*sū' al ta'wīl*). According to a similar report, 'Umar also had a group of wine-drinkers flogged during an investigation because, when asked why they drank, they replied by reciting a passage from the Qur'an (5:93). This verse, although of general import, is couched in such terms that it could plausibly be interpreted as allowing those who are righteous and remain steadfast in righteousness to eat and drink whatever they wish. These individuals attempted to apply the general terms of this passage to their case in preference to the specific prohibition against drinking wine (Qur'an 5:90). 'Umar responded tersely: "Had you been pious, you would have avoided drinking." Reports indicate that he ordered only light punishments for these instances of *fitnah*, as they were incidental and were offered in excuse for offenses, and not, so to speak, by way of inciting the public to challenge the accepted meaning of the Qur'an (Abū Zahrah n.d.; Ghazawī n.d.).

Writers have also discussed, in the context of *fitnah*, the exiling of Abū Dharr al Ghaffārī for preaching and urging people not to accumulate gold and silver. He criticized the conduct of government officials under the *khalīfah* 'Uthmān ibn 'Affān and charged them with *bid'ah* (conduct repugnant to accepted norms and precedents) for gathering wealth and indulging in ostentatious shows of affluence. Possessing wealth in excess of one's needs extinguished, according to him, the light of faith in one's heart and was clearly indefensible. He was exiled first to Madīnah by Mu'āwiyah (governor of Shām) and then by 'Uthmān from Madīnah to one of its suburbs to prevent *fitnah* (Abū Zahrah n.d.; El Awa 1980).

There is no substance, in my opinion, to the claim that this incident should be considered as *fitnah* or even as potential *fitnah*. It would appear that the fragility of the political climate under 'Uthmān played a part in labelling Abū Dharr's views seditious. However, the substance of his views is so eminently agreeable to the teachings of Islam—"Those who hoard gold and silver and spend not in the way of God are warned of a painful doom" (Qur'an 9:34)—that they could hardly be refuted, let alone be branded, as *fitnah*.

Another instance of *fitnah*, which occurred during the caliphate of 'Alī ibn Abū Tālib, was that of 'Abd Allāh ibn Sabā' and his followers. They elevated 'Alī into a deity by claiming that he partook in the essence of God. Al Sibā'ī (1960) writes that Ibn Sabā'

was intent on destroying Islam and spreading corruption among its followers. This is borne out by the fact that 'Alī himself equated the assertions of Ibn Sabā' with apostasy (*riddah*) and total renunciation of Islam.

On the other hand, 'Alī did not punish anyone for their views on predestination (*jabr*), free will (*ikhtiyār*), and speculation as to whether a human being was a free agent in regards to conduct or a mechanical entity conforming to a predetermined program and, if so, what constituted the basis of his/her responsibility. Reports further indicate that 'Alī did not take anyone to task for holding the view, as did many Kharijites, that one who committed a major sin² (*kabā'ir*) automatically renounced Islam and became an unbeliever (*kāfir*). He considered these as matters falling within the purview of the Qur'anic statement that argumentation should be conducted with courtesy and tolerance (Qur'an 16:125). The authors and propagators of such opinions were to be given sincere advice (*naṣīḥah*) and persuaded to change their views through correct guidance (Abū Zahrah n.d.; Ghazawī n.d.).

An historically renowned example of *fitnah* is the inquisition (*miḥnah*) conducted during the reign of the 'Abbāsīd *khalīfah* Ma'mūn. At the root of this event was the nature of divine revelation and whether the Qur'an was the created or uncreated speech of God. Ma'mūn adopted the controversial Mu'tazilite view that the Qur'an was the created speech of God, that God did not speak like human beings, that attributing speech to Him was anthropomorphism, and that He created the Qur'an as He did

²According to one view, these are sins which are to be punished severely. Another view specifies that the punishment approximates that of the prescribed offenses known as *ḥudūd*.

other creatures. Many jurists considered the Qur'an to be the uncreated speech of God that, although essentially eternal, had been communicated to the Prophet at a certain point of time. Ma'mūn authorized an inquisition and imprisoned and persecuted those jurists who opposed the officially adopted doctrine. He also directed, among other things, that only those who were both trustworthy and believed in the createdness of the Qur'an could be admitted as witnesses (Hughes n.d.; al Kindī 1912; Abū Zahrah 1366/1947).

This is, however, seen as a somewhat isolated yet startling instance in the otherwise tolerant picture of the history of academic freedom in the Islamic world. Comparing the medieval university professor in Christendom to the jurisconsult and *mujtahid* in Islamic lands, Makdisi (1990) concluded that "the professors did not achieve that complete autonomy enjoyed by their colleagues in Islam."

The Kharijites

The turmoil that followed the assassination of 'Uthmān and the ensuing emergence of the Kharijites is by far the most widely debated instance of *fitnah* in the history of Islam. The Kharijites (lit.: outsiders) were so called because they separated themselves from the community as a result of the proposed arbitration between 'Alī and Mu'āwiyah. Once followers of 'Alī, they became the opponents of both men. They maintained that arbitration should never have been proposed and that both sides had violated Qur'anic dictates by engaging in it during a time of ongoing aggression.

There were also some other differences. Some asserted that an imam was not necessary, that it was not a religious obligation to have such a person, that the community could administer its own affairs through mutual advice and consultation, and that an imam could be elected if the community deemed it necessary. They also claimed that the perpetrator of a major sin became an infidel and, on the basis of this belief, charged many leading Companions with disbelief for their approval of the proposed arbitration. And, lastly, they maintained that leadership was not a prerogative of the Quraysh tribe, but that any Muslim, Arab or non-Arab, who was competent could be elected imam (al Shahrīstānī 1968; al Jundī 1986; Chejne 1960).

The Kharijites' claim that 'Alī's rule was no longer legitimate because he had agreed to the proposed arbitration was a direct challenge. This was strengthened by the fact that they based their claim on the verse authorizing fighting rebels and outlaws who deviate from the path of God (Qur'an 49:9) and the one saying that the prerogative of command

belongs only to God (Qur'an 6:57). 'Alī considered this last assertion "a word of truth which was given a false meaning." While it is true that judgment belongs to God, it would be a total fallacy to interpret these passages to mean that there was no need for a leader to administer community affairs (Khadduri 1966).

Reports indicate that about eight thousand Kharijites protested 'Alī's decision to accept arbitration. However, 'Alī did not resort to force against them but rather sent the renowned Companion, Ibn 'Abbās, to discuss their differences amicably. About four thousand were persuaded and returned. The caliph then asked the rest to return and, after their refusal, sent them this message:

You may stay as you wish and we shall not wage war on you so long as you avoid bloodshed, highway robbery, and acts of injustice and corruption. But if you commit any of these, we shall fight you. (Al Shawkānī n.d.; al Īlī 1983; Mutawallī 1974; Hammād 1987)

While discussing this, Abū Zahrah voices the view, like many others, that

'Alī, may God be pleased with him, was confronted with rebellion and aggression, but he did not fight the Kharijites until they embarked on violence, which was when they killed Khabbāb ibn al Art.

Abū Zahrah thus concluded that the imam may not fight the rebels over mere differences of opinion unless they break the peace and embark on violence (Abū Zahrah n.d.) According to another report, once when 'Alī was delivering a Friday sermon, a Kharijite interrupted and criticized him. The caliph responded to his criticism and then said:

"We shall not prohibit you from entering our mosque to mention God's name, and we shall not deny your share in the spoils of war (*fay*) so long as you join hands with us and fight on our side, nor shall we fight you until you attack us." Then he resumed the Friday sermon. (Khadduri 1966)

Furthermore, Kathīr ibn Tamar al Ḥaḍramī said:

"I entered the mosque of Kūfah . . . where I met five men cursing the caliph 'Alī. One of them, covered with a *burnūs* said: 'I

have made a covenant with God that I will kill him.' I took this man to 'Alī and reported to him what I had heard. 'Bring him nearer,' said 'Alī. He then added: 'Woe to you. Who are you?' 'I am Sawwār al Manqūrī,' replied the man. 'Let him go,' said the caliph, to which al Ḥaḍramī responded: 'Should I let him go even though he made a covenant with God to kill you?' 'Shall I kill him even though he has not killed me?,' replied 'Alī. 'He has cursed you,' I said. 'You should then curse him or leave him,' replied 'Alī." (Ibid; al Sarakhsī 1986).

The Kharijites claimed that many leading Companions (i.e., 'Uthmān, 'Alī, Ṭalḥah, and Zubayr) were infidels and permitted aggression against the lives and properties of Muslims who refused to join them (al Shawkānī n.d.; El Awa 1980; Ismā'īl 1986). Most jurists classified the Kharijites as rebels (*bughāt*) and applied to them the relevant rules: they were to be fought. This is the view of Abū Ḥanīfah, al Shāfi'ī, the Ḥanbalī *madhhab*, and most of the *fuqahā'* and the *ahl al ḥadīth*. However, Mālik held that they should be asked to repent and, if they refused to do so, they should be killed for causing corruption in the land (*fasād fi al ard*), not for disbelief (*kufr*). On the other hand, a group of the *ahl al ḥadīth* stated that rebels, like the Kharijites, should be treated as apostates (*murtaddūn*) (Ismā'īl 1986; Abū Zahrah n.d.; Ghazawī n.d.).

According to Abū Ḥanīfah's disciple, al Shaybānī, those who depart from truth and justice, or the generally accepted Sunnah, and follow a heterodox creed are to be regarded as rebels and dissenters. However, if they do not renounce the imam's authority, they are allowed to reside in the territory of Islam. If they renounce his authority and take up arms against the community, they may be fought and killed. In support of this ruling, al Shaybānī refers to those Kharijites who took up arms against 'Alī and were consequently fought and defeated in the battle of Nahrawān (Khadduri 1966).

'Awdah defines rebels as political criminals who renounce the imam's authority, challenge him while maintaining a viewpoint based on an appropriate interpretation (*ta'wīl sā'igh*), and have enough followers and power to harm the community. To be distinguished from common criminals, rebels must have a viewpoint that opposes the accepted beliefs of the community. Their action acquires the attributes of rebellion only when accompanied by a force that challenges the imam's authority. It thus appears that *fitnah* and rebellion are similar and could have a common origin, as the only distinction between them is the access to power and the threat of using it while challenging the imam's authority. Based on this, al Māwardī (1909) has drawn a parallel between sedition and rebellion:

When a group of Muslims opposes the views of the community (*ra'y al jamā'ah*) and follow a course or a *madhhab* that they have innovated, war is not to be waged on them so long as they do not congregate in one mass. If they act as individuals who can be reached by the government, no war should be waged on them. But they are, nevertheless, subject to the rule of law (*ahkām al 'adl*) that applies to the community at large. Should the rebellious faction congregate together in a certain locality where it is out of reach and yet cannot spread corruption, but it does not obstruct justice or embark on active mutiny, no war is to be waged on it. But, like the rest of the community, the group remains subject to the rule of law. If the rebels mix with the law-abiding community (*ahl al 'adl*) and try to spread corruption and commit acts of injustice, then the imam is within his rights to punish them with a deterrent punishment (*ta'zīr*). The punishment in this case must, however, neither be death nor exceed any of the prescribed penalties (*hudūd*).

'Awdah concurs substantially with this, especially where he outlines the rights and duties of those whose views are in opposition to those of the community and its legitimate government. The opposition has the right to propagate its views through peaceful means and enjoys the freedom, within the limits of the Sharī'ah, to say what it wishes. The community also has the right to refute such views. If either side verbally or otherwise violates the Sharī'ah's injunctions pertaining, for example, to blasphemy and slander, the perpetrator can be punished under the normal rules of law as an ordinary offender.

The opposition is entitled to assemble, provided that it does not renounce obedience to the imam or obstruct or violate the rights of others. This is based on the precedent of 'Alī and his treatment of the Kharijites who, although isolating themselves from the rest of the community in Nahrawān, still obeyed his regional governor. The caliph fought the Kharijites only after they murdered his governor. They then refused to surrender the murderer to the authorities on the grounds that it had been a communal act committed by every one of them. Faced with this open challenge to his authority, 'Alī declared war ('Awdah n.d.)

According to imams Mālik, Shāfi'ī, and Ibn Ḥanbal, the community cannot take military action against the rebels unless the latter initiate hostilities. By undertaking such an action, the rebels place themselves outside the law and are thus no longer entitled to its protection. Abū Ḥanīfah says that the rebels may be fought if they assemble their forces in such a way that they present a threat to normal order in the community (*ibid.*).

Types of *Fitnah*

There are two main types of *fitnah*: one pertaining to doubt (*fitnat al shubahāt*) and one pertaining to sensuality (*fitnat al shahwāt*). The former is by far the more extensive in scope and significance, at least in the works of the early jurists, than the latter, which is concerned mainly with verbal and behavioral obscenity and corruption. At present, however, this type of *fitnah* would appear to be no less significant and perhaps equally if not more intractable. Perhaps it was not given more attention in the past because of the heavy penalty for illicit sex, which effectively checked open indulgence or caused it to remain hidden from public view.

In Ibn al Qayyim's view, doubt stems from a weakness of knowledge and vision and is intensified when joined with ill intent (*fasād al qaṣd*) and the pursuit of passion (*hawā*) (Ibn al Qayyim 1983). In such a case, doubt refers to confusing truth with falsehood and the lawful (*ḥalāl*) with the forbidden (*ḥarām*) in such a way that neither is supported by proof. Doubt may also arise when conflicting indications remain unresolved and result in confusion. He mentions two hadiths in which the Prophet told believers to "abandon doubt in favor of that which is not doubtful" and "whoever abandons doubt purifies his faith and his honor" (*ibid.*).

Ibn al Qayyim emphasizes ill intent which, in combination with ignorance, leads to the greatest evil—disbelief and hypocrisy (*kufr wa nifāq*)—the kind of *fitnah* that befell the hypocrites and the inventors of heresy (*ahl al bida'*): "All of those indulged in *fitnah* which originated in doubt that clouded the truth in their eyes and confounded it with falsehood and misguidance (*dalāl*)." Such *fitnah* may consist of a misconception (*fahm fāsīd*), a false narration (*naql kādhib*), or prejudice and pursuit of passion accompanied by blindness to truth and corrupt intention (*ibid.*).

He illustrates the foregoing by referring to some of the views held by two renowned Muslim scholars, Ibn Sīnā and Nāṣir al Dīn al Tūsī, both of whom have been criticized and charged with holding views contrary to the accepted principles of Islam. Ibn al Qayyim explains: "Ibn Sīnā himself tells us that he was a supporter of the doctrine of al Ḥakīm," one of the leading figures of the Bāṭinīyah who ruled Egypt and whose doctrine is followed to this day by the Druze of Lebanon and the Ismā'īlīs of India. He vehemently denounces the practice of publicly insulting and abusing, either verbally or otherwise, Abū Bakr, 'Umar, 'Uthmān, 'Ā'ishah, and many other leading Companions. He also claims that Ibn Sīnā did not believe in the truth of prophethood, did not forbid what was forbidden, and did not conform to what the Sharī'ah had made lawful.

The narrative continues: al Shahrīstānī wrote a book, *al Muṣāra'ah*, in which he refuted Ibn Sīnā's denial of the belief that God had created

the universe and that He had either the knowledge or the power to do so. This was followed by al Tūsī, who became another instrument of *fitnah* by writing *Muṣāra'ah al Musāraḥ'ah* to refute al Shahrastānī. In this book, al Tūsī contends that God did not create the heavens and the earth in six days, had no knowledge or power at His disposal, and that He did not resurrect the dead. Ibn al Qayyim equates these views to infidelity and outright disbelief (ibid.). We note in this narrative that what was initially regarded as doubt was subsequently denounced and referred to as infidelity and disbelief.

This shows once again how difficult it is to distinguish between these two types of *fitnah*. The subject matter of *fitnah* can, of course, be something which may not have a direct bearing on faith or adherence to a creed, in which case no difficulty would be expected to arise in distinguishing *fitnah* from disbelief (ibid.). I will return to this aspect later.

At this point, however, it might be useful to give another example of ill intent. Ibn al Qayyim gives an example of distorting the meaning of the Qur'an by reading into its words an interpretation that contradicts totally the rest of the Qur'an. The phrase in question appears several times along with a reference to a man's lawfully wedded wife with whom sexual intercourse is allowed. After validating such conjugal relations, the text continues "and those whom your right hands possess" (*aw mā malakat aymanukum*) (Qur'an 23:6; 70:30). This last phrase is taken by some to mean, as Ibn al Qayyim points out, that sodomy is lawful with one's male slave. He then hastens to write that anyone who embraces this view is an infidel by virtue of the unanimous agreement of the ummah (*kāfir bi ittifāq al ummah*). (Ibn al Qayyim 1983).

This is a striking and perhaps also a topical example of what ill intent means. There is clearly a corrupt intention behind such an interpretation, for it stands in stark contrast with the moral teachings as well as the letter and the spirit of the Qur'an. This element of ill-intent is a useful indicator for distinguishing between doubt and some of the instances of heresy or innovation (*bid'ah*) discussed elsewhere (Kamali 1990). Innovation is, by definition, an honest but misguided attempt by an individual to contribute to the development of a legal or religious theme. This is clearly not the case with regard to doubt.

We also note that innovation is related closely to personal opinion (*ra'y*), albeit a misguided one, and tends to have an intellectual content, whereas *fitnah*, at least in its simpler varieties, can be an utterance or an act without an intellectual overload. Seditious *fitnah* can nevertheless be distinguished from both innovation and disbelief on the grounds of their respective political and religious contents. Whereas seditious *fitnah* is a predominantly political concept, innovation and disbelief tend to have

religious overtones. Opposition to the government and pursuit of political power often constitute the key ingredients of sedition, whereas these may or may not be relevant to innovation and disbelief. Having said this, however, circumstantial factors would tend to play a crucial role in changing innovation and disbelief into *fitnah*, and the latter into rebellion against lawful authority.

The second type of *fitnah* to be discussed here is verbal or other forms of expression that promote obscenity, sensuality, and lust. Its main characteristics are engaging in sinful deeds (*fisq al a'māl*) by indulging in prurience and corruption that lead to depraved thought and conduct, especially of the mentally weak and the ignorant. This kind of *fitnah* often originates in lust, passion, and caprice and then leads to the corruption of the mind, faith, and character of both its perpetrator and its victim. The result is either belief in falsehood, indulgence in corrupt activity, or both (*ibid.*).

Obscenity is a value-laden and broad term, which is why it does not lend itself to clear definition. Part of the difficulty here lies in the changeable character of public opinion as to what is acceptable and decent as opposed to what is lascivious and obscene. Notwithstanding this difficulty over definition and understanding, a reasonable case can be made for imposing limits on one's freedom of expression in the interest of both public decency and of protecting the vulnerable members of society against provocative expressions that appeal to base and ignoble passions.

According to Ibn al Qayyim, the root and origin of all *fitnah* is traceable to the attitude that gives priority to personal opinion (*ra'y*) over legal opinion (*shar'*) and to caprice (*hawā*) over reason (*'aql*). It thus appears that *fitnah* may originate in any or all of the allied concepts of caprice, pernicious innovation, distorted interpretation, and inimical doubt. These are turned into *fitnah* when they are expressed, conveyed, or propagated in ways that challenge the legitimacy of a legal government, disrupt peace and order, or result in depraved and corrupt minds among the mentally weak and the ignorant (*ibid.*).

In his book, Ibn al Qayyim makes the observation that *fitnah* pertaining to doubt is prevented by certitude (*yaqīn*) and *fitnah* pertaining to lust is prevented by patience (*ṣabr*) (*ibid.*). The Qur'an (103:3) provides the necessary guidance when it commands believers to uphold the truth (which protects them against doubt) and to exercise patience (their principal defense against indulgence in corruption).

On this same subject, Ibn Taymīyah has quoted al Shāfi'ī in support of his view that: "If everybody were to meditate on 'Sūrat al 'Aṣr,' they would find it sufficient," for God has informed us that all people are at a loss except for those who stand for truth, exhort each other to that ef-

fect, and exercise patience. Ibn Taymīyah then adds that "patience" includes patience in bearing hurt and what is said, as well as patience in adversity and against temptation. However, he states, such patience is unfeasible unless there is something by which a person can gain reassurance and comfort: certainty of firm conviction. As the Prophet said in a hadith, narrated by Abū Bakr: "People! Ask God for certitude and good health, for after certitude no gift of His is better than good health. So ask God for both" (Ibn Taymīyah 1982).

The Shari'ah does not specify any punishment for *fitnah*. The precedent of the Prophet's four immediate political successors indicates that they penalized doubt with a light deterrent punishment in order not to overimpose on the dignity and freedom of the individual. They worked through persuasion, such as giving correct guidance to those who engaged in minor instances of *fitnah*. This climate of constructive tolerance and restraint was short-lived, however.

With the emergence and proliferation of sectarian movements and their indulgence in speculative discourse, radical changes began to take place. Confounding and polemical ideas became commonplace. There were conspiracies against the state by individuals and groups, developments that prompted the jurists to authorize heavier penalties for subversive conduct and sedition. Imām Mālik and many of the Hanbalites went so far as to validate the death penalty for propagators of heresy (*zanādiqah*) and instigators of *fitnah*. Imām Mālik and some other jurists, for example, advocated the death penalty for the Qadariyah, a group that denied predestination and believed in the power (*qadar*) of man's free will (Amin 1986; Goldziher 1981).

The main reason why these jurists supported such measures seems to have been their fear of mischief spreading in the land, and not necessarily retribution. Ibn Taymīyah maintained the same attitude when he wrote that if an instigator of corruption (*mufsid*) is so successful at spreading his/her evil that it cannot be stopped except by putting him/her to death, then he/she is to be executed. He had no difficulty in finding authority, however speculative, for this ruling in the sources. Furthermore, it is not always necessary to wait until the *fitnah* actually occurs; one can take preventive action. When the offender possesses force and the means by which to carry out his/her threat, like the Kharijites and the Zanādiqah, punishment is justified and does not have to be delayed until the corruption actually materializes (Ibn Taymīyah 1951; Abū Zahrah n.d.).

On the other hand, Abū Hanīfah does not allow the death penalty for instigators of heresy and sedition. Rather, they are to be given a deterrent punishment (*ta'zīr*), one that does not amount to death but is severe enough to deter that particular evil. In his opinion, the death penalty is

permitted only when the offenders take up arms and thus become treasonous rebels (*bughāt muḥāribūn*) who must be fought. Referring to 'Alī's attitude toward the Kharijites, the Ḥanafī jurist al Sarakhsī observes that the imam may neither kill nor imprison those who differ with the majority and challenge its leadership. Only when the dissenters muster their forces and embark on violence against the just community is force allowed (al Sarakhsī 1986). Having studied the opinions of the different legal schools on this issue, Abū Zahrah (n.d.) reached the following conclusion:

We are inclined toward the opinion of Abū Ḥanīfah and his disciples, for death is the ultimate punishment and must be avoided for as long as there is an alternative course of action to take.

While affirming that procreation and enjoyment are the legitimate ends of sex and marriage, al Ghazālī hastens to add that sex is one of the greatest incentives to *fitnah*. To resist the powerful urge of this instinct requires strong faith and determination. There are two instances of invocation in the Qur'an in which believers are advised to seek God's help against "the evil of darkness when it prevails" (113:3) and "a burden which we do not have the capacity to carry" (2:286). In both of these, it is said that the reference is to sexual urges which darken the intellect when they prevail and which can overwhelm a person (al Ghazālī 1980).

To prevent indulgence in this type of *fitnah*, the Qur'an (24:30) and the Sunnah forbid gazing between members of the opposite sex. According to one hadith "the gaze is a poisonous arrow that belongs to the devil" In another hadith, it is stated that the first (inadvertent) glance at a woman is forgiven, but not if it is deliberately repeated (al Ghazālī 1980; al Sarakhsī 1986). While commenting on the second hadith, al Sarakhsī (1986) observes that a "repeated" look means one motivated by lust (*shahwah*). This would obviously preclude looking at a member of the opposite sex for a legitimate purpose or necessity.

The Sunnah also warns against intimate proximity (*khalwah*) between strangers of the opposite sex, for such a situation leads to lustful feelings. A sense of self-discipline and restraint is to be cultivated in all encounters between men and women. "Adultery (*zinā*) of the eyes," writes al Ghazālī, "is the greatest of the minor sins, for it leads to adultery itself. One who is unable to control his/her eyes is also unlikely to be able to control his/her body" (al Ghazālī 1980). These rules are generally relaxed when the fear of *fitnah* is absent (i.e., encounter between the elderly) or situations in which the nature of circumstances overrules any possible *fitnah* (al Sarakhsī 1986).

When one feels overwhelmed by sexual urges, he/she should marry or, if that is not possible, to fast. There are thus three ways, as al Ghazālī (1980) points out, that an unmarried person can protect himself/herself: fast, lower the gaze, and occupy oneself with an occupation that overwhelms the heart. If these prove ineffective, then marriage remains the only possible cure. One who has the means and capacity to obtain sexual gratification and yet avoids it is counted, according to one hadith, among the "seven whom God Most High will safeguard under His shadow on the day of resurrection." One who dies in such a state, that is of "silent abstinence," is ranked in another hadith as a martyr (*shahīd*) (ibid.). The Prophet is also reported to have said that obscenity and indulgence in it (*fahsh wa tafahhush*) have nothing to do with Islam and that the best Muslims are those who are best in character. This is reaffirmed in another hadith that orders Muslims to "avoid obscenity, as God Most High loves not indecency and corruption."

The type of obscenity mentioned above, according to al Ghazālī, consists of obscene and indecent speech and conduct, mostly relating to sexual perversity, by those who are morally depraved (*ahl al fasād*). Such people speak of sex in explicitly repugnant and abusive language, which is either reprehensible (*makrūh*) or forbidden (*maḥzūr*), depending to some extent on local linguistic usage and prevailing custom (ibid.).

Expounding upon the beauty of women, their good looks and attributes (*tashbīb*), in both poetry and prose, is in principle not forbidden, especially when it is not related to a particular person. However, it may become a transgression (*ma'ṣiyah*) if it is attributed to a particular person other than one's spouse (ibid.). Despite an opinion to the contrary, which al Ghazālī acknowledges, he maintains that singing, dancing, and playing musical instruments, or watching such activities, whether by men or women, are permissible provided that they are not utilized as means to sensuality and *fitnah* (ibid.).

Moreover, the Sharī'ah permits blocking the means (*sadd al darā'i'*) to criminality and evil. For example, it is forbidden to drink even small amounts of wine, for this could lead to drinking larger quantities. Similarly, intimate proximity is forbidden, as it could lead to adultery. The rule here is that the means and incentives leading to forbidden activities are themselves forbidden (ibid.). If dancing and singing take place as art forms that bring pleasure and entertainment, they are permissible. If, however, they are used as means and temptation to sensuality and corruption, they are forbidden.

Jurists specify no particular punishment for agents of obscenity and corruption, but suggest that this is a matter to be determined in line with the discretionary powers, based upon a Sharī'ah-oriented policy (*siyāsah*

shar'īyah), of the imam and the judge. This principle authorizes the ruler and the judge to take all necessary measures to combat corruption. Ibn al Qayyim quotes Imām Mālik in support of his view that the government and those in charge of community affairs (*ulū al amr*) should take measures to restrict and prevent the free intermingling of men with women in the market-place, recreation areas, and other places frequented by men. Women should also be discouraged from sitting for longer than necessary in the shops of craftsmen and manufacturers. But these restrictions may be relaxed, it is added, for elderly women (Ibn al Qayyim 1983).

While discussing the application of this principle and of deterrent punishment, the Hanafī jurist Ibn 'Ābidīn refers to the precedent of 'Umar ibn al Khaṭṭāb, which permits banishment (*taghrīb*) and the destruction of the materials needed to engage in obscenity and corruption if such actions are deemed to be effective. This may include destroying liquor and the vessels in which it is made, and musical and gambling instruments. But this may only be done by the authorities, not the general public.

There are two cases in which 'Umar is known to have punished someone with banishment. One was the case of Naṣr ibn al Ḥajjāj. This man had become a source of temptation to the women of Madīnah, presumably because of his attitude and the fact that he was unusually handsome. It is reported that 'Umar initially ordered his head to be shaven, hoping to thereby lessen seductive looks. This was not successful and, in order to prevent the feared *fitnah*, 'Umar banished him from Madīnah (Ibn 'Ābidīn 1979; al Ghazālī 1980). Although no specific offense had been committed, he was sentenced to exile on grounds of a Shari'ah-oriented policy. Ibn 'Ābidīn writes that after his conviction, al Ḥajjāj asked the caliph what sin (*dhanb*) he had committed. 'Umar replied: "You have committed no sin, but maybe I have, in that I failed to clear the abode of *hijrah* (Madīnah) from your influence." The caliph thus exiled al Ḥajjāj for being an agent of seduction and moral depravity (*iftitān al nisā'*), notwithstanding the fact that no particular charge was proven against him. Similarly, the fact that he was handsome was something over which he had little control. The punishment was nevertheless carried out on the grounds of public interest (*maṣlahah*) and preventing corruption (Ibn 'Ābidīn 1979).

The second case is that of Rabī'ah ibn Ummayah, whom 'Umar banished from Madīnah because of his continued consumption of wine. It is reported that after this individual was exiled to Khaybar, he fled from there and embraced Christianity. When 'Umar learned of this, he said that he would never again exile a Muslim. It is therefore suggested that imprisonment is preferable to banishment, for the purpose of punishment in

such cases is mainly to prevent corruption, whereas banishment leaves open the possibility of corruption recurring. Furthermore, when the suspect is sentenced to exile, he/she is no longer exposed to the same social pressure as he/she might be when living in his/her own community. This may explain why Ibn 'Ābidīn has observed that "banishment tends to open the door to corruption" (*ibid.*). In order to combat obscenity, the judge may order a deterrent punishment, an option that provides the authorities with enough flexibility to tailor the sentence to the particular circumstances of each case (Kamali 1989).

There is general agreement that places housing corruption or the dwellings of those engaging in obscenity and sin no longer have the immunity granted by the Sharī'ah to private homes. As a result, they can be raided and even destroyed if such actions would deter evil and protect the community against harm. It is reported that 'Umar once entered a house belonging to a hired female mourner (*nā'ihah*) who was suspected of immoral activities and ordered that she be flogged until her veil fell down. At this point, he stated that "she no longer commands the dignity she would otherwise do after indulging herself in sinful activities." In the second instance, it is reported that 'Umar ordered that the house of Ruwayshid al Thaqafi, a wine-maker in Madīnah, be burned to the ground. The vessels used in the wine-making process were also destroyed, and no attempt was made to indemnify the owner for them (Ibn al Qayyim n.d.).

In response to a question as to what should be done to a person whose house has become a den for drinking and vice, Imām Mālik said that the owner should be expelled and the house rented to someone else. It should not be sold, for the original owner might one day repent and return to his/her house. The imam further added that prior to expelling the owner of the house, he/she should be warned two or three times (*ibid.*). Literature dealing with vice and pornography, as well as books that distort the truth, advocate lies, and propagate pernicious views and doctrines may be destroyed, for "the harm that emanates from these is greater than wine vessels or musical instruments. There is no liability for financial loss."

As a general rule, there is no objection to the existence of books that oppose a prevailing view or doctrine or challenge and refute certain positions. They may be judged and evaluated on their own merit, and a decision as to whether they should be destroyed may be taken on that basis (*ibid.*). There is some disagreement as to whether this ruling is also applicable to non-Muslims. According to a minority opinion, no distinction is made on grounds of the owner's religion. But, the majority of jurists have held that non-Muslims are entitled to compensation unless the imam rules otherwise.

Broadly speaking, all types of *fitnah* fall under the purview of commanding good and forbidding evil (*ḥisbah*). This is the Qur'anic right and also duty of every individual. Unlike the prescribed offenses (*ḥudūd*), retaliation (*qiṣās*), and most of the deterrent punishment (*ta'zīr*) offenses that require adjudication prior to enforcement, *ḥisbah* generally does not depend upon the prior decision of government authorities. When a person sees a sinful act being committed, he/she is entitled to intervene and change it to the extent of his/her ability to do so.

The question of compensation for loss may then arise and be considered. If *ḥisbah* is attempted within its stipulated limits, no compensation by either the individual or the state is necessary (Ibn 'Ābidīn 1979). The imam has the authority to entrust this responsibility to a special government body, such as the market inspector (*muḥtasib*) or the police, who then enforce the rulings by statutory legislation and the ordinance of those responsible for community affairs (*ūlū al amr*). This has been quite common both in the past and in our own time. The imam may do this only if he believes that such an action will benefit the community and that it is in line with the objectives of a Sharī'ah-oriented policy. However, no government has the authority to overrule altogether the citizen's Qur'anic right to promote good and prevent evil.

The judge and the imam may order a deterrent punishment upon the actual carrying out of (and proof of) an offense or a transgression (*ma'ṣiyah*). However, a judge does not have total freedom in this area, for he/she cannot penalize acts that are neither proscribed nor discouraged by the Sharī'ah ('Awdah n.d.). I have ascertained elsewhere some of the relevant limits to a judge's powers in light of the overriding concern for government under the rule of law (Kamali 1989). One of the basic purposes of flexibility in this area is to facilitate the protection of the Muslim community's moral standards. In response to the question of whether or not a judge may impose a deterrent penalty in the absence of an actual violation or transgression, Ibn 'Ābidīn observed that the basic approach is to confine it to its proper grounds (*ḥaṣr asbāb al ta'zīr*).

The jurists permit the use of such punishments in specific cases: a) illicit privacy, which may or may not lead to adultery, on the grounds that adultery must be prevented; b) suspicion of having committed an offense prior to adjudication and proof (al Shāṭibī 1914). This position is held by the Mālikī legal school and many non-Mālikī jurists. This also applies to those who are already suspected of immorality and vice being found in suspicious circumstances. Supporters of this view say that 'Umar punished Naṣr ibn al Ḥajjāj on the grounds of suspected *fitnah* without any specific offense having been proven against him; and c) in conjunction with the prescribed punishment, when the latter is committed in ag-

gravating circumstances. For example, it is reported that the poet Najashī was brought before 'Alī in a state of drunkenness in the daytime during the month of Ramadan. The caliph punished him with eighty lashes for drinking and a further twenty lashes on the following day, after which he told him that "the twenty lashes were on account of the disrespect you have shown to the holy month of Ramadan" (Ibn 'Ābidīn 1979).

Conclusion

Ever since the rise of the nation-state in Muslim societies, a great deal of legislation on how to protect the state against the threat of sedition, conspiracy, and rebellion has appeared. However, neither the nation-state nor Muslim society has made a proportionate effort to balance its overriding concern for security with measures designed to safeguard its citizens' basic rights. The government in Muslim societies has not exhibited the same degree of diligence in protecting its citizens' freedom of expression as it has in limiting itself to its concern for self-preservation. This may offer a partial explanation as to why the nation-state has not struck roots in Muslim societies in the same way as it might have in the West.

The question of legitimacy and recognition of a nation-state's legal authority lies at the root of what has become one of the most dangerous *fitnahs* of the twentieth century: the military coup d'état. One can expect little support, let alone genuine loyalty, for a government that has come to power through coercion in the first place and then holds on to it through police methods. Legitimacy necessitates popular representation and a clear commitment to the citizens' fundamental rights and liberties.

One way to enhance loyalty and popular support for the state in Muslim societies is to forge a closer identity with the people's own heritage: the Sharī'ah. Its guidelines on the dignity of the human person are strongly individualist in orientation, they protect the individual and inspire latitude, and they can be utilized to enhance the Islamic content of statutory law pertaining to *fitnah* and such related themes as commanding good, forbidding evil, and consultation.

The concept of *fitnah* includes many different elements: sedition and incitement to mutiny, violating the freedom of religion, distorted interpretation, and indulging in obscenity and corruption. All of these, however, can be regulated to a large degree under the umbrella of a Sharī'ah-oriented policy. But a sound and judicious policy can only come from a government that is confident of its integrity and the loyalty of its citizens.

A government's integrity and moral rectitude are related to its concern for the moral standards of society and the diligence it shows in pro-

protecting the family, the youth, and the weak against corrupt influences. The seditious *fitnah* of our time is closely related to the consultative capacity of the government and the degree to which it can involve its citizenry in the decision-making process as well as to offering inspiration and moral leadership to its people. The oppressive *fitnah* of our time, and its consequent violation of religious freedom, is a major issue in minority Muslim communities who live under the sovereignty of non-Muslim governments. The challenges that they face are, however, mostly beyond the scope of this discussion. In the sense of distortion, *fitnah* accompanied by compromised integrity or outright intention to corrupt can be diminished by encouraging good standards of morality and conduct in the family, the educational system, government departments, and, most of all, in the effort that it takes to bring up an integrated individual who is not eager to compromise his/her conscience by the single-minded pursuit of materialism and a lack of concern for others.

To be sure, no society has ever been free of *fitnah*. But when it overtakes the leaders of the community and, worse still, when the concern on the part of the community itself to combat *fitnah* fades into insignificance and the people lose sight of its values, despair sets in, and no one remains immune from its demoralizing influence.

References

- Abū Zahrah, Muḥammad. *Al Jarīmah wa al 'Uqūbah fī al Fiqh al Islāmī*. Cairo: Dār al Fikr al 'Arabī, n.d.
- , *Abū Hanīfah: Hayātuhu wa 'Aṣruhu, Ārā'uḥu wa Fiqhuhu*. Cairo: Dār al Fikr al 'Arabī, 1947.
- Amīn, Aḥmad. *Fajr al Islām*, 14th ed. Cairo: Maktabat al Nahḍah al Miṣṭīyah, 1986.
- El Awa, Mohamed S. *The Political System of the Islamic State*. Indianapolis: American Trust Publications, 1980.
- 'Awdah, 'Abd al Qādir. *Al Tashrī' al Jinā'ī al Islāmī Muqārīnān bi al Qānūn al Waq'ī*, vol. 1. Cairo: Maṭba'at al Madanī, n.d.
- Chejne, Anwar M. *Succession to the Rule in Islam*. Lahore: Shah Muhammad Ashraf, 1960.
- Cowan, J M. (ed.). *The Hans Wehr Dictionary of Modern Written Arabic*, reprint. New York: Ithaca, 1976.
- al Ghazālī, Abū Hāmid. *Ihyā' 'Ulūm al Dīn*, 2d ed., vol. 8. Cairo: Dār al Fikr, 1980.
- Ghazawī, Muḥammad S. *Al Hurriyāt al 'Āmmah fī al Islām*. Alexandria: Mu'assasah Shahāb al Jāmī'ah, n.d.

- Goldziher, Ignatz. *Introduction to Islamic Theology and Law*. Trans. Andras and Ruth Hamori. New Jersey: Princeton University Press, 1981.
- Ḥammād, Aḥmad J. *Hurrīyat al Ra'y fī al Maydān al Siyāsī*. Cairo: Dār al Wafā', 1987.
- Hughes, Thomas P. *A Dictionary of Islam*, reprint. Lahore: The Book House, n.d.
- Ibn 'Ābidīn, Muḥammad A. *Hāshīyat Radd al Muḥtār 'alā Durr al Mukhtār*, vol. 4. Cairo: Dār al Fikr, 1979.
- Ibn al Qayyim. *Ighāthat al Lahfān min Makāyid al Shaytān*, vol. 2. Edited by Muḥammad A. Al Baltajī. Cairo: Dār al Turāth al 'Arabī, 1983.
- , *Al Siyāsah al Shar'īyah fī Iṣlāḥ al Rā'ī wa al Ra'īyah*, 2d ed. Cairo: Dār al Kitāb al 'Arabī, 1951.
- , *Al Turuq*. Beirut: Dār al Kutub al 'Ilmiyah, n.d.
- , *Al Turuq al Ḥukmīyah fī al Siyāsah al Shar'īyah*. Ed. Muḥammad M. al Dimashqī. Cairo: Idārat al Ṭabā'ah al Munīriyah, n.d.
- Ibn Taymīyah, Taqī al Dīn. *Public Duties in Islam*. Trans. Mukhtār Holland. Leicester: The Islamic Foundation, 1982.
- al Īlī, 'Abd al Ḥakīm H. *al Hurriyat al 'Āmmah*. Cairo: Dār al Fikr, 1983.
- Ismā'īl, Yahyā. *Manhaj al Sunnah fī al 'Alāqah bayn al Hākim wa al Maḥkūm*. Cairo: Dār al Wafā', 1986.
- al Jundī, Muḥammad S. *Ma'ālim al Nizām al Siyāsī fī al Islām*. Cairo: Dār al Fikr al 'Arabī, 1986.
- Kamali, Mohammad H. "The Approved and Disapproved Varieties of Ra'y (Personal Opinion) in Islam." *American Journal of Islamic Social Sciences* 7, no. 1 (March 1990): 39-64.
- , *Law in Afghanistan: A Study of the Constitutions, Matrimonial Law and the Judiciary*. Leiden: E.J. Brill, 1985.
- , "Siyasah Shar'iyah or the Policies of Islamic Government." *American Journal of Islamic Social Sciences* 6, no. 1 (September 1989): 59-81.
- , "The Limits of Power in an Islamic State." *Islamic Studies* 28 (1989): 232-53.
- Khadduri, Majid (trans.). *The Islamic Law of Nations: al Shaybanī's Siyar*. Baltimore: The Johns Hopkins Press, 1966.
- Khan, Muhammad M. (trans.). *The Translation of the Meanings of Ṣaḥīḥ al Bukhārī*, vol. 9. Lahore: Kazi Publications, 1979.
- al Khaṭīb al Tabrīzī, 'Abd Allāh. *Mishkat al Maṣābiḥ*, edited by Muḥammad N. al Albānī. Beirut: al Maktab al Islāmī, 1979.

- al Kindī, M. *The Governors and Judges of Egypt*. Edited by Rhuvon Guest. Leiden: E. J. Brill, 1912.
- Majma' al Lughah al 'Arabīyah. *Al Mu'jam al Waṣīṭ*, vol. 2, 3d ed. Cairo: Sharikat al I'lānāt al Sharqīyah, 1985.
- Makdisi, George. "Magisterium and Academic Freedom." In *Islamic Law and Jurisprudence*. Edited by Nicholas Heer. Seattle: Washington University Press, 1990.
- Mutawallī, 'Abd al Ḥamīd. *Mabādī' Nizām al Ḥukm fī al Islām*. Alexandria: Mansha'at al Ma'ārif, 1974.
- Riḍā, Muḥammad R. *Tafsīr al Qur'ān al Ḥakīm* (also known as *Tafsīr al Manār*), vol. 9, 2d printing. Beirut: Dār al Ma'rifah, 1910.
- al Sarakhsī, Shams al Dīn. *Al Mabsūṭ*, vol. 10. Beirut: Dār al Ma'rifah, 1986.
- al Shahrastānī, Ibn 'Abd al Karīm. *Al Milal wa al Niḥal*, vol. 1. Edited by 'Abd al 'Azīz al Wakīl. Cairo: Mu'assasat al Ḥalabī, 1968.
- al Shāṭibī, Abū Iṣḥāq I. *Al I'tisām*, vol. 2. Cairo: Maṭba'at al Manār, 1914.
- al Shawkānī, Yaḥyā A. *Nayl al Awṭār Sharḥ Muntaqah al Akhbār*, vol. 7. Cairo: Muṣṭafā al Bābī al Ḥalabī, n.d.
- al Sibā'ī, Muṣṭafā. *Ishtirākīyat al Islām*, 2d ed. Damsacus: Dār al Qawmīyah li al Ṭabā'ah wa al Nashr, 1960.
- Wajdī, Muḥammad F., ed. *Dā'irat al Ma'ārif fī al Qarn al 'Ishrīn*, vol. 7, 3d ed. Beirut: Dār al Ma'rifah, 1971.
- al Zāwī, al Ṭāhir A. *Tartīb al Qāmūs al Muḥīṭ*, vol. 3, 3d ed. Beirut: Dār al Fikr, n.d.