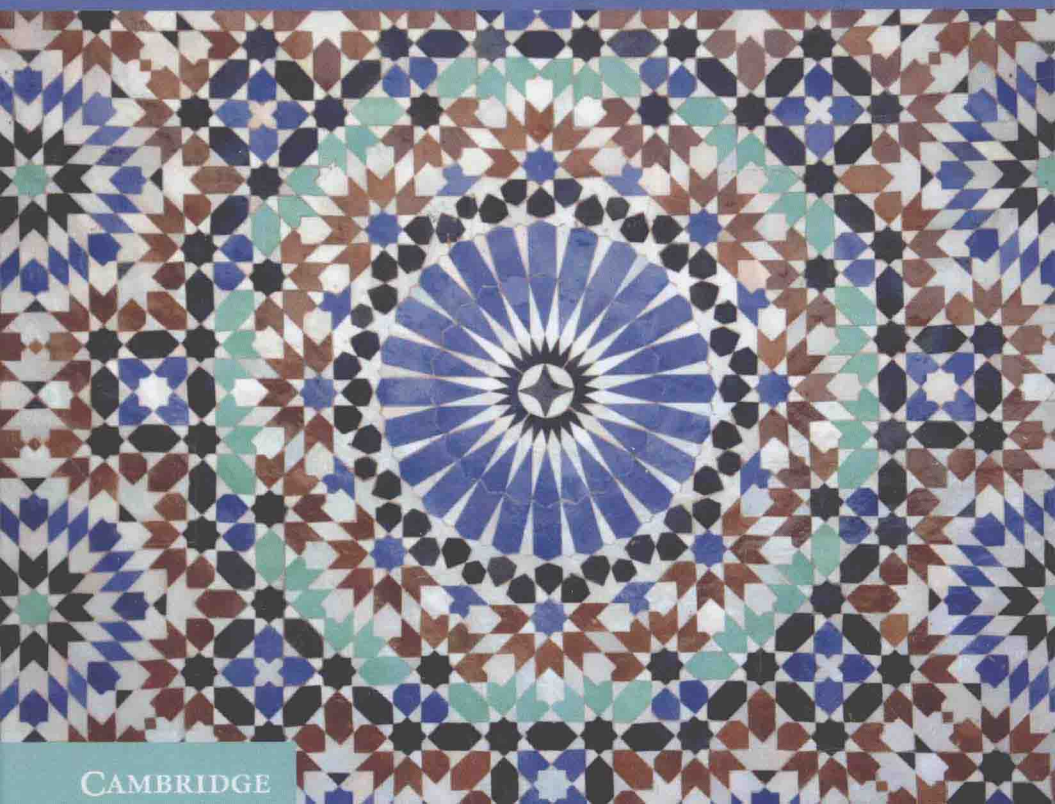


THE *SHARĪʿA* AND ISLAMIC
CRIMINAL JUSTICE IN
TIME OF WAR AND PEACE

M. Cherif Bassiouni



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THE SHARĪC^A AND ISLAMIC CRIMINAL JUSTICE IN TIME OF WAR AND PEACE

This innovative and important book applies classical Sunni Muslim legal and religious doctrine to contemporary issues surrounding armed conflict. In doing so it shows that the *sharī'a* and Islamic law are not only compatible with contemporary international human rights law and international humanitarian law norms, but are appropriate for use in Muslim societies. By grounding contemporary post-conflict processes and procedures in classical Muslim legal and religious doctrine, it becomes more accessible to Muslim societies that are looking for appropriate legal mechanisms to deal with the aftermath of armed conflict. This book uniquely presents a critique of the violent practices of contemporary Muslims and Muslim clerics who support these practices. It rebuts Islamophobes in the West that discredit Islam on the basis of the abhorrent practices of some Muslims, and hopes to reduce tensions between Western and Islamic civilizations by enhancing common understanding of the issues.

M. Cherif Bassiouni is Emeritus Professor of Law at DePaul University College of Law and President of the International Human Rights Law Institute. He is also President of the International Institute of Higher Studies in Criminal Sciences in Syracuse, Italy. In addition to authoring and editing 71 books, he has authored 266 journal articles. He has been published in numerous languages, including Arabic, English, French, Italian, and Spanish. His work has been cited by the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the United States Supreme Court, and other supreme courts.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of God, most Gracious, most Compassionate

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَى وَجَعَلْنَاكُمْ شُعُوبًا
وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

Sūrat al-Hujurāt, 49:13

*Oh Mankind! We have created you men and women,
peoples and tribes, [in order that you may] know one another.
Verily, the best among you is the most pious [the best in conduct].*

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ
مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا

Sūrat al-Isrā', 17:70

*Indeed, [Lo] We have honored [conferred dignity] on the descendants
[progeny] of Adam, and we have carried [borne] them over land and sea,
and provided for them sustenance out of the good things of life,
and favored them far above most of Our creation.*

This work benefited from a number of meetings of experts on the *Shariʿa* and Islamic law in Siracusa, Italy, and Washington, DC, USA. A series of articles have emerged from those meetings that will be published in a forthcoming volume. These meetings were supported by a grant from the United States Institute of Peace to the International Institute of Higher Studies in Criminal Sciences, and I would like to thank both institutions for the privilege of having directed these activities. In connection with the preparation of this manuscript, I am grateful to Kelly McCracken-Pembleton and Douglass Hansen for their research and editorial assistance, as well as to Brian Wright for his assistance with transliterations and in ensuring their uniformity throughout the text. The assistance of Kelly, Douglass, and Brian was invaluable.

M. Cherif Bassiouni
Chicago, February 14, 2013

Glossary of Terms

Abū 'Abdullah Muḥammad ibn Idrīs al-Shāfi'ī (150–204 AH / 767–820 CE): The founder of the Shāfi'ī *madhhab* school of thought.

Abū Bakr al-Siddīq: The first *khalīfa* to rule after the death of the Prophet and the first of the four *al-Khulafā' al-Rāshidūn* to rule after the death of the Prophet. Abu Bakr ruled between 10 and 12 AH / 632–634 CE. Under Abu Bakr, Imām Abu Abdallah Mālik Ibn Anas Ibn Hareth began collecting the first laws of Islam. Abu Bakr led a number of campaigns against tribes that refused to pay *zakāt*, and which he claimed to be *ridda* (apostasy). He also developed the doctrine of *futūḥāt*, or conquests that led to the military expansion of the *ummah*. In the context of post-conflict justice and ICL, Abu Bakr's most important contribution was his directive on the proper conduct of Muslim soldiers, including: "Never kill a woman, nor a child, nor an elderly person; never cut a fruit-bearing tree; never destroy an inhabited place, never slaughter a sheep nor a camel except only for food; never burn nor inundate a palm-tree; and neither be revengeful nor cowardly."

Abū Ḥanīfah al-Nu'mān (80–148 AH / 699–765 CE): The founder of the *Ḥanafī madhhab* school of thought.

ʿAdil: Literally "just." The term applies as an adjective to any person who is just, but it also denotes the just nature of a ruler.

ʿAfū: Forgiveness.

Ahl al-Kitāb: The "People of the Book." This refers to Jews, Christians, and Zoroastrians. It also includes all peoples who have received a messenger from God or who believe in one God.

Ahl al-Ra'y: The "People of Opinion." This refers to scholars who are opinion makers. They are equivalent in contemporary terms to "the most distinguished jurists" whose views are recognized by others. These are the jurists who also interpret both the *Qur'ān* and the Ḥadīth on the basis of its intent and spirit, as opposed to limiting it only to a literal interpretation.

Aḥkāma: One of the four categories of verses in the *Qur'ān*. It pertains to general principles of faith that serve as a guide for Muslims regarding their general life practices, and their human and social relations. These principles

relate to justice, freedom, consultations in matters of government, preservation of the public interest, and equality.

Aḥkām al-Bughāt: The judgment applicable to those who commit *baghi*.

Aḥkām al-Mufaṣṣal: One of four categories of verses in the *Qur'ān*. It pertains to verses with specific injunctions that, because of their specificity, are to be interpreted literally.

Aḥkām al-Mujmal: One of four categories of verses in the *Qur'ān*. It pertains to specific injunctions or commandments concerning prayer, fasting, *zakāt*, pilgrimage, and matters dealing with religious observance and practices.

Aḥkām al-mujmal wal-mufaṣṣal: One of four categories of verses in the *Qur'ān*. It pertains to detailed injunctions concerning issues of war and peace, *jihād*, treatment of prisoners, taking of booty, and relations with non-Muslims.

Aḥmad bin Muḥammad bin Ḥanbal (164–241 AH / 780–855 CE): The founder of the Ḥanbali *madhhab* school of thought.

al-Akhira: Literally “the end.” It is used both to connote the end of this world and to refer to the hereafter.

‘Ali ibn Abī-Tālib: The successor to ‘Uthman and the last of the *al-Khulafā’ al-Rāshidūn*. ‘Ali was also the cousin and son-in-law of the Prophet. ‘Ali was known as a gentle and wise ruler who was eventually deposed by Mu‘āwiyya after trickery. After his fall from power, his followers formed the *Shī‘at ‘Ali*, which evolved into the *Shī‘a* religious movement. ‘Ali’s deposing also led to the birth of the *Khawārij* movement.

Amān: Safe conduct.

‘Aqida: Belief. It is similar to *imān* (faith).

‘Aṣabiyya: The word *‘aṣab*, which is the root of *‘Aṣabiyya*, means “nerve” in the physiological sense, but it is used to refer to a tribal connection.

Asbāb al-Nuzūl: The reasons for the revelation of a given verse or verses of the *Qur'ān*.

Aṣl, Uṣūl (plural): The origin or source.

‘As‘as: Depending upon how it is used, the word means either advance or retreat.

al-Assāss: The foundation. It refers to the foundational basis of theological and legal doctrines, but it is used for all foundational concepts, doctrines, and arguments.

Aya, Ayāt (plural): A verse or verses of the *Qur'ān*.

‘Ayn: Literally means “the eye,” but also means something of value. It also means the same, probably coming from an “eye for an eye.”

Baghi: The *ḥadd* crime of engaging in armed rebellion against a legitimate ruler.

Bashar: A human being. *Al-Bashar* refers to humankind.

Bātil: Invalid.

al-Bāṭin: The hidden. It refers to the hidden meaning of *Qur’ānic* verses.

Battle of Badr: A battle in 22 AH / 624 CE between Muslim forces in Madinah and Makkan forces. Muslim forces had provoked the battle by attacking Makkan caravans. The battle resulted in a decisive victory for the Madinah forces despite the significant numerical advantage of the Makkans. After the battle the Prophet referred to war as the smaller *jihād*.

Battle of the Camel / Battle of the Jamal: A battle in 36 AH / 656 CE between forces loyal to ʿAli ibn Abī-Tālib, the fourth *khalīfa*, and forces loyal to ʿAisha, the wife of the Prophet. It is regarded as the first armed conflict between Muslims. After the assassination of ʿUthman, the third *khalīfa*, ʿAli assumed power, but ʿAisha and others were upset that he did not pursue ʿUthman’s killers zealously enough, although this was likely political intrigue as ʿAisha supported neither ʿAli nor ʿUthman, and sought to promote one of her own allies to the position of *khalīfa*. ʿAli’s forces were victorious and afterward he attempted to reconcile with her and those who had fought against him. It is also known as the Battle of the Camel because ʿAisha rode a red camel in battle, from which she directed her forces.

Battle of Karbala: A battle in 61 AH / 680 CE between forces loyal to Hussein ibn Ali, the son of ʿAli and grandson of the Prophet, and forces from the Umayyad caliphate. Hussein was killed during the battle, which led eventually to the rise of the Abbasi caliphate.

Battle of Siffin: A battle in 36 AH / 657 CE between the forces of ʿAli and Muʿāwīyya, the governor of Syria and relative of the assassinated *khalīfa* ʿUthman. Muʿāwīyya rebelled after ʿAli’s victory at the Battle of the Camel, and the two forces met at the Plain of Siffin in present-day Syria. When ʿAli’s forces were near victory, Muʿāwīyya had his soldiers tie copies of the *Qurʾān* to their weapons so as to end the battle and sue for peace. ʿAli accepted the proposal to settle the leadership dispute through arbitration, which resulted in the underhanded deposing of ʿAli.

Battle of the Trench / Battle of the Khandaq: A battle in 5 AH / 627 CE between Muslim forces from Madinah and a collection of opponents, including the Quraysh from Makkah and various Jewish and pagan tribes, who were known as the Confederates. The battle is known as the *Battle of the Trench* because the Muslim forces dug trenches around Madinah so as to keep out their more numerous and mounted antagonists. During the eventual siege the Muslim forces were able to win numerous smaller battles, eventually breaking the blockade. During the siege the *Banu Qurayza* of Madinah, one of the two Jewish tribes of Madinah, entered into negotiations with the Confederates. This caused the Madinah forces to turn on them for committing treason, resulting in the killing of all *Banu Qurayza* men and the enslaving of all women and children. It should be noted, however, that this was not a religious issue but was about treason, as the other Jewish tribe of Madinah was not harmed in any way.

Battle of Uhud: A battle in 3 AH / 625 CE between Muslim forces in Madinah against an attack by Makkan forces who sought revenge for their losses at the Battle of Badr. Despite initial success by Madinah forces, the battle resulted in a stalemate.

Bayyina: Evidence.

Bidaʿa, Bidaʿ (plural): Distortions, inventions, or pernicious fabrications.

Bismillah al-Raḥmān al-Raḥīm: “In the name of God, the most merciful, the most compassionate.” It is found at the beginning of most chapters of the *Qurʾān*.

Bughāt: Those who commit *baghi*.

Dār al-Ḥarb: Land of war.

Dār al-Selm: Land of peace.

Ḍarūra: Necessity.

al-Dhāhir: The apparent. It refers to the obvious or plain language and meaning of the *Qurʾān*.

Dhimma: The term is used to indicate the extension of protection to certain persons, usually those who have a treaty with the Muslims, or those who have been given safe conduct. (See *dhimmi*.)

Dhimmi: A non-Muslim who is a protected person because he/she belongs to the *Ahl al-Kitāb*, or who is covered by *dhimma*.

Dīn: Religion.

al-Dīn al-Ḥanīf: The original or true religion.

Diyya: The giving of compensation by someone who committed a wrong resulting in an injury to a person, particularly one who is a victim of *qisās*. It applies in lieu of punishment. Only the victim can decide whether to accept the compensation.

al-Dunia: Life. It refers to life on earth.

Fareʿ, furūʿ (plural): Branch or derivative.

Fāriq, furūq (plural): Difference.

Fatwa: An individualized or particularized expert opinion on a theological or legal question.

Fidia: Ransom.

Fiqh: Theological science; also refers to exegesis and hermeneutics.

Fitnah: Dissension or creating dissension. The term is used in reference to Muʿāwiyya's underhanded methods of obtaining power by delegitimizing ʿAlī, the fourth *khalīfa*, through deceit and war. Muʿāwiyya succeeded and the Umayyad dynasty was established.

Futūḥāt: The legitimate conquest or "opening" of new territories for purposes of proselytization.

Ḥad, Ḥudūd (plural): A category of crimes proscribed in the *Qurʾān*.

Ḥadīth, Aḥādīth (plural): The sayings of the Prophet Muhammad that relate to Islam.

Ḥajj: A Muslim's pilgrimage to Makkah. This is one of the five basic requirements of Islam that is required of all Muslims once in their lifetime, if they have the ability to do so.

al-Ḥamd: Praise. It usually refers to "praise to God" as *al-Hamdulillah* (thanks to God).

Ḥanafī: A Sunni school of thought named after its founder.

Ḥanbalī: A Sunni school of thought named after its founder.

Ḥawwa: Eve.

Hijrah: The migration of the Prophet from Makkah to Madinah in 622 CE. It is also the beginning of the Islamic calendar, whose years are referred to as AH. 622 CE is equivalent to 1 AH.

Ḥikmat al-Maʿqūl: The wisdom of what is reasonable; an approach to exegesis.

Ḥirābah: The *ḥadd* crime of highway brigandage.

Ḥirz: Possession.

Hudna: Truce.

‘Idda: The period of time following a woman’s divorce during which she cannot remarry so as to avoid confusion over the paternity of her children.

Iḥsān: The doing of good.

‘Ijāz al-Qur’ān: The miracle of the *Qur’ān*, a reference to its literary uniqueness. It is traditionally translated as the Immutability of the *Qur’ān*, or the inability of anyone to imitate it.

Ijmā‘: Consensus.

Ijtihād: The product of an effort, usually intellectual. It refers to a process of legal interpretation based on the progressive development of law where analogy can never be used in order to address an issue not previously addressed. It is the legal technique used to update theological and legal developments. This technique was formally “closed” by Muslim scholars in the 12th century to the great detriment of the development of Islamic law, but nothing prevents its reopening, as has been the *de facto* case in many Muslim countries since the late 19th century.

Ikhtilāf: Divergence of opinion or disagreement, limited by reasonableness and logic.

Ikrāh: Compulsion.

al-‘Illa fī al-Qiyās: The evidentiary basis of analogy.

‘Ilm Uṣūl al-Fiqh: The science or methodology that is pursued to develop *fiqh*. It refers to a scientific approach or legal method of interpretation of the primary sources of the *sharī‘a* (the *Qur’ān*, *ḥadīth*, and *sunna*) and the development of Islamic law.

‘Ilmānī: A secular scientific approach to interpreting and applying the *sharī‘a*. The approach is rejected by fundamentalists.

‘Ilmi: Derived from *‘ilm*, meaning science. It is used to describe a secular or scientific approach to an understanding of Islam, including interpreting and applying the *sharī‘a*. It does not have the pejorative connotation of *‘Ilmānī*.

Imāmīyya / al-Madhhab al-Ja‘afarī: The official school of the Iranian state since 907 AH / 1502 CE, when the Safavid dynasty started.

Imān: Faith. Similar to *‘Aqida* (belief).

Imān Mufaṣṣal: Detailed rules of faith.

Imān Muṭlaq: Absolute rules of faith.

Isma‘īlī: A *Shī‘a* sect.

Isnād: The use of other sources in the corroboration of the authenticity of a *ḥadīth*.

Istihlas: A rule of equity, or providing an equitable outcome. It is one of the legal techniques of *‘ilm uṣūl al-fiqh* (see supra).

Istiḥsān / Istiṣlāh: Two rules of interpretation that seek to accomplish equity. *Istiḥsān* is similar to *Istiṣlāh*, but it adds to equity that which would make things better for parties to a legal dispute.

Ithna ‘Ashriyya: The Twelver *Shī‘a* sect. It is based on the ideas of Ja‘far ibn Muḥammad al-Sādiq.

Ja'far ibn Muḥammad al-Sādiq (83–148 AH / 702–765 CE): The founder of the *Ithna ʿAshriyya madhhab* school of thought.

Ja'fari: An adherent of the *Ithna ʿAshriyya Shīʿa* sect.

Jāhiliyya: The pre-Islamic period in the Arabian Peninsula.

Jihād: The act of striving, endeavoring, or struggling in pursuit of an Islamic praise-worthy goal, including war in self-defense. It is more frequently used to describe war-like and violent activities that are deemed to be justifiable rather than a reflection of the struggle for a Muslim's internal betterment.

Jihād al-nafs: Also known as the greater *jihād*. It refers to the struggle against oneself for goodness and piety, as opposed to the smaller *jihād*, which refers to war.

Jizya: Tribute, and payment thereof.

Jumūd: Rigidity.

Ka'ba: The holiest place of Islam, located in *Makkah*. It is where Abraham built the first house of worship of the One and Only God, and the location at which Abraham prepared to sacrifice his son, Ishmael, who God redeemed with a ram. It is also believed that the *Ka'ba* was first built by Adam or that Adam built on that location the first altar of worship to Allah.

Kāfir, *Kuffār* (plural): Nonbelievers.

Kalām: Literally means “spoken words.” A pejorative term used by fundamentalists to refer to the efforts by progressive thinkers in the Abbasid period to incorporate non-Muslim philosophies and their methods as part of Islamic exegetic methods. It applied particularly to Aristotelian and Pythagorean logic, Platonic and Neo-Platonism, and Peripatetic and Stoic philosophy.

Khalʿ al-Imām: Revolution against the *khalīfa*, removal of the *imām*.

Khalīfa, *Khulafāʾ* (plural): Literally “the successor.” It refers to the head of state of a Muslim *ummah* who claims to be a successor to the Prophet.

Khawārij: Those who “walked out” or those who left, the secessionists. A Sunni sect that renounced its support for ʿAli, the Fourth Caliph, after he agreed to submit his caliphate to arbitration, which they rejected.

al-Khulafāʾ al-Rāshidūn: The “wise Caliphs.” It refers to the first four Caliphs who succeeded the Prophet after his death.

Khurūj: Armed rebellion.

Kufr: Disbelief. It also refers to non-believers, heretics, and apostates.

Layḥa: Regulation.

Maʿṣūm: A protected person.

Madhhab, *Madhāhib* (plural): Islamic Schools of Thought.

al-Madīnah al-Munawwara: The “enlightened city.” This refers to the City of al-Madinah to which the Prophet migrated in 622 CE, and from which Islam was propagated.

Madrasa: Literally a school. In modern use, mostly in Pakistan, it is that of a religious school.

- al-Mahdi*: The Guided. The title given to Muḥammad ibn al-Ḥassan al-[°]Askarī, the twelfth imām of the Shīʿa.
- Mahīd*: Depending upon how it is used, the word means menstruation or vagina.
- Majalla*: Journal. It refers to the compendium of laws and legal practices.
- Majalla al-Aḥkām al-[°]Adliyya*: The Journal, compendium, of Judicial Rulings of the Turkish Ottoman Empire.
- Majalla al-Aḥkām al-[°]Uthmāniyya*: The compendium of laws and legal decisions of the Turkish Ottoman Empire.
- Majmū[°] al-Fatāwa*: Compendium of fatwa(s).
- Makrūh*: That which is disfavored.
- Mālik ibn Anas* (93–179 AH / 711–795 CE): The founder of the *Mālikī madhhab* school of thought.
- Mālikī*: A *Sunni* school of thought.
- Man[°]a*: Power and force.
- Manhaj*: A term that usually refers to the divine scheme that guides everything.
- Maqāṣid al-Sharīʿa*: The goals and purposes of the *sharīʿa*.
- Maṣlaḥa*: Public interest or the common good.
- Mu[°]āwiyya*: The leader of the first rebellion within the *ummah* against the rule of [°]Ali ibn Abī-Ṭālib, the Prophet's cousin and son-in-law, as well as the fourth *khalīfa* and last of the *al-Khulafāʾ al-Rāshidūn*. Mu[°]āwiyya first challenged [°]Ali in 35 AH / 656 CE and became *khalīfa* in 40 AH / 661 CE, ruling until 60 AH / 680 CE. Mu[°]āwiyya moved the capital of the *ummah* to Damascus and established the Umayyad caliphate, which lasted until 132 AH / 750 CE, when it was toppled by the Abbasid rulers of Baghdad who claimed the caliphate from the Umayyad. This is what brought about the rise of the *Shīʿa* movement.
- al-Munāfiqūn*: Literally “hypocrites.” Those who undermine Islam from within.
- Mubāḥ*: Something that is permitted by the *sharīʿa* subject to the manner in which the act is carried out. It is an intermediate category between *halal* and *haram*.
- Muḥayman*: Controlling.
- Muḥarram*: That which is prohibited.
- Mujāhid*: A person who engages in *jihād*. The *Mujāhid* is commonly understood as someone who is a struggler in the pursuit of a praiseworthy objective.
- Mujāhidīn*: Literally the plural of *Mujāhid*, but it is referred to by the *Shīʿa* as those who struggle on behalf of the occulted imām. According to Twelver, *Shīʿa* the occulted imām is Muḥammad ibn al-Ḥasan al-Mahdī, although other branches of *Shīʿa* believe in the occultation of other, earlier imāms.
- Muṣḥaf, Maṣāḥif* (plural): A written compilation of the *Qurʾān*.
- Mushrik, Mushrikūn* (plural): Idolaters or those who do not adhere to the belief of the singularity and centrality of God.
- Mustaʿman*: Those who have received *amān* (safety, protected).
- al-Muwaṭṭʾa*: The first written compendium of laws produced in Islam, based on the Prophet's *sunna* in Madinah, collected by Imām Abu Abdallah Mālik Ibn Anas

Ibn Hareth. He was the founder of one of the four Sunni *madhhab*, the Maliki School.

Naskh: Repudiation.

al-Qaḍā' wal-Qadar: Preordainment and predestination.

Qadhf: The *ḥadd* crime of defaming a woman.

Qāḍi: A judge.

Qā'ida Uṣūliyya: Basic rule.

Qarīna, Qarā'in (plural): Proof, similar to *Bayyina* (evidence).

Qasāma: Oath taking.

Qisās: A category of crimes dealing with attacks on the life and the physical integrity of a person.

Qitāl: Fighting against unbelievers in the context of lesser *jihād* (war).

Qiyās: Analogy.

Qudsi: Refers to certain sayings of the Prophet (*aḥādīth*) that are believed to be divinely inspired even though they are not part of the *Qur'ān*. These *aḥādīth* are deemed binding.

Qur': Depending upon how it is used, the word means purity or menstruation. The latter is not considered to be a state of purity for purposes of praying and the performance of religious acts.

Qur'ān: The "Word of God," revealed by God to the Prophet Muḥammad between 610 and 632 CE.

Rak'a: The prostration that is part of every prayer.

Ramadhān: The ninth month of the Islamic calendar during which Muslims fast from sunrise until sunset. This is one of the five basic requirements of Islam.

Riba: Usury, which is prohibited.

Ridda: The *ḥadd* crime of Apostasy.

al-Rub' al-Khālī: Literally "the empty quarter," the desert area between the Arabian Peninsula and Mesopotamia (current-day Iraq).

al-Saba'a al-Mathāni: Refers to seven verses of the *Qur'ān* which are sometimes referred to as the seven unparalleled verses of the *Qur'ān*.

Ṣaḥāba: The companions of the Prophet.

Ṣaḥīfat al-Madīnah: The Prophet's Proclamation of the Constitution of the City of al-Madīnah.

Ṣaḥīḥ: True or valid. It refers to *aḥādīth* deemed valid as distinguished from those deemed invalid.

Ṣaḥīḥ al-Manqūl: Validly transposed.

Sajj': Cadence.

Salām: Peace.

Ṣalāt: The five daily prayers. This is one of the five basic requirements of Islam.

Sariqa: A *ḥadd* crime of theft.

Shāfi'ī: A *Sunni* school of thought.

Shahāda: The testimony. It refers to the testimony of all Muslims: "There is no other God but God, and Muhammad is the Prophet." It also applies to that which a

witness states in court or elsewhere. This is one of the five basic requirements of Islam.

Sharʿī: According to the *sharʿa*.

Sharīf: Literally noble. The term is used to describe the descendants of Prophet Muḥammad.

Shawkah: The public support for a rebellion. One criteria for assessing whether or not a rebellion is justified. If it is not justified, its actors are deemed *bughāt*, and that is a punishable crime.

al-Shīʿa al-Imāmiyya: Followers of the twelfth imām of the *Shīʿa* Muḥammad ibn al-Ḥasan al-Mahdī.

Shīʿat ʿAlī: The supporters of ʿAlī in his conflict with Muʿāwiyya.

Shirk: Sharing. It has the same meaning as *Kufr* (supra).

Shūra: Consultancy. The process of consensus.

Shurb al-Khamr: The *ḥadd* crime of drinking alcohol.

Ṣiyām: Fasting during the month of Ramadan. This is one of the five basic requirements of Islam.

Siyāssat al-Sharʿa: The policy of the *sharʿa*.

Siyyar: The accounts of someone.

Ṣulḥ: Reconciliation; the making of peace. *Salam*, another word, is the state of peace. It has a radically different meaning from *Istislām*, which means surrender. *Salam* implies the free choice of making peace and being at peace.

Sunna: The deeds and practices of the Prophet.

Sūra al-Fātiḥah: The opening chapter of the *Qurʾān*.

Taʿadīb: Discipline.

Tābiʿūn: The followers of the Prophet.

Tafsīr: Interpretation or exegesis of the *Qurʾān*.

Taqwa: Piety.

Tārīkh: History.

Tawbah: Repentance.

Tawḥīd: Acceptance or recognition of the singularity and centrality of God.

Taʿwīl: A term applicable to that which provides justification for rebellion.

Taʿzīr: A category of crimes established by the ruler or by legislation.

Treaty of Hudaibiyya: A treaty concluded in 6 AH / 627 CE between the Prophet and his followers in Madinah with their enemies in Makkah. The treaty contained provisions for non-aggression, the protection of life and property, and the exchange of prisoners. It also contained questionable provisions such as the waiver to perform the *ḥajj*, one of the five requirements of Islam.

al-ʿUlūm al-Islāmiyya: Islamic sciences.

ʿUmar bin al-Khattab: The successor to Abu Bakr and the second of the *al-Khulafāʾ al-Rāshidūn* to rule after the death of the Prophet. ʿUmar ruled 12–23 AH / 634–644 CE. During his *khalīfa* the *ummah* expanded greatly. ʿUmar was a highly reputed general and won several major battles, most notably the Battle of Yarmūk against Byzantine forces. After capturing Jerusalem in 18 AH / 638 CE,

°Umar issued a declaration preserving the religious independence of Christians and Jews, and readmitted Jews to Jerusalem after their exile by the Romans.

Umm al-Kitāb: The mother of the Book. This refers to the first chapter of the *Qur'ān* (al-Fatiḥa).

Ummah: The Muslim nation.

°Urf: Custom.

Uṣūl: The source or origin.

Uṣūl al-Fiqh: The source of *Fiqh*, which is the method of exegesis. See also °*ilm uṣūl al-fiqh* (supra).

Uṣūlī, *Uṣūliyyūn* (plural): Literally “fundamentalists.” Those who follow a fundamentalist approach as defined in *uṣūliyya*.

Uṣūliyya: Literally “fundamentalism.” A movement by conservative theologians who rejected reason as a basis of interpretation and called for a return to the early practices of Islam as a way of preserving the purity and unity of Islam. It essentially denotes anthropomorphism.

°*Uthman ibn °Affan*: The successor to °Umar and the third of the *al-Khulafā' al-Rāshidūn* to rule after the death of the Prophet. °Uthman ruled between 23 and 35 AH / 644–656 CE). °Uthman is most notable for his codification of the *Qur'ān*. As *khalīfa*, °Uthman was known for his pragmatism and his consolidation of the *ummah*. His assassination in 35 AH / 656 CE resulted in the ascension of °Ali and the subsequent rebellion by Mu°āwiyya, who was from the same tribe.

Waḥy: Inspiration. Referred to in the *Qur'an* as the Divine inspiration that communicated the “word of God” to the Prophet Muhammad.

al-Yusr fil Islām: A liberal method of interpreting the mandates of Islam to minimize hardship on the believers; that which makes things easier.

Zakāt: The annual payment of a percentage of a Muslim's assets at the end of the month of Ramadan, during which Muslims fast. This is one of the five basic requirements of Islam. The other requirements include the *shahāda* (or statement of belief), making *ṣalāt* (five daily prayers), the *ḥajj* (pilgrimage to Makkah once in a lifetime), and *ṣiyām* (fasting during Ramadan).

Zayd ibn °Alī (76–122 AH / 695–740 CE): The founder of the Zaidi *madhhab* school of thought.

Zina: The *ḥadd* crime of Adultery.

Table of Abbreviations

ECtHR	European Court of Human Rights
IACtHR	Inter-American Court of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICL	International Criminal Law
IHL	International Humanitarian Law
IHRL	International Human Rights Law
LOAS	League of Arab States
OIC	Organisation of Islamic Cooperation
UN	United Nations
US	United States of America